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

WHO: Sponsored by the Office of the Federal Register.

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

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

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

3. The important elements of typical Federal Register documents.

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

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

WHEN: Tuesday, July 17, 2007
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741–6008

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To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

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Presidential Documents

Title 3—

The President

Memorandum of June 28, 2007

Assignment of Reporting Function

Memorandum for the Director of the Office of Personnel Management

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby assign to you the reporting function conferred upon the President by section 9003(d)(3) of title 5, United States Code.

You are authorized and directed to publish this memorandum in the **Federal Register**.

THE WHITE HOUSE,
Washington, June 28, 2007.

[FR Doc. 07–3233
Filed 6–29–07; 8:45 am]
Billing code 6325–01–M

Rules and Regulations

Federal Register
Vol. 72, No. 126
Monday, July 2, 2007

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2006–0105]

Asian Longhorned Beetle; Removal of Quarantined Area in Illinois

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended Asian longhorned beetle regulations by removing the Oz Park area in Cook County, IL, from the list of quarantined areas and removing restrictions on the interstate movement of regulated articles from those areas. We have determined that the Asian longhorned beetle no longer presents a risk of spread from that area and that the quarantine and restrictions are no longer necessary. With that action, there are no longer any areas in Illinois that are quarantined because of the Asian longhorned beetle.

DATES: Effective on July 2, 2007, we are adopting as a final rule the interim rule that was published at 71 FR 40879–40880 on July 19, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, National Coordinator, Pest Detection and Management Programs, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–7338.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 301.51–1 through 301.51–9 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas in order to prevent the artificial spread of the Asian longhorned beetle (ALB) into noninfested areas of the United States. Quarantined areas are listed in § 301.51–3 of the regulations.

In an interim rule [1] effective July 13, 2006, and published in the **Federal Register** on July 19, 2006 (71 FR 40879–40880, Docket No. APHIS–2006–0105), we amended the regulations in § 301.51–3(c) by removing the entry for Cook County, IL, from the list of quarantined areas.

Comments on the interim rule were required to be received on or before September 18, 2006. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 71 FR 40879–40880 on July 19, 2006.

Done in Washington, DC, this 26th day of June 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–12754 Filed 6–29–07; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the interim rule, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocumentDetail&d=APHIS–2006–0105–0001.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 305

[Docket No. APHIS–2006–0050]

Cold Treatment Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the phytosanitary treatment regulations by making several changes to the requirements for cold treatment enclosures and the requirements for conducting cold treatment. The changes include: Adding more specific and stringent requirements for precooling fruit prior to cold treatment, requiring the use of temperature recording devices that are password-protected and tamperproof, adding requirements to increase the effectiveness of cold treatment conducted in vessel holds, and providing for officials authorized by the Animal and Plant Health Inspection Service to conduct audits of the cold treatment process. We are making these changes in response to the results of external and internal reviews of the cold treatment requirements that have been in place. The changes we are making will improve the effectiveness of cold treatment and thus will help to prevent the introduction of quarantine plant pests into the United States.

DATES: This interim rule is effective on August 31, 2007. We will consider all comments that we receive on or before August 31, 2007.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0050 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is

available through the site's ''User Tips'' link.

• Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0050, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0050.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Inder P. S. Gadh, Senior Risk Manager—Treatments, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–8758.

SUPPLEMENTARY INFORMATION:

Background

The phytosanitary treatments regulations contained in 7 CFR part 305 set out standards and schedules for treatments required in 7 CFR parts 301, 318, and 319 for fruits, vegetables, and articles to prevent the introduction or dissemination of plant pests or noxious weeds into or through the United States. Within 7 CFR part 305, the cold treatments subpart (§§ 305.15 and 305.16, referred to below as the regulations) sets out requirements for performing cold treatment and cold treatment schedules for imported fruits and vegetables and for regulated articles moved interstate from quarantined areas within the United States.

Section 305.15 sets out the requirements for performing cold treatment. These include standards that must be met by the facility performing cold treatment and the enclosure in which cold treatment is performed; monitoring requirements; procedural requirements for performing cold treatment; and a required compliance agreement or workplan to ensure that these requirements are followed, under appropriate oversight from the Animal and Plant Health Inspection Service (APHIS).

Industry representatives and other interested parties have expressed concern that the procedural requirements that were in place prior to the publication of this interim rule were not adequate to prevent the development of ''hot spots,'' which are areas in the treatment enclosure in which the temperature of fruit being treated rises above the temperature required by a cold treatment schedule for extended periods. Fruit in these hot spots would thus not be treated at the proper temperature to neutralize pests of concern. To assess this risk, APHIS commissioned an evaluation of the process and design of cold treatment from the firm Cannon Design. Their report, dated June 30, 2004, and titled ''Supplementary Guidelines for Cold Treatment Application,'' included specific recommended changes to the cold treatment requirements to prevent the development of hot spots and other failures of the treatment process.[1] In addition, an internal review of the cold treatment procedures by the Center for Plant Health Science and Technology (CPHST) of APHIS' Plant Protection and Quarantine program indicated that additional changes were necessary to ensure that cold treatment is effective and to better allow officials authorized by APHIS to verify that treatment has been conducted properly.

In this interim rule, we are amending the regulations to incorporate the changes recommended by the Supplementary Guidelines for Cold Treatment Application and by CPHST. The key change we are making is to require that fruit intended for in-transit cold treatment be precooled to the temperature at which it will be treated, as verified by an official authorized by APHIS. If treatment is conducted at a cold treatment facility in the United States, the fruit must be precooled to the temperature at which it will be treated, as verified by an official authorized by APHIS, prior to beginning treatment.

Other changes we are making include requiring that fruit pulp temperature be maintained following the treatment schedule and within a specific temperature range; requiring the use of temperature recording devices that are password-protected and tamperproof; requiring the use of a minimum of four temperature probes or sensors when cold treatment is conducted in a vessel hold; prohibiting the use of hanging decks or hatch coamings as treatment enclosures without prior written approval from APHIS; and providing for officials authorized by APHIS to conduct audits of the cold treatment process.[2]

Within § 305.15, this interim rule revises paragraph (b), which sets out performance requirements for cold treatment enclosures, and paragraph (f), which sets out procedural requirements for cold treatment. We are retaining most provisions that have been in paragraph (f), while adding many provisions to it; we are also reorganizing paragraph (f) so that the procedural requirements for performing cold treatment are set out in roughly the order in which they should be followed while performing cold treatment. As an aid to the reader, the derivation of each subparagraph of the new paragraph (f) is listed in table 1. We have set out the entire text of the new paragraph (f) in the regulatory text at the end of this document.

TABLE 1.—DERIVATION OF NEW § 305.15(f)

New subparagraph	Derived from
(f)(1)	(f)(1).
(f)(2)	First sentence of (f)(2).
(f)(3)	New language.
(f)(4)	(f)(3) and new language.
(f)(5)	(f)(6) and new language.
(f)(6)	New language.
(f)(7)	(f)(4) and new language.
(f)(8)	New language.
(f)(9)	(f)(5).
(f)(10)	Last two sentences of (f)(7) and new language.
(f)(11)	(f)(8) and new language.
(f)(12)	(f)(10).
(f)(13)	New language.

We are removing the second sentence of former paragraph (f)(2), which had addressed precooling of fruit to be cold treated, and replacing it with new paragraph (f)(3), which sets out substantially more rigorous precooling requirements. We are also removing the first sentence of former paragraph (f)(7) and all of former paragraph (f)(9).

The new requirements and our reasons for adopting them are discussed in detail directly below.

[1] Copies of this report are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or on Regulations.gov; see the **ADDRESSES** block for instructions on accessing Regulations.gov. If you access the report through Regulations.gov, please be aware that the PDF file of the report is approximately 17 megabytes in size and may take a long time to download.

[2] Officials authorized by APHIS may include inspectors as defined in § 305.1 (any individual authorized by the Administrator of APHIS or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in part 305) or officials employed by or authorized by foreign national plant protection organizations and authorized by APHIS to supervise treatment.

Precooling

In the Supplementary Guidelines for Cold Treatment Application, Cannon Design found that hot spots developed in cold treatment loads due to heat generated by respiration of the fruit and respiration of any insects that may have infested the fruit. (Fruit that is being shipped continues to convert oxygen to carbon dioxide during shipping. This process generates heat.) Given common fruit stacking configurations, respiration could produce areas within the fruit stacks in which some fruit reach a temperature significantly warmer than the temperature required by the cold treatment schedule. The goal of the Supplementary Guidelines for Cold Treatment Application was to determine methods by which the risk of development of such hot spots could be minimized. Cannon Design used both temperature observations from a simulation of real-world cold treatment conditions and observations from computational fluid dynamics modeling to draw its conclusions.

The key measure to mitigate the risk of hot spots that was identified by the Supplementary Guidelines for Cold Treatment Application is cooling fruit that is intended for cold treatment to the temperature required by the intended cold treatment schedule prior to beginning treatment, a process known as precooling. While the regulations have contained a precooling requirement, the requirement was not sufficiently stringent; prior to loading in cold treatment containers, fruit had been allowed to be either precooled to a uniform temperature up to 4.5 °C (40 °F), or precooled at the terminal to 2.2 °C (36 °F). However, the cold treatment schedules in § 305.16 require temperatures as low as 0 °C (32 °F), and most schedules require temperatures at or below 2.2 °C (36 °F). The cold treatment requirements that had been in the regulations also did not include any measures allowing officials authorized by APHIS to ensure that the precooling had been properly performed.

This interim rule adds a new paragraph (f)(3) to § 305.15 that sets out detailed requirements for precooling prior to cold treatment. These requirements are as follows:

- Fruit intended for in-transit cold treatment must be precooled to the temperature at which the fruit will be treated prior to beginning treatment. The in-transit treatment enclosure may not be used for precooling unless an official authorized by APHIS approves the loading of the fruit in the treatment enclosure as adequate to allow for fruit pulp temperatures to be taken prior to beginning treatment.

Previously, the regulations required precooling to be performed either at an APHIS-approved dockside refrigeration warehouse or in an APHIS-approved enclosure aboard a vessel. However, when precooling is performed outside the treatment enclosure, we do not believe that it is necessary to specify the facility in which precooling is performed, as long as the other precooling requirements are fulfilled.

We are only allowing the use of in-transit enclosures for precooling subject to APHIS approval because the typical loading of fruit in an in-transit treatment enclosure does not allow for sampling fruit pulp temperatures prior to beginning treatment. If precooling is performed in the treatment enclosure, the loading of the fruit must be adequate to accommodate this essential step in the cold treatment process.

- If the fruit is precooled outside the treatment enclosure, an official authorized by APHIS will take pulp temperatures manually from a sample of the fruit as the fruit is loaded for in-transit cold treatment to verify that precooling was completed. If the pulp temperatures for the sample are 0.28°C (0.5°F) or more above the temperature at which the fruit will be treated, the pallet from which the sample was taken will be rejected and returned for additional precooling until the fruit reaches the treatment temperature.

These requirements allow officials authorized by APHIS to verify that precooling has been properly conducted and that the temperature of the fruit pulp has been reduced to the treatment temperature prior to beginning treatment.

- If fruit is precooled in the treatment enclosure, or if treatment is conducted at a cold treatment facility in the United States, the fruit must be precooled to the temperature at which it will be treated, as verified by an official authorized by APHIS, prior to beginning treatment.

In treatment enclosures that are approved for precooling and in cold treatment facilities, the loading of fruit allows fruit temperatures to be sampled, meaning that an official authorized by APHIS can verify that the fruit has been precooled to the treatment temperature. Since fruit in an approved enclosure or a cold treatment facility can simply be cooled for additional time if it has not yet reached the treatment temperature, we do not believe it is necessary to specify conditions under which precooling would be rejected if it takes place in an approved enclosure or a cold treatment facility in the United States.

We believe that precooling is essential to ensuring that cold treatment is effective, and these requirements will ensure that precooling is conducted properly.

In a related change, this interim rule also revises paragraph (b)(1) in § 305.15. This paragraph has required that cold treatment enclosures be capable of precooling, cooling, and holding fruit at temperatures less than or equal to 2.2 °C (36 °F). However, under this interim rule, some enclosures, such as vessel holds and containers, may only be used to precool fruit prior to in-transit cold treatment subject to APHIS approval. Additionally, we believe that the requirements for cold treatment enclosures should refer to holding fruit at or below the temperature that is required by the relevant cold treatment schedule, to avoid any possible confusion. Therefore, we are revising paragraph (b)(1) to require that cold treatment enclosures be capable of maintaining the treatment temperature before the treatment begins and holding fruit at or below the treatment temperature during the treatment.

Loading of Fruit in Treatment Enclosures

Paragraph (f)(3) of § 305.15 has required that breaks, damage, or other problems in the treatment enclosure that preclude maintaining correct temperatures be repaired before use and that an official authorized by APHIS approve loading of compartment, number and placement of sensors, and initial fruit temperature readings before beginning the treatment. In this interim rule, we are moving these requirements to paragraph (f)(4).

We are also adding two more specific requirements regarding the loading of fruit within the treatment enclosure. Specifically, we are prohibiting the use of hanging decks and hatch coamings within vessels as enclosures for in-transit cold treatment without prior written approval from APHIS. If additional cargo is loaded into these enclosures above the fruit that is stacked for cold treatment, it can be difficult to ensure that airflow around the fruit is sufficient to maintain temperature properly during the cold treatment. Additionally, some of these spaces have structures that make it difficult to generate sufficient airflow. While some hanging decks and hatch coamings are suitable for use as cold treatment enclosures, we believe it is necessary to verify that prior to authorizing their use.

In addition, we are prohibiting the double-stacking of pallets. As stated earlier, hot spots are more likely to develop when large quantities of fruit

are stacked together; prohibiting double-stacking of pallets is one way to help ensure that this does not occur.

Sealing of Cold Treatment Containers

Paragraph (f)(6) of § 305.15 has required that only the same type of fruit in the same type of package be treated together in a container, with no treatment of any mixture of fruits in a container. In this interim rule, we are moving this requirement to paragraph (f)(5) and adding a new requirement that a numbered seal be placed on the doors of the loaded container. The seal may be removed only at the port of destination by an official authorized by APHIS. This is a standard requirement for shipment of containers that prevents tampering with the fruit loaded in the container during transit. Adding this requirement to the cold treatment procedures will help to ensure the integrity of the cold treatment process.

Requirements for Temperature Recording Devices

Paragraph (c) in § 305.15 requires that APHIS approve the recording devices and sensors used to monitor temperatures during cold treatment. However, the regulations in § 305.15 have not contained any more specific requirements for temperature recording devices. In this interim rule, we are adding a new paragraph (f)(6) that contains requirements intended to ensure the integrity of temperature recording devices used during cold treatment. (A temperature recording device records the temperatures from each of the temperature probes or sensors that are used in the cold treatment enclosure.) Specifically, paragraph (f)(6) requires that:

- Temperature recording devices used during treatment must be password-protected and tamperproof.
- The devices must be able to record the date, time, sensor number, and temperature during all calibrations and during treatment.

Additionally, paragraph (f)(6) provides that, if records of calibrations or treatments are found to have been manipulated, the vessel or container in which the treatment is performed may be suspended from conducting cold treatments until proper equipment is installed and an official authorized by APHIS has recertified it. APHIS' decision to recertify a vessel or container will take into account the severity of the infraction that led to suspension. This provision ensures that APHIS is able to take action in the event that the integrity of the temperature recording devices is compromised.

Use of Additional Temperature Probe or Sensor in Vessel Holds

Paragraph (f)(4) has required that a minimum of three temperature sensors be used in the treatment compartment during treatment. In this interim rule, we are moving this requirement to paragraph (f)(7) and additionally requiring that a minimum of four temperature probes or sensors be used when cold treatment is conducted in vessel holds, while retaining the requirement that a minimum of three temperature probes or sensors be used in other enclosures. (We are adding ''probe'' as a synonym for ''sensor'' in the regulations because both terms are commonly used.) Vessel holds are larger than containers, and thus more temperature probes or sensors must be used in vessel holds to ensure that treatment is being conducted at the proper temperatures. Paragraph (f)(7) also provides that an official authorized by APHIS will have the option to require that additional temperature probes or sensors be used, depending on the size of the treatment enclosure.

Maintaining Fruit Pulp Temperatures

In this interim rule, we are revising paragraph (b)(2), which has required cold treatment enclosures to maintain fruit pulp temperatures according to treatment schedules with no more than a 0.3 °C (0.54 °F) variation in temperature, to refer instead to maintaining no more than a 0.39 °C (0.7 °F) variation in temperature. In addition, we are adding a new paragraph (f)(8) that requires that fruit pulp temperatures be maintained at the temperature specified in the treatment schedule with no more than a 0.39 °C (0.7 °F) variation in temperature between two consecutive hourly readings.

Maintaining fruit pulp temperatures at the treatment temperature is essential to ensuring that cold treatment is effective. We have determined that allowing fruit pulp temperatures to vary by up to 0.39 °C (0.7 °F) will not threaten the effectiveness of the treatment while accounting for normal variation in fruit pulp temperatures. We are amending the temperature variation for cold treatment enclosures allowed by paragraph (b)(1) to make it consistent with the temperature variation allowed by the new paragraph (f)(8).

Paragraph (f)(8) also explicitly provides that failure to comply with this requirement will result in invalidation of the treatment unless an official authorized by APHIS can verify that the pulp temperature was maintained at or below the treatment temperature for the duration of the treatment. An official authorized by APHIS has the option to accept a treatment in which fruit pulp temperature varies by amounts greater than those required in the regulations if the official authorized by APHIS can determine from other evidence that the fruit was adequately treated. If there is no evidence confirming that the fruit was adequately treated, an official authorized by APHIS will invalidate the treatment.

Auditing Cold Treatment

We are adding a new paragraph (f)(13) that provides for officials authorized by APHIS to perform audits to ensure that the treatment procedures comply with the regulations. The official authorized by APHIS must be given the appropriate materials and access to the facility, container, or vessel necessary to perform the audits. This provision will ensure that, if officials authorized by APHIS become concerned about whether cold treatment is being conducted according to the regulations, they will be able to gather any necessary information in order to investigate the matter.

Other Changes

The first sentence of paragraph (f)(7) has read as follows: ''Fruit must be stacked to allow cold air to be distributed throughout the enclosure, with no pockets of warmer air, and to allow random sampling of pulp temperature in any location in the load.'' The random sampling requirement did not reflect the conditions under which in-transit cold treatment is typically performed. To maximize the volume of fruit that can be treated during shipment, fruit is typically packed tightly into the treatment enclosure, leaving a crawl space above the fruit for circulation of air. Random sampling of the fruit during treatment thus could not take place. Instead, we have relied on data gathered from temperature probes or sensors to determine whether cold treatment is being effectively administered, as described earlier. In addition, the requirement that fruit be stacked to allow cold air to be distributed throughout the enclosure is unnecessary given the specific requirement for maintaining a constant fruit pulp temperature added by this interim rule. Therefore, the revised paragraph (f) set out by this interim rule does not include the first sentence of former paragraph (f)(7).

Paragraph (f)(9) has read as follows: ''Pretreatment conditioning (heat shock or 100.4 °F for 10 to 12 hours) of fruits is optional and is the responsibility of

the shipper.'' Because this step is optional, we would prefer to convey information about pretreatment conditioning through the guidance provided in the Plant Protection and Quarantine Treatment Manual rather than through the regulations. We have therefore not included any information about pretreatment conditioning in the revised paragraph (f) set out by this interim rule.

This interim rule moves the temperature recording requirements that had previously been in the last two sentences of paragraph (f)(7) to a new (f)(10). In addition, we are amending the sentence ''Gaps of longer than 1 hour may invalidate the treatment or indicate treatment failure'' to indicate that the treatment will be invalidated unless an official authorized by APHIS can verify that the pulp temperature was maintained at or below the treatment temperature for the duration of the treatment, for reasons discussed earlier under the heading ''Maintaining Fruit Pulp Temperatures.''

This interim rule moves the requirements that had previously been in paragraph (f)(8) to a new paragraph (f)(12). We are also amending the sentence ''Cold treatment is not completed until so designated by an official authorized by APHIS or the certifying official of the foreign country'' by replacing the word ''designated'' with the word ''declared.'' We believe this word more clearly indicates that an official authorized by APHIS must serve as the final authority in determining whether cold treatment has been completed.

The changes we are making in this interim rule are designed to ensure that cold treatment neutralizes the target pests in shipments of fruit and to ensure that officials authorized by APHIS are able to review accurate records of treatment and take action if the cold treatment is not being conducted in accordance with the regulations. We welcome public comment on any aspect of these changes.

Immediate Action

Immediate action is necessary to ensure that cold treatment is effective at neutralizing quarantine plant pests and thus preventing their introduction into the United States.

This rule is being made effective 60 days after publication because affected parties will need time to prepare for the changes in operations that will become necessary on the effective date of this rule. Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these circumstances, we find good cause under 5 U.S.C. 553 to make this rule effective 60 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the economic effects of this interim rule on small entities. Based on the information we have, there is no reason to conclude that adoption of this interim rule will result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this interim rule on small entities that may incur benefits or costs from the implementation of this interim rule.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

This interim rule amends the cold treatment regulations by making several changes to the requirements for cold treatment enclosures and the requirements for conducting cold treatment. The changes include: Adding more specific and stringent requirements for precooling fruit prior to cold treatment, requiring the use of temperature recording devices that are password-protected and tamperproof, adding requirements to increase the effectiveness of cold treatment conducted in vessel holds, and providing for officials authorized by APHIS to conduct audits of the cold treatment process. We are making these changes in response to the results of external and internal reviews of the cold treatment requirements that have been in place. These changes will improve the effectiveness of cold treatment and thus will help to prevent the introduction of quarantine plant pests into the United States.

Operational costs of precooling under this interim rule are expected to be largely the same as they were prior to the publication of this interim rule, when precooling was allowed to be conducted on vessels without APHIS approval of the treatment enclosure. There may be a cost increase per quantity of fruit shipped due to the pulp temperature sampling requirements, but we do not have information that would enable us to quantify the increase. Similarly, precooling costs for fruit that undergoes cold treatment at a facility in the United States are expected to be largely the same as they are under the regulations that have been in place.

Fruit intended for cold treatment may still be precooled in the treatment enclosure subject to APHIS approval of the loading of the fruit. However, because loading of fruit in the treatment enclosure is, in most cases, not adequate to allow an official authorized by APHIS to sample the pulp temperatures of the precooled fruit, we expect that most fruit intended for cold treatment will be precooled outside the treatment enclosures. If countries decide to construct dockside refrigeration warehouses to meet these requirements, the warehouses themselves could be a potential additional cost. (To find the additional cost, one would subtract any ship utilization costs forgone by not conducting the precooling in ship holds from the total cost of constructing and using a dockside refrigeration warehouse.) Based on costs for the construction of such facilities in the United States, a medium-sized refrigerated facility (between 60,000 square feet and 100,000 square feet) may cost between $7 million and $10 million.[3]

In theory, if exporters do experience a cost increase because of this interim rule, the quantity of fruit supplied may decrease. This decrease could result in an increase in the price of fruit, benefiting U.S. producers and suppliers. However, these impacts are expected to be negligible; any additional precooling

[3] The Port of Corpus Christi, TX, completed, in July 2000, a new 99,520-square-foot refrigerated warehouse at a total cost of $9.2 million (about $92.5 per square foot) for importing and exporting fruits, vegetables, meats, and other commodities. See *http://www.mgn.com/pressreleasedetails.cfm?id=1200* and *http://www.expansionmanagement.com/cmd/articledetail/articleid/15068/default.asp.* As another example, a new 60,000-square-foot refrigerated warehouse at the Port of Wilmington, DE, was completed at a total cost of $7.5 million (about $125 per square foot). The facility will be used primarily for fresh fruit. (*See http://www.drba.net/press/releases/files/20040615drbarowanuniversity.pdf.)*

costs will represent a small fraction of the price of the fruit.

Nine countries (Chile, Mexico, Spain, New Zealand, Argentina, South Africa, Canada, Australia, and Italy) supplied over 95 percent of total U.S. fruit imports in 2005. These nine countries have large worldwide markets, accounting for 54 percent of world exports of fresh fruits. About 10.3 percent of their fruit exports in 2005 were shipped to the United States.[4] We expect that many if not all of these major fruit-exporting countries already have facilities available for precooling, and that any cost increases attributable to the interim rule will be minimal.

Impact on Small Entities

If the price of imported fruit increases because of this rule, U.S. entities that may be affected include producers of crops that are hosts for fruit flies, many of which are categorized within the following North American Industry Classification System [NAICS] subsectors: NAICS 111310 Orange Groves, NAICS 111320 Citrus (except Orange) Groves, NAICS 111331 Apple Orchards, NAICS 111332 Grape Vineyards, NAICS 111333 Strawberry Farming, NAICS 111334 Berry (except Strawberry) Farming, NAICS 111335 Tree Nut Farming, NAICS 111336 Fruit and Tree Nut Combination Farming, and NAICS 111339 Other Noncitrus Fruit Farming. These entities would benefit from the price effects, which would reduce the supply of imported crops that are hosts for fruit flies. Affected entities may also include fruit and vegetables wholesalers (NAICS 422480), supermarkets and other grocery stores (NAICS 445110), warehouse clubs and superstores (NAICS 452910), and fruit and vegetable markets (NAICS 445230). If the theoretical price effects associated with this interim rule actually occur, these entities would experience negative effects from the higher prices and smaller supply of imported fruit.

The vast majority of the businesses that comprise these industries are small entities. The Small Business Administration (SBA) classifies the farming operations identified above as small entities if their annual receipts are not more than $750,000.[5] According to the 2002 Census of Agriculture, there were over 119,000 operations that were engaged in the production of citrus and noncitrus fruits. Over 98 percent of these entities were designated as small entities. The SBA classifies fresh fruit and vegetable merchant wholesalers (NAICS 422480) as small entities if they employ 100 or fewer employees. According to the 2002 Economic Census, there were 4,644 of these entities, with 484 (or 10.4 percent) of them considered to be large. SBA classifies supermarkets and other grocery stores as small entities if their annual receipts are not more than $23 million. There were 56,577 supermarkets and other grocery stores in 2002. Of these, only 3,477, or 6.1 percent, are considered to be large. There were 2,761 warehouse clubs and superstores (NAICS 452910), and these are considered small if their annual sales are less than $25 million. Of the above total, 2,593, or 93.9 percent, are considered to be large. Fruit and vegetable markets (NAICS 445230) are considered small if their annual sales are less than $6.5 million. In 2002, the most recent year for which data are available, there were 2,257 fruit and vegetable markets.[6] Approximately 96 percent of these are considered to be small entities under the SBA's standards. However, for all of these categories of businesses, we do not know what proportion of them will be affected by this interim rule. We welcome comments on the economic effects of this interim rule on small entities and on how many small entities might be affected by the rule.

No significant alternatives were identified that would meet the objectives of the interim rule.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 305

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

■ Accordingly, we are amending 7 CFR part 305 as follows:

PART 305—PHYTOSANITARY TREATMENTS

■ 1. The authority citation for 7 CFR part 305 continues to read as follows:

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

■ 2. In § 305.15, paragraphs (b) and (f) are revised to read as follows:

§ 305.15 Treatment requirements.

* * * * *

(b) *Cold treatment enclosures.* All enclosures in which cold treatment is performed, including refrigerated containers, must:

(1) Be capable of maintaining the treatment temperature before the treatment begins and holding fruit at or below the treatment temperature during the treatment.

(2) Maintain fruit pulp temperatures according to treatment schedules with no more than a 0.39 °C (0.7 °F) variation in temperature.

* * * * *

(f) *Treatment procedures.* (1) All material, labor, and equipment for cold treatment performed on vessels must be provided by the vessel or vessel agent. An official authorized by APHIS monitors, manages, and advises in order to ensure that the treatment procedures are followed.

(2) Fruit that may be cold treated must be safeguarded to prevent cross-contamination or mixing with other infested fruit.

(3) Fruit intended for in-transit cold treatment must be precooled to the temperature at which the fruit will be treated prior to beginning treatment. The in-transit treatment enclosure may not be used for precooling unless an official authorized by APHIS approves the loading of the fruit in the treatment enclosure as adequate to allow for fruit pulp temperatures to be taken prior to beginning treatment. If the fruit is precooled outside the treatment enclosure, an official authorized by APHIS will take pulp temperatures

[4] Fruit imports from other countries were much smaller, with 22 countries shipping less than a single bulk shipment (8,000 metric tons).

[5] SBA, Small Business Size Standards matched to North American Industry Classification System 2002, Effective January 2006 (*www.sba.gov/size/sizetable2002.html*).

[6] U.S. Census Bureau, 2002 Economic Census Geographic Area Series: Manufacturing and Wholesale Trade, Revised January 2006 (*http://www.census.gov/econ/census02/guide/geosumm.htm*).

manually from a sample of the fruit as the fruit is loaded for in-transit cold treatment to verify that precooling was completed. If the pulp temperatures for the sample are 0.28 °C (0.5 °F) or more above the temperature at which the fruit will be treated, the pallet from which the sample was taken will be rejected and returned for additional precooling until the fruit reaches the treatment temperature. If fruit is precooled in the treatment enclosure, or if treatment is conducted at a cold treatment facility in the United States, the fruit must be precooled to the temperature at which it will be treated, as verified by an official authorized by APHIS, prior to beginning treatment.

(4) Breaks, damage, etc., in the treatment enclosure that preclude maintaining correct temperatures must be repaired before the enclosure is used. An official authorized by APHIS must approve loading of compartment, number and placement of temperature probes or sensors, and initial fruit temperature readings before beginning the treatment. Hanging decks and hatch coamings within vessels may not be used as enclosures for in-transit cold treatment without prior written approval from APHIS. Double-stacking of pallets is not allowed.

(5) Only the same type of fruit in the same type of package may be treated together in a container; no mixture of fruits in containers may be treated. A numbered seal must be placed on the doors of the loaded container and may be removed only at the port of destination by an official authorized by APHIS.

(6) Temperature recording devices used during treatment must be password-protected and tamperproof. The devices must be able to record the date, time, sensor number, and temperature during all calibrations and during treatment. If records of calibrations or treatments are found to have been manipulated, the vessel or container in which the treatment is performed may be suspended from conducting cold treatments until proper equipment is installed and an official authorized by APHIS has recertified it. APHIS' decision to recertify a vessel or container will take into account the severity of the infraction that led to suspension.

(7) A minimum of four temperature probes or sensors is required for vessel holds used as treatment enclosures. A minimum of three temperature probes or sensors is required for other treatment enclosures. An official authorized by APHIS will have the option to require that additional temperature probes or sensors be used, depending on the size of the treatment enclosure.

(8) Fruit pulp temperatures must be maintained at the temperature specified in the treatment schedule with no more than a 0.39 °C (0.7 °F) variation in temperature between two consecutive hourly readings. Failure to comply with this requirement will result in invalidation of the treatment unless an official authorized by APHIS can verify that the pulp temperature was maintained at or below the treatment temperature for the duration of the treatment.

(9) The time required to complete the treatment begins when all temperature probes reach the prescribed cold treatment schedule temperature.

(10) Temperatures must be recorded at intervals no longer than 1 hour apart. Gaps of longer than 1 hour will invalidate the treatment or indicate treatment failure unless an official authorized by APHIS can verify that the pulp temperature was maintained at or below the treatment temperature for the duration of the treatment.

(11) Cold treatment is not completed until so declared by an official authorized by APHIS or the certifying official of the foreign country; shipments of treated commodities may not be discharged until APHIS clearance has been fully completed, including review and approval of treatment record charts.

(12) Cold treatment of fruits in break bulk vessels or containers must be initiated by an official authorized by APHIS if there is not a treatment technician who has been trained to initiate cold treatments for either break bulk vessels or containers.

(13) An official authorized by APHIS may perform audits to ensure that the treatment procedures comply with the regulations in this subpart. The official authorized by APHIS must be given the appropriate materials and access to the facility, container, or vessel necessary to perform the audits.

Done in Washington, DC, this 26th day of June 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–12768 Filed 6–29–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 353

[Docket No. APHIS–2006–0122]

RIN 0579–AC43

Export Certification for Wood Packaging Material

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the export certification regulations to clarify that an International Standards for Phytosanitary Measures No. 15 (ISPM 15) quality/treatment mark is an industry-issued certificate within the meaning of 7 CFR part 353 and thus may only be issued when the organization applying the certification mark has entered into an agreement with the Animal and Plant Health Inspection Service. We are also removing all references to a certificate of heat treatment from the regulations because those certificates have been replaced by the ISPM 15 quality/treatment mark. These changes are necessary in order to ensure the appropriate issuance of the ISPM 15 quality/treatment mark.

DATES: This interim rule is effective July 2, 2007. We will consider all comments that we receive on or before August 31, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click ''Submit.'' In the Docket ID column, select APHIS–2006–0122 to submit or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0122, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your

comment refers to Docket No. APHIS–2006–0122.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Tyrone Jones II, Export Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1231; (301) 734–8860.

SUPPLEMENTARY INFORMATION:

Background

The export certification regulations in 7 CFR part 353 (referred to below as the regulations) contain provisions for export certification of plant and plant products. The export certification program does not require certification of any exports, but does provide for certification of plants and plant products as a service to exporters. After assessing the phytosanitary condition of the plants or plant products intended for export relative to the receiving country's regulations, an inspector issues an internationally recognized phytosanitary certificate (PPQ Form 577), a phytosanitary certificate for reexport (PPQ Form 579), an export certificate for processed plant products (PPQ Form 578), or a certificate of heat treatment (PPQ Form 553), if warranted.

The regulations in § 353.7(d) also provide for industry-issued certification of certain plant products under the terms of a written agreement between the concerned agricultural or forestry company and Animal and Plant Health Inspection Service (APHIS). Each agreement specifies the articles subject to the agreement and the measures necessary to prevent the introduction of specified plant pests into the foreign countries specified in the agreement.

One form of an industry-issued certificate that is being issued under these regulations is an approved international quality/treatment mark that certifies wood packaging material as having been either heat treated or fumigated with methyl bromide in accordance with the guidelines contained in International Standards for Phytosanitary Measures No. 15 (ISPM 15), ''Guidelines for Regulating Wood Packaging Material in International Trade.'' ISPM 15 is a standard that describes the application of phytosanitary measures to reduce the risk of introduction and dissemination of quarantine pests associated with wood packaging material (including dunnage) made of coniferous and non-coniferous raw wood that is in use in international trade.

As the national plant protection organization (NPPO) of the United States, APHIS is responsible for ISPM 15 certification of wood packaging material that is exported from the United States. As provided for under the regulations in § 353.7(d), APHIS currently has agreements with two private organizations to issue certificates of compliance with ISPM 15 for wood packaging material for export. Certification of compliance with ISPM 15 comes in the form of a quality/treatment mark that is applied to each regulated article.

Since the adoption of ISPM 15, we have encountered several cases where private firms have developed and applied ISPM 15 quality/treatment marks to wood packaging material for export without entering into an agreement with APHIS and, it appears, without applying the treatments that are required under ISPM 15. These companies have developed a mark similar to what is described and pictured in ISPM 15 and are using this mark outside of the export certification regulatory program. Although we acknowledge that the regulations do not explicitly state that the certification of compliance with ISPM 15 (the mark) is an industry-issued certificate, this practice is clearly not in conformity with the purpose and intent of the regulations.

In order to ensure integrity of our export certification program and to fulfill our responsibilities under the Plant Protection Act and our international obligations as the NPPO of the United States, we are amending the regulations in part 353 to make it clear that certificates of compliance with ISPM 15 are *industry-issued certificates* and thus may only be issued when the person, company, or entity applying the certification mark has first entered into a written agreement with APHIS and applies the mark in accordance with all applicable requirements. Specifically, we are amending § 353.1, the definition for *industry-issued certificate;* § 353.2; and § 353.7(d) by adding the following sentence to each: ''An industry-issued certificate includes an ISPM 15 quality/treatment mark.''

Now that the ISPM 15 quality/treatment mark is the international standard for confirming that wood packaging material has been treated, we no longer issue a certificate of heat treatment (PPQ Form 553). This form is, therefore, obsolete, so we are amending the regulations to remove all references to PPQ Form 553.

Immediate Action

Immediate action is necessary to ensure the integrity of our export certification program and to fulfill our responsibilities under the Plant Protection Act and our international obligations as the NPPO for the United States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

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

We are amending the export certification regulations to clarify that an ISPM 15 quality/treatment mark is an industry-issued certificate within the meaning of our export certification regulations and thus may only be issued when the organization applying the certification mark has entered into an agreement with APHIS and applies the mark in accordance with all applicable requirements. We are also removing all references to a certificate of heat treatment from the regulations because those certificates have been replaced by the ISPM 15 quality/treatment mark. These changes are necessary in order to ensure the appropriate issuance of the ISPM 15 quality/treatment mark.

The pallet industry in the United States is characterized by many small firms and a few larger firms. No one firm is able to dominate the market. U.S. Census data show that there are approximately 3,000 firms in the wood pallet and container industry. Other estimates of the number of firms in the

industry range up to 3,500 pallet manufacturers in the U.S. National Wooden Pallet and Container Association. Most firms sell their products within a 350-mile radius. The average number of employees is fewer than 20. Thirty-two percent of the firms had fewer than five employees. The average yearly sales were $1.7 million.

The Small Business Administration (SBA) classifies wood container and pallet manufacturers as small businesses if they have fewer than 500 employees. According to the U.S. Census Bureau, 2002 Economic Census (the most recent one available), all pallet manufacturers are considered small businesses. In 2002, there were 2,948 establishments that produced wooden containers and pallets employing 51,003 persons. The total value of shipments was $5.5 billion dollars.

This rule will affect only those firms that have been using an ISPM 15 compliance mark without entering into an agreement with APHIS in accordance with the export certification regulations of 7 CFR part 353. There have been cases where the mark has been applied in these circumstances. Given that there are nearly 3,000 firms that produce wooden containers and pallets, only a very small percentage will be affected by this interim rule. This rule will not have a significant economic impact nor will it affect a substantial number of small entities.

This rule does not impose any additional costs on firms; it only clarifies that the ISPM 15 quality/treatment mark may be applied only in accordance with the requirements of the regulations regarding the use of industry-issued certificates. The benefits of this rule are derived from ensuring APHIS' ability to fulfill its responsibilities under the Plant Protection Act and its international obligations as the NPPO of the United States and the reduced risk due to better compliance with existing international standards. We do not expect to see any measurable adverse economic impact as a result of this rule.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 353

Exports, Plant diseases and pests, Reporting and recordkeeping requirements.

■ Accordingly, we are amending 7 CFR part 353 as follows:

PART 353—EXPORT CERTIFICATION

■ 1. The authority citation for part 353 continues to read as follows:

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

§ 353.1 [Amended]

■ 2. In § 353.1, the definition for *certificate of heat treatment* is removed and the definition for *industry-issued certificate* is amended by adding the sentence ''An industry-issued certificate includes an ISPM 15 quality/treatment mark.'' after the last sentence.

§ 353.2 [Amended]

■ 3. Section 353.2 is amended by adding the word ''or'' before the words ''an export''; by removing the words '', or a certificate of heat treatment (PPQ Form 553)''; and by adding the sentence ''An industry-issued certificate includes an ISPM 15 quality/treatment mark.'' after the last sentence.

■ 4. In § 353.5, paragraph (a) is revised to read as follows:

§ 353.5 Application for certification.

(a) To request the services of an inspector, a written application (PPQ Form 572) shall be made as far in advance as possible, and shall be filed in the office of inspection at the port of certification.

* * * * *

§ 353.7 [Amended]

■ 5. Section 353.7 is amended as follows:

■ a. In the introductory text of paragraph (d), by adding the sentence ''An industry-issued certificate includes an ISPM 15 quality/treatment mark.'' immediately before the last sentence.

■ b. By removing paragraph (e).

Done in Washington, DC, this 26th day of June 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–12770 Filed 6–29–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2004–17774; Airspace Docket No. 04–ACE–32]

RIN 2120–AA66

Modification of Restricted Areas 3601A and 3601B; Brookville, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Restricted Areas 3601A (R–3601A) and 3601B (R–3601B), at Brookville, KS, in response to a request from the United States Air Force (USAF). Specifically, this action revises R–3601A and R–3601B by combining their lateral boundaries, expanding the ceiling to flight level 230 (FL230), and re-designating the lower portion of the combined area as R–3601A and the upper portion as R–3601B. Additionally, this action changes the using agency of R–3601A and R–3601B from ''Commander, Kansas ANG, McConnell AFB, KS'' to ''Air National Guard, 184th Air Refueling Wing, Detachment 1, Smoky Hill ANG Range, Salina, KS.'' These revisions will fulfill new USAF requirements for high altitude release bomb training for fighter aircraft and medium-to-high altitude release bomb training for bombers.

EFFECTIVE DATE: 0901 UTC, August 30, 2007.

FOR FURTHER INFORMATION CONTACT: Steve Rohring, Airspace and Rules Group, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On July 21, 2004, the FAA published in the **Federal Register** a notice of proposed rulemaking to modify the ceiling and lateral boundaries, and change the using agency of R–3601A

and R–3601B to assist the USAF in fulfilling new high altitude release bomb training requirements for fighter aircraft and new medium-to-high altitude release bomb training requirements for bombers (69 FR 43539). The current altitude structure is not sufficient to meet these new training requirements. Interested parties were invited to participate in the rulemaking effort by submitting written comments on this proposal to the FAA. The FAA received no comments in response to the proposal. With the exception of editorial changes, this amendment is the same as that proposed in the notice.

Section 73.36 of Title 14 CFR part 73 was republished in FAA Order 7400.8N, dated February 16, 2007.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 73 by revising R–3601A and R–3601B at Brookville, KS, and changing the using agency. Specifically, this action revises R–3601A and R–3601B by combining their lateral boundaries, expanding the ceiling, and re-designating the lower portion (surface to but not including FL 180) as R–3601A and the upper portion (FL 180 to FL 230) as R–3601B. The FAA is taking this action to assist the USAF in meeting new training requirements that call for practicing the release of bombs from higher altitudes than are currently available within the existing restricted areas. Additionally, this action will change the using agency of R–3601A and R–3601B from ''Commander, Kansas ANG, McConnell AFB, KS'' to ''Air National Guard, 184th Air Refueling Wing, Detachment 1, Smoky Hill ANG Range, Salina, KS.'' This action does not change the times of use or the controlling agency for R–3601A and R–3601B.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

Environmental Review

The FAA has determined that the Final Environmental Assessment (FEA) prepared by the Kansas Air National Guard for the proposed changes to the Smoky, Smokey High, and Bison MOAs and Restricted Areas 3601A and 3601B meet the criteria for adoption. The FAA has also determined that the proposed actions are consistent with existing national environmental policies and objectives as set forth in section 101 of the National Environmental Policy Act (NEPA) and other applicable environmental requirements and will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102(2)(c) of NEPA. Therefore, on May 10, 2007, the FAA adopted the FEA and issued a Finding of No Significant Impact/Record of Decision in accordance with FAA Order 1050.1E, Environmental Impacts: Policies and Procedures.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

§ 73.36 [Amended]

■ 2. § 73.36 is amended as follows:

* * * * *

R–3601A Brookville, KS [Revised]

By removing the current boundaries, designated altitudes, and using agency, and substituting the following:

Boundaries. Beginning at lat. 38°45′20″ N., long. 97°46′01″ W.; to lat. 38°39′45″ N., long. 97°46′01″ W.; then southwest along the Missouri Pacific Railroad Track; to lat. 38°38′20″ N., long. 97°47′31″ W.; to lat. 38°38′20″ N., long. 97°50′01″ W.; to lat. 38°35′00″ N., long. 97°50′01″ W.; to lat. 38°35′00″ N., long. 97°56′01″ W.; to lat. 38°45′20″ N., long. 97°56′01″ W.; to the point of beginning.

Designated altitudes. Surface to but not including FL180.

Using Agency. Air National Guard, 184th Air Refueling Wing, Detachment 1, Smoky Hill ANG Range, Salina, KS.

* * * * *

R–3601B Brookville, KS [Revised]

By removing the current boundaries, designated altitudes, and using agency and substituting the following:

Boundaries. Beginning at lat. 38°45′20″ N., long. 97°46′01″ W.; to lat. 38°39′45″ N., long. 97°46′01″ W.; then southwest along the Missouri Pacific Railroad Track; to lat. 38°38′20″ N., long. 97°47′31″ W.; to lat. 38°38′20″ N., long. 97°50′01″ W.; to lat. 38°35′00″ N., long. 97°50′01″ W.; to lat. 38°35′00″ N., long. 97°56′01″ W.; to lat. 38°45′20″ N., long. 97°56′01″ W.; to the point of beginning.

Designated altitudes. FL180 to FL230.

Using Agency. Air National Guard, 184th Air Refueling Wing, Detachment 1, Smoky Hill ANG Range, Salina, KS.

* * * * *

Issued in Washington, DC, June 18, 2007.

Kenneth McElroy,

Acting Manager, Airspace and Rules Group.

[FR Doc. E7–12703 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

RIN 3038–AC37

Registration of Intermediaries

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') has amended Commission Regulation 3.10 to require certain registered intermediaries, *i.e.*, futures commission merchants (''FCMs''), introducing brokers (''IBs''), commodity pool operators (''CPOs''), commodity trading advisors (''CTAs'') and leverage transaction merchants (''LTMs''), to complete an online annual review of their registration information maintained with the National Futures Association (''NFA''). This amendment is intended to ensure that NFA will have accurate and current information about such registrants. The Commission also has made a technical and conforming amendment to Commission Regulation 3.33(f) in order to remove an unnecessary reference to Regulation 3.10(d).

EFFECTIVE DATE: August 1, 2007.

FOR FURTHER INFORMATION CONTACT: Helene D. Schroeder, Special Counsel, Compliance and Registration Section, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone number: (202) 418–5450; facsimile number: (202) 418–5528; and electronic mail: *hschroeder@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Part 3 of the Commission's regulations sets forth the regulations relating to the registration of intermediaries and other futures industry professionals.[1] The Commission adopted Part 3 pursuant to the authority set forth in Sections 4c, 4d, 4f(a)(1), 4m, 4n(1) and 19 of the Commodity Exchange Act (''Act'').[2] These statutory provisions require the registration of firms seeking to act as intermediaries for exchange-traded futures and commodity options. Section 4f(a)(1) contains the framework for the registration of FCMs and IBs.[3] Section 4n(1) governs the registration of CPOs and CTAs.[4] Sections 4c[5] and 19 of the Act,[6] respectively, grant the Commission plenary authority, including registration authority, over commodity options and leverage transactions.

Commission Regulation 3.10(a) specifies that an application for registration as an FCM, IB, CPO, CTA or LTM must be on a Form 7–R, completed and filed with NFA in accordance with the instructions thereto.[7] Commission Regulation 3.31(a)(1) requires such intermediaries to correct promptly deficiencies or inaccuracies contained in the person's Form 7–R or any Form 8–R filed on behalf of a principal or an associated person.[8]

In 2002, NFA altered its registration procedures by shifting from paper-based registration to an online or electronic registration system. Pursuant to these new procedures, NFA requires, with limited exceptions,[9] that all registration (and membership) forms, including the completed Form 7–R and 3–R, must be filed with NFA electronically through NFA's Online Registration System (''ORS''). Shortly after the new procedures were implemented, the Commission deleted Regulation 3.10(d), pursuant to which intermediary firms would conduct an annual review of a pre-printed copy of the registrant's 7–R.[10]

II. Proposal

In order to ensure that the registration information it maintains is accurate and up-to-date, NFA developed an online registration update protocol for firms to review and update their registration records. In addition to providing an updated list of persons authorized to enter data in ORS, the protocol would require registrants to provide updated disciplinary, branch office and firm contact information.[11]

To facilitate NFA's efforts in implementing this new protocol, on April 26, 2007, the Commission published in the **Federal Register** a proposal to require firms to conduct an annual review of registration information. (''Proposal'').[12] The Proposal, which included a proposed new paragraph (d) of Regulation 3.10 (''Proposed Amendment'') was designed to ensure that NFA would be in possession of current and accurate information regarding intermediaries.[13] Specifically, the Proposed Amendment would require that each FCM, IB, CPO, CTA and LTM, in accordance with procedures established by NFA, complete an online annual review of the registration information maintained by NFA. Pursuant to procedures established by NFA, registrants would be required to correct any deficiencies or inaccuracies contained therein.

The Proposed Amendment also would provide that the failure to complete the review and update within 30 days of the date established by NFA for completion would be deemed to be a request for withdrawal from registration. As further provided therein, NFA would be required to process the request in accordance with the existing procedures for withdrawal of registration set forth in Commission Regulation 3.33(f).

The Commission's Proposal also included a technical and conforming amendment to Commission Regulation 3.33(f) in order to remove unnecessary language that referenced Regulation 3.10(d).

III. Comments Regarding the Proposal

The Commission received only one comment letter on its Proposal, and this comment, which was from NFA, expressed full support for the amendment. In light of this fact, and the foregoing, the Commission has determined to adopt the amendments to Regulations 3.10 and 3.33(f) as set forth in the Proposal.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'')[14] requires that agencies, in proposing regulations, consider the impact of those regulations on small businesses. The amendment to Regulation 3.10 will affect persons that are registered as FCMs, IBs, CPOs, CTAs and LTMs. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the RFA.[15] The Commission previously determined that registered FCMs, CPOs and LTMs are not small entities for the purpose of the RFA.[16]

With respect to the remaining persons, CTAs and IBs, the Commission stated in the Proposal that it did not believe that the economic impact of the Proposed Amendment would be significant. First, the information that would be required under the Proposed Amendment already is required to be collected under the existing registration framework, *to wit,* Regulation 3.31(a)(1). Second, the Proposed Amendment and NFA's new protocol would focus each registrant on the specific areas that must be reviewed and, if needed, updated. Third, the Proposed Amendment would permit review and updating via electronic means in keeping with the current registration procedures. Accordingly, in accordance with Section 3(a) of the RFA,[17] the Chairman, on behalf of the Commission, certified that the Proposed Amendment would not have a significant economic impact on a substantial number of small entities.

The Commission invited the public to comment regarding its analysis of the application of the RFA to the Proposal. The Commission did not receive any such comments.

B. Cost-Benefit Analysis

Section 15(a) of the Act[18] requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and

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[1] 17 CFR Part 3. The Commission's regulations can be accessed at *http://www.access.gpo.gov/nara/cfr/waisidx_06/17cfrv1_06.html.*

[2] 7 U.S.C. 1 *et seq.* (2000). The Act can be accessed at *http://www.access.gpo.gov/uscode/title7/chapter1_.html.*

[3] 7 U.S.C. 6f(a)(1).

[4] 7 U.S.C. 6n(1).

[5] 7 U.S.C. 6c.

[6] 7 U.S.C. 23. Commission Regulation 31.5, 17 CFR 31.5 (2007), was promulgated under this provision and along with Regulation 3.10, 17 CFR 3.10, governs the registration of LTMs.

[7] 17 CFR 3.10(a).

[8] 17 CFR 3.31(a)(1).

[9] For example, NFA requires that any securities broker or dealer that is registered with the Securities and Exchange Commission that becomes a notice-registered FCM or IB must submit a hardcopy version of its Form 7–R.

[10] *See* 67 FR 38869 (June 6, 2002).

[11] Under the protocol, a firm could modify the title given for a particular principal of a firm, but it could not identify a new principal, as this would require separate application.

[12] 72 FR 20788.

[13] Paragraph (d) of Regulation 3.10 had been reserved.

[14] 5 U.S.C. 601 *et seq.*

[15] 47 FR 18618 (Apr. 30, 1982).

[16] 47 FR 18618, 18619.

[17] 5 U.S.C. 605(b).

[18] 7 U.S.C. 19(a).

benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission, in its discretion, may choose to give greater weight to any one of the five enumerated areas and determine that, notwithstanding its costs, a particular regulation is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act. The Commission has evaluated the costs and benefits of its Proposal, in particular, new Regulation 3.10(d) in light of the specific considerations identified in Section 15(a) of the Act.

Regulation 3.10(d) concerns the registration of intermediaries, in particular, FCMs, IBs, CPOs, CTAs and LTMs. Specifically, it will require these intermediaries to complete an online annual review of their registration information, including disciplinary information, firm contacts and lists of authorized users. By ensuring that NFA, the self-regulatory organization that oversees the activities of these registrants, will have accurate and current information regarding registrants, Regulation 3.10(d) will maximize the protection of market participants and the public.

Such intermediaries already are under an ongoing obligation to provide updated information to NFA pursuant to Commission Regulation 3.31(a)(1). Regulation 3.10(d) will require these registrants to comply with an online review protocol established by NFA. This protocol will provide a straightforward process for registrants to electronically update their registration information. It will focus and guide registrants on the particular areas that need updating. By facilitating NFA's efforts to adopt this protocol, Regulation 3.10(d) will result in efficiency enhancements for registrants and NFA.

Regulation 3.10(d) also will have no effect on the following three enumerated areas: (1) Efficiency, competitiveness or the financial integrity of futures markets; (2) price discovery; and (3) sound risk management practices.

After considering these factors, the Commission has determined to adopt the amendment to Regulation 3.10 set forth below.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'') imposes certain obligations on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA.[19] In its Proposal, the Commission noted that the Proposed Amendment would require intermediaries to conduct an annual review of their registration information maintained with NFA and that this information is part of an approved collection of information. The Commission further noted that the Proposed Amendment would not result in any material modifications to this approved collection. Accordingly, for purposes of the PRA, the Commission certified that the Proposed Amendment did not impose any new reporting or recordkeeping requirements.

The Commission did not receive any comments regarding its analysis relative to the PRA.

List of Subjects in 17 CFR Part 3

Administrative practice and procedure, Brokers, Commodity futures, Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the Commission amends 17 CFR part 3 as follows:

PART 3—REGISTRATION

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

Authority: 5 U.S.C. 522, 522b; 7 U.S.C. 1a, 2, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23.

■ 2. Section 3.10 is amended by adding paragraph (d) to read as follows:

§ 3.10 Registration of futures commission merchants, introducing brokers, commodity trading advisors, commodity pool operators and leverage transaction merchants.

* * * * *

(d) On a date to be established by the National Futures Association, and in accordance with procedures established by the National Futures Association, each registrant as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator or leverage transaction merchant shall, on an annual basis, review and update registration information maintained with the National Futures Association. The failure to complete the review and update within thirty days following the date established by the National Futures Association shall be deemed to be a request for withdrawal from registration, which shall be processed in accordance with the provisions of § 3.33(f).

■ 3. Section 3.33 is amended by revising paragraph (f) introductory text to read as follows:

§ 3.33 Withdrawal from registration.

* * * * *

(f) A request for withdrawal from registration will become effective on the thirtieth day after receipt of such request by the National Futures Association, or earlier upon written notice from the National Futures Association (with the written concurrence of the Commission) of the granting of such request, unless prior to the effective date:

* * * * *

Issued in Washington, DC, on June 26, 2007, by the Commission.

Eileen Donovan,

Acting Secretary of the Commission.

[FR Doc. E7–12767 Filed 6–29–07; 8:45 am]

BILLING CODE 6351–01–P

[19] 44 U.S.C. 3501 *et seq.*

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1309 and 1310

[Docket No. DEA–257F]

RIN 1117–AA93

Changes in the Regulation of Iodine Crystals and Chemical Mixtures Containing Over 2.2 Percent Iodine

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final rule.

SUMMARY: This rulemaking changes the regulation of the listed chemical iodine under the chemical regulatory provisions of the Controlled Substances Act (CSA). The Drug Enforcement Administration (DEA) believes that this action is necessary to remove deficiencies in the existing regulatory controls, which have been exploited by drug traffickers who divert iodine (in the form of iodine crystals and iodine tincture) for the illicit production of methamphetamine in clandestine drug laboratories. This rulemaking moves iodine from List II to List I; reduces the iodine threshold from 0.4 kilograms to zero kilograms; adds import and export regulatory controls; and controls

chemical mixtures containing greater than 2.2 percent iodine.

This rulemaking establishes regulatory controls that will apply to iodine crystals and iodine chemical mixtures that contain greater than 2.2 percent iodine. This regulation therefore controls iodine crystals and strong iodine tinctures/solutions (e.g., 7 percent iodine) that do not have common household uses and instead have limited application in livestock, horses, and for disinfection of equipment. Household products such as 2 percent iodine tincture/solution and household disinfectants containing iodine complexes will not be adversely impacted by this regulation. Additionally, the final rule exempts transactions of up to one-fluid-ounce (30 ml) of Lugol's Solution.

Persons handling regulated iodine materials are required to register with DEA, are subject to the import/export notification requirements of the CSA, and are required to maintain records of all regulated transactions involving iodine regardless of size.

DATES: This rulemaking becomes effective on August 1, 2007. Persons seeking registration must apply on or before August 31, 2007 in order to continue their business pending final action by DEA on their application.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 at (202) 307–7183.

SUPPLEMENTARY INFORMATION:

I. Background Information on Iodine

This rulemaking finalizes an August 11, 2006, Notice of Proposed Rulemaking (NPRM) [71 FR 46144] in which DEA proposed (1) the movement of iodine from List II to List I; (2) a reduction in the iodine threshold from 0.4 kilograms to zero kilograms; (3) the addition of import and export regulatory controls; and (4) the control of chemical mixtures containing greater than 2.2 percent iodine. This action is being taken because of the continued use of iodine for the illicit production of the schedule II controlled substances amphetamine and methamphetamine. Methamphetamine is the leading controlled substance clandestinely manufactured in the United States.

Faced with the growing threat of methamphetamine abuse in the United States and the ease with which methamphetamine is clandestinely produced using iodine, the DEA is increasing the regulatory controls on iodine in an effort to prevent the diversion of iodine to clandestine drug laboratories.

Need for Increased Regulation

This rulemaking changes the regulatory control of iodine in an effort to prevent the diversion of iodine for the illicit production of methamphetamine and amphetamine. The August 11, 2006, NPRM went into great detail regarding the scope of the domestic and international clandestine laboratory problem, use of iodine in the production of methamphetamine/amphetamine, and the need to increase regulatory controls on iodine.

As stated in the NPRM, due to the regulatory controls placed on the listed chemical hydriodic acid, drug traffickers began using iodine as a substitute chemical in the illicit production of methamphetamine and amphetamine, both schedule II controlled substances. Hydriodic acid became a regulated chemical upon enactment of the Chemical Diversion and Trafficking Act of 1988 (Pub. L. 100–690). Hydriodic acid, like iodine, was initially regulated as a List II chemical. Hydriodic acid was reclassified as a List I chemical by enactment of the Crime Control Act of 1990 (Pub. L. 101–647).

The Domestic Chemical Diversion Control Act of 1993 (DCDCA) (Pub. L. 103–200) required that handlers of List I chemicals be registered. This increased regulatory control and made it more difficult for traffickers to acquire hydriodic acid. Faced with this difficulty, traffickers began to substitute iodine for hydriodic acid for the illicit production of methamphetamine and amphetamine.

Iodine is commonly used with the List I chemicals phosphorus or hypophosphorous acid and ephedrine or pseudoephedrine to manufacture methamphetamine, which is now the most prevalent method used by traffickers. The List I chemicals phenylpropanolamine or norpseudoephedrine can be made into amphetamine by the same method.

In response to the increased use of iodine in clandestine drug laboratories, Congress controlled iodine as a List II chemical by amending Section 102(35) of the CSA (21 U.S.C. 802(35)) by passage of Pub. L. 104–237, the Comprehensive Methamphetamine Control Act of 1996 (MCA) on October 3, 1996.

Although iodine became subject to CSA chemical regulatory controls, traffickers have exploited certain deficiencies in these controls to divert iodine. Only certain domestic distributions are regulated transactions, and distributions below the 0.4 kilogram cumulative threshold (about one pound), within a calendar month, are not regarded as regulated transactions. Import and export transactions of iodine are not regulated, regardless of the quantity distributed. Additionally, because iodine is a List II chemical, handlers of iodine are not required to register with DEA. These loopholes have been exploited by drug traffickers and the businesses that supply them.

While the regulatory controls placed on iodine apply to iodine crystals, they have not pertained to iodine tinctures (solutions of iodine and iodide in alcohol), which are considered chemical mixtures. Drug traffickers are currently circumventing CSA regulatory controls via the diversion of iodine tinctures. Traffickers have learned that the tinctures can serve as a ready source of iodine crystals when the tincture is subjected to the appropriate chemical reaction.

Existing regulations pertaining to iodine have proved to be inadequate to prevent diversion. Traffickers have been able to make undocumented purchases of iodine crystals (up to the existing threshold of 0.4 kilograms), make unlimited purchases of iodine tincture, and make undocumented import and export shipments of iodine. Additionally, because iodine is a List II chemical and distributors are not registered, it is difficult for DEA to identify all handlers of regulated material.

International Scope of Problem

The illicit production of methamphetamine is also an international problem. Mexican drug trafficking organizations operating out of Mexico and California began to dominate the illicit production and distribution of methamphetamine in the United States around 1994. This followed years of control by independent, regional outlaw motorcycle gangs, supplemented by numerous independent, smaller-scale producers. Mexican organizations now produce and supply the majority of the methamphetamine illicitly available in the United States, using large-scale laboratories based in Mexico and the Southwestern United States. These large-scale laboratories often rely upon a ready source of iodine. Outlaw motorcycle gangs and small independent producers remain active in domestic methamphetamine production, but not on the same scale as the Mexican traffickers. The Mexican organizations' ready access to essential chemicals on the international market

has greatly facilitated their ability to produce large amounts of methamphetamine. DEA, therefore, believes that enhanced controls on iodine are necessary to prevent the diversion of iodine (in the form of iodine crystals and iodine tincture) for the illicit production of methamphetamine/amphetamine in clandestine drug laboratories.

Comments

In response to the August 11, 2006, NPRM, DEA received comments from thirteen interested parties. While commenters were generally supportive of DEA's need to prevent the diversion of iodine for the illicit production of methamphetamine, the comments raised concerns regarding the potential adverse impact upon the availability of specific iodine products intended for legitimate use.

Comments Regarding Iodine Products Used for Nutritional Supplementation

Twelve comments expressed concerns that the proposed regulations would adversely impact the availability of products for use as a dietary source of iodine. These comments detailed the use of iodine products as part of a nutritional program to supplement iodine levels for various health purposes (e.g., the normalization of thyroid function, prevention of breast cancer recurrence, or supplementation during pregnancy as a program to prevent autism in offsprings.)

Eleven of these comments expressed concern that the regulation would adversely impact the availability of a specific formulation known as Lugol's Solution. Lugol's Solution is a 5 percent aqueous solution of iodine in combination with 10 percent potassium iodide.

Most of these comments detailed the importance of Lugol's Solution as a source of milligram doses of iodine as part of a daily health program of disease prevention. Commenters noted how several drops of Lugol's Solution per day served as an inexpensive source of dietary iodine. Commenters detailed multiple uses for Lugol's Solution and expressed concerns that such material should remain available to end users in small quantities.

In response to comments, DEA conducted further review of the legitimate uses for Lugol's Solution. These uses include (1) the staining of slides in microbiology, (2) the staining of cervical and esophageal tissue in diagnosis of disease, (3) use in aquariums, (4) use in pre-treating the thyroid gland prior to ingestion of radiolabeled I^{131} so that the thyroid gland will not take up large quantities of radioactive material, (5) use as a dietary source of iodine, and (6) use in educational science test kits for identification of starches. For each of these uses, the quantities of Lugol's Solution needed are small. In most cases, the Lugol's Solution is used in small 8 milliliter (ml) bottles or in one-fluid-ounce (30 ml) bottles. Because of the numerous legitimate uses and small quantities involved, DEA is adding a provision to this final rule that will exempt Lugol's Solution when packaged in bottles/containers of one-fluid-ounce (30 ml) or smaller, and involve distribution of only a single package per transaction. While this final rule provides an exemption for Lugol's Solution when packaged in small bottles, larger packages are subject to regulatory controls. DEA is aware of the availability of 16 fluid ounce bulk packages of Lugol's Solution. These larger bulk packages are subject to regulatory control provisions including registration, import/export notification, and recordkeeping.

DEA review indicates that only 2–6 drops a day of Lugol's Solution are used for nutritional purposes. Additionally, the quantities used in the healthcare field, microbiology, and in the testing of starches, require only very small amounts of Lugol's Solution and the sale of 8 ml and one-fluid-ounce (30 ml) bottles is common. When used in an aquarium, the labeled directions indicate that only 1 drop of Lugol's Solution per 25 gallons should be used weekly. Therefore, one-fluid-ounce package of Lugol's Solution should be adequate for most legitimate purposes. A one-fluid-ounce (30 ml) package size contains 1.5 grams of iodine and has potential utility for use in the illicit manufacture of methamphetamine. Therefore, DEA is adding the provision to exempt individual transactions involving one one-fluid-ounce (30 ml) package/bottle. Individuals that distribute more than one package/bottle of Lugol's Solution (of any size) per transaction, are subject to CSA recordkeeping and import/export requirements.

This final rulemaking includes a waiver of the registration requirement under 21 CFR 1309.24 for ''Lugol's Solution (consisting of 5 percent iodine and 10 percent potassium iodide in an aqueous solution) in original manufacturer's packaging of one-fluid-ounce (30 ml) or less per package.'' Additionally, this rulemaking includes an exclusion from the definition of regulated transaction under 21 CFR 1310.08 for ''Domestic and international transactions of Lugol's Solution (consisting of 5 percent iodine and 10 percent potassium iodide in an aqueous solution) in original manufacturer's packaging of one-fluid-ounce (30 ml) or less, and no greater than one package/bottle per transaction.''

DEA currently has no evidence that Lugol's Solution is diverted as a source of iodine for illicit purposes. However, should clandestine laboratory operators begin to exploit the exemption for small packages of Lugol's Solution as a source of iodine for the manufacture of methamphetamine, DEA may remove these exemption provisions.

One comment received from a physician expressed concerns regarding the possible control of an iodine product (Iodoral) that contains 5 milligrams iodine and 7.5 milligrams potassium iodide per tablet. The physician stated that this product is used in patients with thyroid disease and therefore requested that this product remain exempt from CSA regulatory provisions. In response to this comment, DEA obtained samples of Iodoral and determined that the concentration of iodine in the product is below the 2.2 percent concentration level for chemical mixtures as specified in 21 CFR 1310.12. Therefore, Iodoral 5 mg tablets are not subject to CSA regulatory control provisions following implementation of this final rule.

Comment Relating to Commercial Use of Iodine

One comment was received from a manufacturer of injectable products and medical delivery systems. The commenter expressed support for the proposed exemption of iodophor products (iodine complexes), but requested clarification that the exemption includes organically bound iodine products which are non-ionic complexes. The commenter provided specific examples of organically bound products (e.g., iopamidol, iohexol and amiodarone.)

The proposed exemption for iodophors was intended to include organically bound iodine compounds. DEA has evaluated these products and determined that these organically bound compounds cannot serve as a source of iodine for methamphetamine laboratories and therefore are not at risk of diversion. As clarification, DEA has added a new paragraph under 21 CFR 1310.12(d)(5) which specifies that ''Iodine products that consist of organically bound iodine (a non-ionic complex) (e.g., iopamidol, iohexol, and amiodarone)'' are chemical mixtures that are automatically exempt from CSA regulatory provisions.

This commenter also requested that certain laboratory reagents (e.g., Karl Fischer Reagent and Aquastar Composite 5), be considered for exemption from regulation. The commenter stated it was not the manufacturer or distributor of such products, but used these reagents frequently for laboratory testing. The commenter expressed concern that the new regulation would potentially subject such reagents to CSA regulatory control. DEA conducted a review of such laboratory reagents, but the iodine concentration in these chemical mixtures appears to be proprietary and was not disclosed on product labeling.

DEA wishes to clarify that end users of such material are not subject to CSA regulatory requirements, except the requirement to provide identification for purchase of List I chemicals (21 CFR 1310.06), as long as they do not distribute regulated material. Such laboratory reagents would only be considered regulated material if they are chemical mixtures containing greater than 2.2 percent iodine, and not considered either an iodophor or organically bound iodine.

DEA recognizes that the 2.2 percent iodine concentration criteria cannot identify all mixtures that should receive exemption status. DEA notes that an application process already exists to exempt additional mixtures (21 CFR 1310.13). This application process was finalized in a previous final rule regarding chemical mixtures (68 FR 23195, May 1, 2003). Under the application process, manufacturers may submit an application for exemption for those mixtures that do not qualify for automatic exemption. Exemption status can be granted if DEA determines that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and the listed chemical cannot be readily recovered (i.e., it meets the conditions in 21 U.S.C. 802(39)(A)(vi)). Under these provisions, the manufacturer of these reagents may apply for exemption if their products are above the 2.2 percent iodine level.

Additionally, the commenter expressed concern regarding the ability to obtain iodine crystals for laboratory analytical use following implementation of this final rule. However, transactions involving iodine crystals have been regulated as List II chemicals since implementation of the Comprehensive Methamphetamine Control Act (MCA) in 1996. This final rule only requires that handlers of such material register with DEA and maintain records of transactions. Most of the chemical houses that supply high-grade material to analytical laboratories are already registered with DEA to handle List I chemicals. The regulatory requirement only pertains to distribution of regulated material. DEA does not believe that these regulations will adversely impact the availability of such material.

Iodine Products Subject to This Final Rule

Iodine is important to the chemical and allied industries primarily as a chemical intermediate used to make new chemical products for industry and research. These products have application in sanitation (as disinfectants), animal feed, pharmaceuticals, as catalysts, heat stabilizers, and in various other industrial applications. Most iodine is consumed by industry. Those who purchase iodine for end use, whether they are individuals or businesses, will be subject to CSA chemical regulatory controls to the extent that they must present identification and provide other information that helps assure the seller that the end user's proposed use of the chemical is legitimate. See 21 U.S.C. 830 and 21 CFR 1310.07.

Iodine has powerful bactericidal action and is used for disinfecting unbroken skin before surgery. Iodine may also be employed as a weak solution for the first-aid treatment of small wounds and abrasions.

The standard definition for iodine topical solutions, and other iodine containing products, is specified in the United States Pharmacopeia (U.S.P.). The U.S.P. lists two strengths of iodine solution and two strengths of iodine tincture. The U.S.P. specifies formulations for iodine topical solution, strong iodine solution, iodine tincture, and strong iodine tincture in the official monographs. Commercially available iodine solutions and tinctures are summarized in the following table:

CONCENTRATION OF IODINE IN PRODUCTS PER 100 ML

	Iodine (gm.)	Sodium iodide (gm.)	Potassium iodide (gm.)
Iodine Topical (w/water)	1.8–2.2	2.1–2.6	.....
Strong Iodine (w/water)	4.5–5.5	.....	9.5–10.5
Iodine Tincture (w/alcohol @ 44–50%)	1.8–2.2	2.1–2.6	.....
Strong Iodine Tincture (w/alcohol @ 82.5–88.5%)	6.8–7.5	.....	4.7–5.5

Source: U.S. Pharmacopoeia (U.S.P.)

As shown in the table, the solutions are formulated in two concentrations of iodine. They are specifically named as iodine topical solution and strong iodine solution. Iodine topical solution two percent U.S.P. is defined as having in each 100 ml, not less than 1.8 grams and not more than 2.2 grams of iodine, and not less than 2.1 grams and not more than 2.6 grams of sodium iodide in water. Strong iodine solution U.S.P. contains in each 100 ml, not less than 4.5 grams and not more than 5.5 grams of iodine and not less than 9.5 grams and not more than 10.5 grams of potassium iodine.

The U.S.P. defines iodine tincture as containing, in each 100 ml, not less than 1.8 grams and not more than 2.2 grams of iodine, and not less than 2.1 grams and not more than 2.6 grams of sodium iodide. The same weight amounts of iodine and sodium iodide are used as in the iodine topical solution except that alcohol is used in 44 to 50 percent concentration. The target concentration of iodine is 2 percent. Strong iodine tincture is defined by the U.S.P. as containing, in each 100 ml, not less than 6.8 grams and not more than 7.5 grams of iodine and not less than 4.7 grams and not more than 5.5 grams of potassium iodide. The alcohol content is between 82.5 and 88.5 percent. The target iodine concentration is 7 percent.

Iodine two percent tincture and solution U.S.P. are sold at a wide variety of retail outlets and have household application as antiseptic and antimicrobial products. These products are not subject to this regulation. In contrast, iodine crystals and iodine chemical mixtures containing over 2.2 percent iodine have no household use

and are available only from specialty retailers. Iodine solutions (in excess of 2.2 percent iodine) are used as an antiseptic in the care of livestock and horses and as disinfectants for equipment and areas where livestock are kept. Some iodine solutions (e.g., Lugol's Solution) are used in saltwater aquariums, used as a dietary source of iodine, used to test for the presence of starch, and as stains in some laboratory tests. This rulemaking exempts small transactions of these chemical mixtures, as discussed elsewhere in this rule.

Iodine crystals have also been historically used by campers to purify water. Today, however, most of the water treatment products available to campers use iodide salts and are not the subject of this regulation. DEA, however, has identified two marketed products that contain iodine for water purification. Under this rulemaking, these products will be subject to control.

Iodine Products Not Regulated Under This Rulemaking

There are other iodine-containing products that have household use and are widely sold in retail settings. Iodine products classified as iodophors consist of iodine complexed with surfactant compounds (e.g., poloxamer-iodine complex) or with nonsurfactant compounds (e.g., polyvinyl pyrrolidone-iodine complex (povidone-iodine)). These complexes allow the iodine to be delivered continuously. Such complex solutions in water or alcohol are better tolerated than iodine tincture and solutions with comparable efficacy. Considering the necessary time of application and the correct dilution, these complexes are used for general disinfection, hand disinfection, as well as for skin disinfection prior to surgery or venipuncture. Some of these iodine complexes are also used for the treatment of burns and of different skin lesions. Since these complex products do not have applicability as a source of iodine at clandestine drug laboratories, DEA is exempting these products in 21 CFR 1310.12(d)(4). This provision will automatically exempt from CSA controls ''Iodine products classified as iodophors, which exist as an iodine complex to include poloxamer-iodine complex, polyvinyl pyrrolidone-iodine complex (i.e. povidone-iodine), undecoylium chloride iodine, nonylphenoxypoly (ethyleneoxy) ethanol-iodine complex, iodine complex with phosphate ester of alkylaryloxy polyethylene glycol, and iodine complex with ammonium ether sulfate/polyoxyethylene sorbitan monolaurate.''

Additionally, DEA wishes to clarify that organically bound iodine products that are non-ionic complexes (e.g., iopamidol, iohexol and amiodarone) are not subject to CSA regulatory controls. These organically bound compounds cannot serve as a source of iodine for methamphetamine laboratories and therefore are not at risk of diversion. As clarification, DEA has added a new paragraph under 21 CFR 1310.12(d)(5), which specifies that ''Iodine products that consist of organically bound iodine (a non-ionic complex) (e.g., iopamidol, iohexol, and amiodarone)'' are chemical mixtures that are automatically exempt from CSA regulatory provisions.

DEA is aware that the element iodine is a constituent in certain pharmaceutical products (e.g., potassium iodide and others) sold over-the-counter or under a prescription. Potassium iodide is available for use in the event of a nuclear incident to protect the thyroid gland of exposed individuals. The element iodine is also a constituent in products sold as radioisotopes (e.g., radioactive iodine), which find widest use in the treatment of hyperthyroidism and in the diagnosis of certain disorders (e.g., thyroid dysfunction), and in general scientific research. The greatest use has been made of sodium iodide I^{131}. DEA is also aware of other radiolabeled material, such as sodium iodide I^{123}, which is available for scanning/imaging purposes in disease diagnosis. Note that these iodide compounds are not the subject of this rulemaking. As such, the regulatory controls of the CSA do not apply to any of these iodide salts or radiolabeled iodine/iodide salts. Additionally, these regulatory controls do not apply to any iodide material commonly dispensed under a prescription. Instead, this regulation is limited only to iodine crystals and chemical mixtures that contain iodine in the form of the iodine tinctures and iodine solutions described above.

This rulemaking implements regulatory controls that apply to iodine crystals and iodine chemical mixtures that contain greater than 2.2 percent iodine. The vast majority of products having household application are not adversely impacted by this regulation.

II. Changes to the Regulation of Iodine as a Result of This Rulemaking

Moving Iodine Into 21 CFR 1310.02(a) (List I)

The Controlled Substances Act (CSA) and its implementing regulations, specifically 21 U.S.C. 802(34) and (35) and 21 CFR 1310.02, provide the Attorney General with the authority to specify, by regulation, the addition or deletion of any chemicals as listed chemicals. Listed chemicals that are classified as List I chemicals are important to the manufacture of controlled substances. Those classified as List II chemicals may be used to manufacture controlled substances in violation of the Act. This authority has been delegated to the Administrator of DEA by 28 CFR 0.100 and redelegated to the Deputy Administrator by 28 CFR 0.104, Appendix to Subpart R, § 12.

The definition in 21 CFR 1300.02(b)(19), defines ''List II chemical'' as a chemical, other than a List I chemical, specifically designated by the Administrator in 21 CFR 1310.02(b), that ''is used in manufacturing a controlled substance in violation of the Act.'' 21 CFR 1300.02(b)(18) defines the term ''List I chemical'' to mean ''a chemical specifically designated by the Administrator in 21 CFR 1310.02(a) * * * that * * * is used in manufacturing a controlled substance in violation of the Act and is important to the manufacture of a controlled substance.''

In this final rule, the DEA is removing iodine from 21 CFR 1310.02(b) (List II) and placing it in 1310.02(a) (List I) because, based on the information provided above, and discussed in greater detail in the Notice of Proposed Rulemaking for this rule, iodine is a chemical that is important to the manufacture of the controlled substances methamphetamine and amphetamine in violation of the Act. Placement in List I, 21 U.S.C. 822(a)(1) requires that persons who distribute iodine must be registered with DEA. Based on its experience with hydriodic acid and other List I chemicals, DEA believes that List I regulatory controls for iodine will help curtail its widespread use in the clandestine manufacture of methamphetamine and amphetamine. List I regulatory controls dictate that handlers of iodine, including persons who manufacture, import, export, or distribute iodine, must register with DEA. Retail and wholesale outlets that sell iodine crystals and covered tinctures/solutions are also required to register.

Prior to receiving a DEA chemical registration, applicants are subject to a pre-registration investigation by DEA to determine whether their registration is consistent with the public interest pursuant to the criteria set forth in 21 U.S.C. 823(h). Registration also provides the DEA with the identity of all businesses that handle List I chemicals. A business that sells a List I chemical in violation of the law or regulations can have its registration revoked and be

prevented from handling List I chemicals.

Regulation of Import and Export Transactions

When iodine was controlled as a List II chemical by the Comprehensive Methamphetamine Control Act of 1996 (MCA), the law specifically exempted it from import and export controls. The MCA, however, also explicitly provided that Congress was not limiting the authorization of the Attorney General to impose the import and export provisions of the CSA on iodine. See Pub. L. 104–237, § 204. Because of the international commerce in iodine, and iodine's documented use in the clandestine production of methamphetamine, DEA has determined that the addition of import and export controls on iodine is necessary. Therefore, 21 CFR 1310.08 is amended to remove imports and exports of iodine as excluded transactions. Thus, iodine will become subject to the import and export notification provisions of the CSA.

Elimination of the Iodine Threshold

Transactions involving listed chemicals (including cumulative transactions in a single calendar month) below a quantity threshold, specified pursuant to 21 U.S.C. 802(39)(A), are excluded from the definition of ''regulated transaction.'' Historically, the threshold for iodine has been 400 grams (0.4 kilograms). Thresholds denote a quantity below which regulation is not necessary for law enforcement purposes. However, DEA has determined that the regulation of all transactions of regulated iodine products is necessary to prevent diversion. Thus, DEA is removing the threshold for iodine under this final rule. Therefore, all transactions of regulated iodine products are considered regulated transactions regardless of size, unless specifically exempted.

Iodine Chemical Mixtures

The CSA (21 U.S.C. 802(40)) defines the term ''chemical mixture'' as ''a combination of two or more chemical substances, at least one of which is not a List I chemical or a List II chemical, except that such term does not include any combination of a List I chemical or a List II chemical with another chemical that is present solely as an impurity.'' Therefore, a chemical mixture contains any one or more listed chemicals along with any number of non-listed chemicals.

DEA does not consider a chemical mixture to mean the combination of a listed chemical with an inert carrier. An inert carrier can be any chemical that does not interfere with the listed chemical's function, but is present to aid in the delivery of the listed chemical so it can be used in some chemical process. Examples include, but are not limited to, solutions of listed chemicals such as methylamine in water or hydrogen chloride dissolved in water or alcohol.

Iodine tinctures and solutions are considered chemical mixtures because they require the addition of iodine and an iodide salt into a water or water/alcohol solution. It is not simply iodine dissolved in an inert carrier. These iodine tinctures and solutions are therefore chemical mixtures.

Regulation of Chemical Mixtures

The Domestic Chemical Diversion Control Act of 1993 (DCDCA), enacted in April 1994, amended 21 U.S.C. 802(39)(A)(v) [current 21 U.S.C. 802(39)(A)(vi)] to provide the Attorney General with the authority to establish regulations exempting chemical mixtures from the definition of a ''regulated transaction.'' However, exclusion from this definition can be made ''based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered.'' As noted previously, DEA has established the following three-tiered approach to identify which chemical mixtures qualify for automatic exemption: (1) The mixture contains a listed chemical at or below an established concentration limit; or (2) the mixture falls within a specifically defined category; or (3) the manufacturer of the mixture applies for and is granted a specific exemption for the product (68 FR 23195, May 1, 2003).

This final rule implements regulations that identify which iodine chemical mixtures qualify for automatic exemption because they meet the requirements of 21 U.S.C. 802(39)(A)(vi). Those iodine chemical mixtures that do not qualify for automatic exemption are regulated chemicals, unless the manufacturer applies for, and is granted, specific exemption for their product(s) by DEA via an application process (21 CFR 1310.13).

Since seven percent iodine tincture and solutions are the predominant iodine-containing chemical mixtures diverted by traffickers, DEA has determined that these chemical mixtures should be subject to CSA chemical regulatory controls. Two percent iodine tincture and solutions are also diverted, but DEA has not documented the frequent diversion of these materials at clandestine laboratories. Therefore, DEA is not regulating the two percent iodine tincture or solution at this time.

As discussed previously, DEA is also aware of other materials that contain iodine. Examples include iodophor complexes such as poloxamer-iodine and povidone-iodine and organically bound iodine complexes such as iopamidol, iohexol, and amiodarone. These materials are not of concern to DEA as a source of iodine for clandestine laboratories. This final rule specifies that these materials be specifically exempted from CSA chemical regulatory controls under 21 CFR 1310.12 by adding new paragraphs (d)(4) and (d)(5).

Exemption by Application Process

DEA recognizes that the 2.2 percent iodine concentration limit and category exemption criteria cannot identify all mixtures that should receive exemption status. DEA has implemented an application process to exempt additional mixtures (21 CFR 1310.13). This application process was finalized in a final rule (68 FR 23195) published May 1, 2003. Under the application process, manufacturers may submit an application for exemption for those mixtures that do not qualify for automatic exemption. Exemption status can be granted if DEA determines that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and the listed chemical cannot be readily recovered (i.e., it meets the conditions in 21 U.S.C. 802(39)(A)(vi)). An application may be for a single or a multiple number of formulations. All chemical mixtures that are granted exemption via the application process will be listed in 21 CFR 1310.13(i).

III. Requirements That Apply to Regulated List I Chemicals and Their Regulated Chemical Mixtures as a Result of This Rulemaking

Any chemical mixture that is regulated because it contains greater than 2.2 percent iodine is treated as a List I chemical. Therefore, the same requirements for registration, records and reports, imports/exports, and administrative inspection, as outlined below, apply to handlers of regulated chemical mixtures.

In light of the placement of iodine in 21 CFR 1310.02(a) (List I) and to control chemical mixtures containing greater than 2.2 percent iodine, the following requirements for List I chemicals are

outlined. Chemical mixtures that are not exempt or excluded under any provision of these regulations, either by concentration limit, general category, or as a result of DEA action on a specific application for exemption, are considered regulated chemical mixtures. Persons interested in handling List I chemicals, including regulated chemical mixtures containing List I chemicals, must comply with the following:

1. *Registration.* Any person who manufactures or distributes a List I chemical, or proposes to engage in the manufacture or distribution of a List I chemical, must obtain a registration pursuant to the CSA (21 U.S.C. 822). Regulations describing registration for List I chemical handlers are set forth in 21 CFR part 1309.

Separate registration is required for manufacturing, distribution, importing, and exporting. Different locations operated by a single entity require separate registration if any location is involved with the manufacture, distribution, import, or export of a List I chemical. Any person manufacturing, distributing, importing, or exporting a regulated List I chemical mixture is subject to the registration requirement under the CSA. DEA recognizes, however, that it is not possible for persons who manufacture, distribute, import, or export iodine, upon its placement in List I, to immediately complete and submit an application for registration and for DEA to issue registrations immediately for those activities. Therefore, to allow continued legitimate commerce in iodine, DEA is establishing in 21 CFR 1310.09 a temporary exemption from the registration requirement for persons desiring to manufacture, distribute, import, or export iodine, provided that DEA receives a properly completed application for registration on or before August 31, 2007. The temporary exemption for such persons will remain in effect until DEA takes final action on their application for registration.

The temporary exemption applies solely to the registration requirement; all other chemical control requirements, including recordkeeping and reporting, will remain in effect. Additionally, the temporary exemption does not suspend applicable federal criminal laws relating to iodine, nor does it supersede state or local laws or regulations. All handlers of iodine must comply with their state and local requirements in addition to the CSA and other federal regulatory controls.

2. *Records and Reports.* The CSA (21 U.S.C. 830) requires that certain records be kept and reports be made that involve listed chemicals. Regulations describing recordkeeping and reporting requirements are set forth in 21 CFR part 1310. A record must be made and maintained for two years after the date of a transaction involving a listed chemical, provided the transaction is a regulated transaction.

Each regulated bulk manufacturer of a regulated mixture shall submit manufacturing, inventory and use data on an annual basis (21 CFR 1310.05(d)). Bulk manufacturers producing the mixture solely for internal consumption, e.g., formulating a non-regulated mixture, are not required to submit this information. Existing standard industry reports containing the required information are acceptable, provided the information is readily retrievable from the report.

Section 1310.05 requires that each regulated person shall report to DEA any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of the CSA.

3. *Import/Export.* All imports/exports of a listed chemical shall comply with the CSA (21 U.S.C. 957 and 971). Regulations for importation and exportation of List I chemicals are described in 21 CFR part 1313. Separate registration is necessary for each activity (21 CFR 1309.22).

4. *Security.* All applicants and registrants shall provide effective controls against theft and diversion of chemicals as described in 21 CFR 1309.71.

5. *Administrative Inspection.* Places, including factories, warehouses, or other establishments and conveyances, where regulated persons may lawfully hold, manufacture, or distribute, dispense, administer, or otherwise dispose of a regulated chemical/chemical mixture, or where records relating to those activities are maintained, are controlled premises as defined in 21 CFR 1316.02(c) where original or other records or documents required under the Act, are kept or required to be kept. The CSA (21 U.S.C. 880) allows for administrative inspections of these controlled premises as provided in 21 CFR part 1316 subpart A.

The goal of this rulemaking is to deny traffickers access to iodine while minimizing the burden on legitimate industry. Persons who obtain a regulated chemical, but do not distribute the chemical, are end users. End users are not subject to CSA chemical regulatory control provisions such as registration or recordkeeping requirements. Some examples of end users are those who chemically react iodine and change it into a non-listed chemical, formulate iodine into an exempt chemical mixture or consume it in some industrial process, or use it for water treatment or sanitation.

Regulatory Certifications

Regulatory Flexibility and Small Business Concerns

The Regulatory Flexibility Act (5 U.S.C. 600–612) requires agencies to determine whether a rule will have a significant economic impact on a substantial number of small entities. If an agency finds that there is a significant economic impact on a substantial number of small entities, the agency must consider whether alternative approaches could mitigate the impact on small entities. The size criteria for small entities are defined by the Small Business Administration (SBA) in 13 CFR 121.201. As discussed below, DEA has researched the production and marketing of iodine to determine whether this rulemaking could have a significant economic impact on a substantial number of small entities.

The majority of firms potentially subject to this rulemaking are considered small entities under the Small Business Administration definitions for the affected sectors.[1] The only firms for which the rulemaking would have a significant economic impact are those with revenues or sales of less than about $125,000 a year; the initial registration time and fee would represent one percent of their revenues. Economic Census data indicate that even the smallest firms in the affected sectors have sales well above the $125,000 a year level.[2] Consequently, DEA concludes that this rulemaking will not have a significant economic impact on a substantial number of small entities. DEA recognizes, however, that there may be a very small number of firms marketing specialty products that may be adversely affected because they offer no other alternative products. DEA sought comments on whether there could be a significant economic impact on a substantial number of small entities in the NPRM. DEA did not receive any comments on this issue from any distributors of such products.

[1] See Table 3 for the SBA size standards for affected entities.

[2] See Table 3 for the average revenue for the smallest firms.

Regulatory Flexibility Analysis

Potential Universe of All Affected Entities

In broad terms, three companies produce iodine in bulk and distribute it to other companies that either use it in chemical manufacturing, purify it and repackage it, or simply repackage it for further sale. There may be a third step at the manufacturing level where iodine crystals or solutions are purchased in bulk from companies that purified it and are then repackaged for retail sales. Although some iodine products are likely to follow the normal distribution chain of manufacturer to wholesaler to retailer, others do not. Most chemical manufacturers are likely to purchase iodine directly from other manufacturers. Some of the ''manufacturers'' of iodine products appear to sell both to retail outlets and directly to consumers. Many of the manufacturers offer catalogue and Internet sales.

In addition to the three manufacturers that produce iodine as a bulk chemical, DEA identified 43 firms that have developed material safety data sheets (MSDSs) for iodine products that will be covered by this rule; five of these are already registered as chemical manufacturers. It is not possible to determine whether the DEA registrants produce iodine at registered locations or whether any of the 43 firms produce iodine products at multiple locations.[3] Eight other chemical manufacturers list iodine as a product; one of these is registered as a chemical importer and exporter. There may be other firms producing iodine for industrial uses for which MSDSs are not publicly available.[4] DEA sought comments on whether such information exists that could help in further identifying the entities this final rule will potentially impact. The only comments received were from end-users.

DEA identified 15 other manufacturers of iodine products. It is likely that these firms purchase iodine crystals and repackage them or purchase crystals or concentrated solutions and dilute them prior to repackaging. Because some of these firms may operate at multiple locations and because it is likely that not all manufacturers have been identified, the analysis estimates that there are between 75 and 90 manufacturers of iodine products.

Iodine products may be handled by a variety of wholesalers. The livestock and science kit products could be handled by drug, chemical, or agricultural wholesalers. Distributors of science kits will still need to keep records if quantities exceed a single one-fluid-ounce package of Lugol's Solution per transaction.

Current Duns data indicate that 267 wholesalers distribute animal medicines; these are the wholesalers most likely to be distributing iodine products for horses. Some of these distributors may already be registered to handle controlled substances. The 2002 Economic Census for the wholesale industry indicated that about 1,115 agricultural wholesalers/retailers may carry tack shop materials. It is possible that other chemical wholesalers may be providing iodine to manufacturers of iodine products, but DEA considers it more likely that these manufacturers purchase iodine in bulk directly from chemical manufacturers. DEA has not identified any data that indicate the number of wholesalers who distribute aquarium chemicals, but as there appears to be only one such covered product marketed specifically for aquariums (Kent Marine Lugol's Solution), it may not be handled by a large number of wholesalers. DEA has exempted distributors of Lugol's Solution in the manufacturers' packages containing 1 fluid ounce (30 ml) or less from registration, so these distributors will simply have to retain normal sales records.

Census classifications do not cover camping goods at the wholesale level. The web site for Polar Pure, a water purification system involving iodine regulated by this rule, lists only two wholesale distributors. Overall, DEA estimates that the number of wholesalers may range from 300 to 1,400.

At the retail level, tinctures are sold by tack shops; 2005 Duns data list about 4,080 such retailers. Agricultural retailers may also sell these products for livestock, but these are included in the wholesale estimate because the Census combines agricultural wholesalers and retailers in a single classification. Veterinarians may also sell the products, but would not be subject to registration because they are already registered to handle controlled substances.

The 2002 Census indicated that there were 5,039 pet stores that sold aquarium supplies. A check of two large chains, which have more than 1,400 stores between them, indicates that although both stock some iodine supplements, neither stock Lugol's solution. DEA estimates that between one percent and five percent of pet stores would carry iodine either as crystals or strong tinctures. Although nursery/garden retailers and building supplies/garden retailers sell pet supplies, it is unlikely that any of them carry covered iodine products. Since DEA has provided for the unregulated sale of single small packages of Lugol's Solution, the potential impact upon pet stores should be greatly reduced or eliminated.

The Census listed about 1,524 sporting good specialty stores that carry camping supplies. DEA has included 5 percent to 10 percent of them in its estimates regarding the impact of this rule. Mail order and Internet outlets sell all of the iodine products. DEA has no basis for estimating how many of these outlets sell iodine products without being associated with either wholesale or retail outlets that would be included in other counts. DEA has included 50 to 100 of these, but recognizes that these numbers could be either too low or too high. Table 1 presents the estimated low to high range of potentially regulated entities.

TABLE 1.—POTENTIALLY REGULATED UNIVERSE

	Low	High
New Manufacturers	75	90
Wholesalers	300	1,400
Tack Shops	2,040	4,080
Pet Supplies	50	250
Camping Supplies	75	150
Other	50	100
Total	2,590	6,070

The estimates in Table 1 represent the number of outlets that may currently handle products that are subject to this rule. The regulated universe will likely be smaller (especially for pet supplies, given that DEA has provided the exemption for single small packages of Lugol's Solution in this final rule).

In estimating the number of new registrants, however, DEA has to consider whether these outlets will elect to register and continue selling the products. For almost all of the entities listed in Table 1, iodine products are a minor item. The manufacturers, wholesalers, and mail order/Internet suppliers routinely collect the information DEA would require under this rule; this information is necessary for them to ship the product. Other than the registration fees, the rulemaking would not impose a burden on them

[3] The CSA requires that each location where a controlled substance or List I chemical is handled have a separate registration.

[4] OSHA requires the manufacturer of a chemical to develop an MSDS. Other firms that package or distribute the chemical must provide the MSDS, but generally use the MSDS acquired from the original manufacturer. MSDSs must be made available to employees and to firms that purchase the chemical, but publishing them for the general public is not required.

although it is possible that some of these outlets may elect to drop iodine products rather than be subject to DEA regulations.

Store retailers face a different situation. Not only are their revenues usually lower than those of manufacturers and wholesalers, but they are also unlikely to collect all of the information DEA requires for these transactions routinely. Because the cost of the iodine products is low ($5 to $20), many of the transactions may be in cash. To teach their clerks what is required, explain to customers why the information is needed, transcribe the data, and maintain the record may be too great a burden for a specialty product that is unlikely to be in high demand and for which reasonable substitutes exist. DEA expects, therefore, that most store retailers will stop carrying these products and direct their customers to substitutes or to mail order or Internet sources. This shift would, in turn, likely reduce the number of wholesale distributors handling the products. Table 2 provides a more likely estimate of the potential number of new registrants, but even these estimates are likely to be high because most wholesale and retail outlets may elect to avoid DEA regulation.

TABLE 2.—POTENTIAL NUMBER OF REGISTRANTS

	Low	High
New manufacturers	75	90
Chemical wholesalers	150	700
Other	50	100
Total	275	890

Small Entities Likely To Be Affected by This Rule

The SBA standards for the potentially affected sectors are shown in Table 3 as are the average sales or value of shipments (for manufacturers) for the smallest firms reported in the 2002 Economic Census:

TABLE 3.—SMALL BUSINESS STANDARDS FOR SECTORS

	Size standard	Av. sales/smallest firms**
Inorganic chemical manufacturers	1,000 FTE*	$4.25 million.
Pharmaceutical manufacturers	750 FTE	$824,000.
Miscellaneous manufacturers	500 FTE.	
Chemicals wholesalers	100 FTE	$1 million.
Sporting goods and pet stores	$6.5 million	$345,000 (sporting), $274,000 (pet).
Electronic/mail order shopping	$23 million	$528,000 (electronic), $497,000 (mail).

* FTE is an abbreviation for Full Time Equivalent (Employees).
** 1 to 4 FTE except for inorganic chemical, where data available only for 5–9 FTE.

Because of the size standards, it is highly likely that a substantial number of the firms that will be regulated will be considered small businesses. DEA has no information on the number of potentially regulated entities that will be classified as small and did not receive any comments on this issue. The three main manufacturers of iodine are large firms; two of the three are also foreign-owned and the third is a joint venture with foreign firms.

Specific Requirements Imposed That Will Impact Small Entities

Firms that handle iodine will be required to register with DEA. At present, the registration fee for manufacturers is $2,293 and for distributors is $1,147. Each of the firms will also be required to become familiar with DEA's regulations, to maintain records of each sale, and to report to DEA on unusual sales and thefts/losses. Bulk manufacturers must file annual reports, but these reports already apply to iodine as a List II chemical, so impose no new burden. DEA specifies that normal business records may be used to meet the requirements of records of sales. Importers and exporters will be required to file an advance notification for each importation or exportation.

DEA estimates that it takes a firm a half hour to complete and submit a registration application, which can be done online, and a half hour to become familiar with the rule. DEA assumes that rule familiarization and registration will be done by managerial staff. The cost for initial compliance for firms in manufacturing, wholesale, and retail sectors is shown in Table 4. Wage rates are based on May 2005 BLS industry data and loaded with fringe and overhead. Fringe rates are based on BLS ''Employer Costs for Employee Compensation—December 2005'' for management for goods producing and service industries, as applicable. Overhead is loaded at 56 percent of compensation, based on the most recent Grant Thornton survey.

TABLE 4.—INITIAL COMPLIANCE COST PER FIRM

Sector	Wage rate	Total labor	Total cost with fee
Manufacturing	$126	$126	$2,419
Wholesale	98	98	1,245
Retail	62	62	1,209
Mail order/Electronic	93	93	1,240

A comparison of the initial compliance costs in Table 4 with the annual revenues or sales of the smallest firms shown in Table 3 indicates that the costs do not approach one percent of sales or revenues of the smallest firms in each sector and, therefore, do not impose a significant economic burden on firms. The recurring costs for renewal are slightly lower (a half hour of labor plus the registration fee). DEA estimates that completing the advance notification (Form 486) for imports and exports requires less than 15 minutes.

Reporting and Recordkeeping Requirements

Firms subject to this rulemaking will be required to maintain records of sales. The records required include the date of the sale; the name, quantity, and form of packaging of the chemical; the method of transfer; and the type of identification used by the purchaser and any unique number on that identification. Routine sales records for credit card or mail order sales will include the required information. Manufacturers and wholesalers, which normally sell products through purchase orders, will not have to create any additional records. Retailers that have cash sales will have to create new records if they continue to sell the products. Because these products represent such a small percentage of any store's sales and there are products that can be substituted for them, DEA considers that it is unlikely that retailers will register and continue to sell iodine products other than exempted quantities of Lugol's Solution.

Importers and exporters will have to file a Form 486 15 days in advance of any importation or exportation. If the importer meets the requirements to be a regular importer, the person must file the form on or before the date of importation, but does not require DEA approval. Similarly, exporters that have an established business relationship with a foreign customer need to file the form by the date of exportation.

Alternatives

Pursuant to the requirements of the Regulatory Flexibility Account, DEA evaluated alternatives to this rulemaking and determined that no reasonable alternatives exist. This rulemaking establishes changes to the regulatory control of iodine in an effort to prevent the diversion of iodine for the illicit production of methamphetamine and amphetamine. Providing small businesses with alternatives and/or exemptions from this rulemaking would eliminate the regulatory objective behind the rule. DEA has explored ways to lessen the regulations' economic impact on all entities covered by the rule. This rulemaking establishes regulatory controls that apply to iodine crystals and iodine chemical mixtures that contain greater than 2.2 percent iodine, thereby eliminating the majority of products that use iodine from the requirements of this regulation.[5] DEA, after reviewing comments, has also provided an exemption for individual transactions involving small packages of Lugol's Solution. Additionally, this rulemaking allows manufacturers to seek exemption for additional mixtures of iodine that do not qualify for automatic exemption under 21 CFR 1310.13. DEA sought comments on reasonable alternatives to this rulemaking that would serve to lessen its impact on small businesses while maintaining the regulatory objective of regulating iodine crystals and strong tinctures and chemical mixtures containing over 2.2 percent iodine. DEA has incorporated new the exemption for individual transactions involving one-fluid-ounce (30 ml) packages of Lugol's Solution in response to these comments.

Additional Impact Issues Raised

DEA expects that most store retailers will elect not to sell iodine crystals or strong tinctures rather than registering and maintaining sales records. Most iodine products with household applications will not be subject to the rule. DEA considered whether the loss of product sales would have a significant economic impact on retailers. These products make up a very small part of the sales of any sporting goods store. Eliminating the product line is unlikely to have a noticeable effect on sales even if customers continue to seek the products from online or mail order sources. In most cases, customers will be able to purchase substitutes that are no more expensive, and in some cases, are less expensive. DEA, therefore, expects that the impact on sales at the retail level will be minimal. Where cost effective substitutes were not available DEA has provided an exemption (i.e., individual transactions involving one-fluid-ounce (30 ml) packages of Lugol's Solution, where certain alternative products cost more than ten times that of Lugol's Solution).

The impact on manufacturers, with one possible exception, is also likely to be minimal. DEA's research indicates that the manufacturers who produce iodine tinctures and crystals for use with livestock and fish also produce and market the substitutes. If sales of these iodine products decline, it is likely that the sales of substitutes will increase. Many of these companies also sell directly to customers through catalogues and online. Because the sales records required under the rules are the same records the companies create for mail order or online sales, there is no burden beyond registration for these firms to meet these requirements. The one exception is a small company that apparently markets a single product using iodine crystals. To the extent that in-store sales of its product decline and are not replaced with online sales, the rulemaking could have a significant impact on the firm.

Executive Order 12866

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with Executive Order 12866, Section 1(b). It has been determined that this rulemaking is a ''significant regulatory action''. Therefore, this action has been reviewed by the Office of Management and Budget.

This final rule imposes new regulatory requirements on businesses choosing to handle iodine tinctures, iodine crystals and chemical mixtures containing iodine including registration with DEA, recordkeeping, the submission of certain reports regarding import and export transactions to DEA, and security requirements. DEA believes that the requirement of recordkeeping for regulated transactions involving iodine tinctures, crystals and chemical mixtures containing iodine are already accomplished through the maintenance of business records as a usual and customary business practice. Likewise, security occurs as a normal part of good business practice. DEA believes these new regulatory requirements are necessary to prevent the diversion of iodine to the illicit production of methamphetamine and amphetamine.

Based on the costs and number of regulated entities discussed in the previous section, DEA estimates that the total cost of initial compliance with the final rule ranges from $430,000 to $1.21 million; annual costs thereafter range from $416,000 to $1.16 million.

Costs of Methamphetamine Abuse/ Benefits of Rulemaking

Methamphetamine is the most prevalent controlled substance illicitly synthesized in the United States. The clandestine manufacture, distribution and abuse of methamphetamine are serious public health problems. Despite considerable efforts by federal, state, and local law enforcement, the illicit trafficking and abuse of methamphetamine continue.

According to the 2005 National Survey on Drug Use and Health, approximately 10.36 million Americans ages 12 and older reported trying methamphetamine at least once during their lifetimes, representing 4.3% of the population ages 12 and older. Approximately 1.3 million (0.5%) reported past year methamphetamine use and 512,000 (0.2%) reported past month methamphetamine use. In 2005, the Monitoring the Future Study which assesses the extent of drug use among

[5] See the section in this regulation on the legitimate uses of iodine.

adolescents indicated that 3.1 percent of 8th graders, 4.1 percent of 10th graders and 4.5 percent of 12th graders reported some prior lifetime use of methamphetamine. The Drug Abuse Warning Network (DAWN) data indicate that the estimated number of emergency department (ED) visits for methamphetamine was 108,905 in 2005.

The El Paso Intelligence Center (EPIC) reports that there were 12,484 methamphetamine laboratories seized (including laboratories, dump sites and equipment seizures) in the U.S. in CY2005 (as reported through November 2006). Another rising cost of the methamphetamine problem is the cost of cleaning up the toxic side effects of methamphetamine production. Clandestine laboratory sites must be cleaned up and chemicals seized at clandestine laboratories must be removed, and that removal is very expensive. During FY 2005, DEA administered 8,639 state and local clandestine laboratory cleanups at a cost of $17 million.

The total social and monetary costs from trafficking and abuse of methamphetamine are abundant. Costs include those incurred to treat medical consequences of abuse, loss of life and injury to users and by users to bystanders, abandonment of the children of methamphetamine abusers (and corresponding cost of social services), theft and property damage resulting from abuse, loss of employment and productivity, increased costs to law enforcement, cost of prosecution and incarceration for crimes associated with drug use, and increased costs due to cleanups of lab sites. Benefits obtained from implementation of iodine controls, to counter illicit methamphetamine production, greatly exceed costs necessary to implement such controls.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Paperwork Reduction Act

This rulemaking implements changes in the regulation of iodine and implements regulations to identify iodine chemical mixtures that are exempt from CSA regulatory controls pertaining to chemicals. Under this rulemaking, persons who handle chemical mixtures with concentration levels of iodine 2.2 percent and less will not be subject to CSA regulatory controls, including the requirement to register with DEA.

This rulemaking will require persons handling iodine crystals, strong iodine tinctures and chemical mixtures containing iodine to register with DEA and to report import and export transactions involving regulated transactions in these chemicals to DEA.

For purposes of this rulemaking, DEA has estimated the population of persons potentially required to register with DEA to handle iodine and its chemical mixtures to be between 275 and 890. However, some of these persons may already be registered with DEA and others may decide to no longer handle such products rather than registering. DEA notes that it solicited, but did not receive, comment regarding the number of persons who would be required to register with DEA as a result of this rule. Accordingly, by separate notice, DEA is amending its information collection regarding chemical registration [OMB information collection 1117–0031 ''Application for Registration under Domestic Chemical Diversion Control Act of 1993 and Renewal Application for Registration under Domestic Chemical Diversion Control Act of 1993''] to increase the burden associated with this collection by 275 respondents annually.

Further, this rulemaking will require persons importing and exporting products containing iodine crystals, tinctures, and chemical mixtures controlled by this rulemaking to report such imports and exports to DEA. DEA sought comment from the regulated industry regarding the impact of this regulation; however, no comments addressed this issue. Therefore by separate notice DEA is amending its information collection regarding the reporting of import and export transactions [OMB information collection 1117–0023 ''Import/Export Declaration: List I and List II Chemicals''] to estimate that DEA will receive new DEA Forms 486 annually. DEA notes that DEA already receives DEA Forms 486 for the importation and exportation of iodine; the only new reporting results from chemical mixtures containing over 2.2 percent iodine.

DEA also solicited comments on the impact of recordkeeping requirements upon handlers of regulated iodine products and any potential impact upon public health given any reduction in availability of regulated products, especially where it can be quantified. The majority of comments addressed these issues. In response, DEA is providing an exemption for individual transactions involving Lugol's Solution in small packages so that such product will remain available to end-users.

Unfunded Mandates Reform Act of 1995

This rulemaking will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $118,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rulemaking is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rulemaking will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects

21 CFR Part 1309

Administrative practice and procedure, Drug Traffic Control, List I and List II chemicals, Reporting and recordkeeping requirements.

21 CFR Part 1310

Drug traffic control, List I and List II chemicals, Reporting requirements.

■ For the reasons set out above, 21 CFR parts 1309 and 1310 are amended as follows:

PART 1309—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, IMPORTERS AND EXPORTERS OF LIST I CHEMICALS [AMENDED]

■ 1. The authority citation for part 1309 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 830, 871(b), 875, 877, 886a, 958.

■ 2. § 1309.24 is amended by redesignating paragraphs (h) through (k) as paragraphs (i) through (l) and by adding a new paragraph (h) to read as follows:

§ 1309.24 Waiver of registration requirement for certain activities.

* * * * *

(h) The requirement of registration is waived for any person whose activities with respect to List I chemicals are limited solely to the distribution of Lugol's Solution (consisting of 5 percent iodine and 10 percent potassium iodide in an aqueous solution) in original manufacturer's packaging of one fluid ounce (30 ml) or less.

* * * * *

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES [AMENDED]

■ 3. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

■ 4. § 1310.02 is amended by adding a new paragraph (a)(28), removing paragraph (b)(11), and redesignating paragraph (b)(12) as paragraph (b)(11) to read as follows:

§ 1310.02 Substances covered.

* * * * *

(a) * * *

(28) Iodine 6699

* * * * *

■ 5. § 1310.04 is amended by removing paragraph (f)(2)(ii)(H); redesignating (f)(2)(ii)(I) as (f)(2)(ii)(H); and adding a new paragraph (g)(1)(vi) to read as follows:

§ 1310.04 Maintenance of records.

* * * * *

(g) * * *

(1) * * *

(vi) Iodine

* * * * *

■ 6. § 1310.08 is amended by revising paragraph (f) to read as follows:

§ 1310.08 Excluded transactions.

* * * * *

(f) Domestic and international transactions of Lugol's Solution (consisting of 5 percent iodine and 10 percent potassium iodide in an aqueous solution) in original manufacturer's packaging of one-fluid-ounce (30 milliliters) or less, and no greater than one package per transaction.

* * * * *

■ 7. § 1310.09 is amended by adding new paragraph (h) to read as follows:

§ 1310.09 Temporary exemption from registration.

* * * * *

(h) Each person required by section 302 of the Act (21 U.S.C. 822) to obtain a registration to manufacture, distribute, import, or export regulated iodine, including regulated iodine chemical mixtures pursuant to §§ 1310.12 and 1310.13, is temporarily exempted from the registration requirement, provided that the Administration receives a proper application for registration or application for exemption for a chemical mixture containing iodine on or before August 31, 2007. The exemption will remain in effect for each person who has made such application until the Administration has approved or denied that application. This exemption applies only to registration; all other chemical control requirements set forth in the Act and parts 1309, 1310, and 1313 of this chapter remain in full force and effect. Any person who distributes, imports, or exports a chemical mixture containing iodine whose application for exemption is subsequently denied by the Administration must obtain a registration with the Administration. A temporary exemption from the registration requirement will also be provided for these persons, provided that the Administration receives a properly completed application for registration on or before 30 days following the date of official Administration notification that the application for exemption has not been approved. The temporary exemption for such persons will remain in effect until the Administration takes final action on their registration application.

■ 8. § 1310.12 is amended by adding an entry for ''iodine'' in alphabetical order in the table of paragraph (c), and adding new paragraphs (d)(4) and (d)(5) to read as follows:

§ 1310.12 Exempt chemical mixtures.

* * * * *

(c) * * *

TABLE OF CONCENTRATION LIMITS

List I chemicals	DEA chemical code No.	Concentration (percent)	Special conditions
* * *	*	*	* *
Iodine	6699	2.2	Calculated as weight/volume (w/v).
* * *	*	*	* *

(d) * * *

(4) Iodine products classified as iodophors that exist as an iodine complex to include poloxamer-iodine complex, polyvinyl pyrrolidone-iodine complex (i.e., povidone-iodine), undecoylium chloride iodine, nonylphenoxypoly (ethyleneoxy) ethanol-iodine complex, iodine complex with phosphate ester of alkylaryloxy polyethylene glycol, and iodine complex with ammonium ether sulfate/polyoxyethylene sorbitan monolaurate.

(5) Iodine products that consist of organically bound iodine (a non-ionic complex) (e.g., iopamidol, iohexol, and amiodarone.)

* * * * *

Dated: June 19, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–12736 Filed 6–29–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 841

[No. USAF–2007–0010]

Licensing Government-Owned Inventions in the Custody of the Department of the Air Force

AGENCY: Department of the Air Force, DoD.

ACTION: Final rule.

SUMMARY: This document removes the Department of the Air Force rule concerning the licensing of Government-owned inventions in the custody of the Air Force. The part has served the purpose for which it was intended for the Code of Federal Regulations, and is no longer necessary.

DATES: *Effective Date:* July 2, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. David Dzara at (703) 588–5092, *David.Dzara@pentagon.af.mil.*

SUPPLEMENTARY INFORMATION: 32 CFR Part 841,''Licensing Government-Owned Inventions in the Custody of the Department of the Air Force,'' is directed towards Air Force patent licensing. This regulation is no longer needed given the government-wide patent licensing regulation found at 37 CFR Part 404 and is also obsolete.

List of Subjects in 32 CFR Part 841

Inventions and patents.

PART 841—[REMOVED]

■ Accordingly, by the authority of 5 U.S.C. 301 and 10 U.S.C. 8013, 32 CFR part 841 is removed.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer, Department of the Air Force.

[FR Doc. E7–12721 Filed 6–29–07; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below of the modified BFEs for each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFEs determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p.376.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama: Shelby (FEMA Docket No.: B–7716).	City of Pelham (07–04–1305P).	February 14, 2007; February 21, 2007; *Shelby County Reporter.*	The Honorable Bobby Hayes, Mayor, City of Pelham, P.O. Box 1419, Pelham, AL 35124.	May 23, 2007	010193

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas: Benton (FEMA Docket No.: B–7716).	City of Lowell (07–06–0172P).	February 8, 2007; February 15, 2007; *Arkansas Democrat Gazette*.	The Honorable Perry Long, Mayor, City of Lowell, P.O. Box 979, Lowell, AR 72745.	May 10, 2007	050342
Colorado:					
Adams (FEMA Docket No.: B–7712).	City of Thornton (06–08–B537P).	February 1, 2007; February 8, 2007; *Golden Transcript*.	The Honorable Noel Busck, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	May 10, 2007	080007
Adams (FEMA Docket No.: B–7712).	Unincorporated areas of Adams County (06–08–B537P).	February 1, 2007; February 8, 2007; *Golden Transcript*.	The Honorable Alice J. Nichol, Chairman, Adams County Board of Commissioners, 450 South Fourth Avenue, Brighton, CO 80601.	May 10, 2007	080001
Adams and Jefferson (FEMA Docket No.: B–7712).	City of Westminster (06–08–B537P).	February 1, 2007; February 8, 2007; *Golden Transcript*.	The Honorable Nancy McNally, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	May 10, 2007	080008
Broomfield (FEMA Docket No.: B–7712).	City of Broomfield and Unincorporated areas of Broomfield County (06–08–B537P).	February 1, 2007; February 8, 2007; *Golden Transcript*.	The Honorable Karen Stuart, Mayor, City and County of Broomfield, One DesCombes Drive, Broomfield, CO 80020.	May 10, 2007	085073
Florida: Miami-Dade (FEMA Docket No.: B–7717).	City of Miami (07–04–1922P).	February 22, 2007; March 1, 2007; *Miami New Times*.	The Honorable Manuel A. Diaz, Mayor, City of Miami, 3500 Pan American Drive, Miami, FL 33133.	February 7, 2007	120650
Georgia: Gwinnett (FEMA Docket No.: B–7712).	Unincorporated areas of Gwinnett County (06–04–BY93P).	February 1, 2007; February 8, 2007; *Gwinnett Daily Post*.	The Honorable Charles E. Bannister, Chairman, Gwinnett County Board of Commissioners, 75 Langley Drive, Lawrenceville, GA 30045.	May 10, 2007	130322
Maine:					
Cumberland (FEMA Docket No.: B–7716).	Town of Gorham (07–01–0160P).	January 18, 2007; January 25, 2007; *Portland Press Herald*.	The Honorable Michael J. Phinney, Chairman, Gorham Town Council, Gorham Municipal Center, 75 South Street, Gorham, ME 04038.	April 26, 2007	230047
York (FEMA Docket No.: B–7716).	City of Biddeford (06–01–B015P).	January 11, 2007; January 18, 2007; *York County Coast Star*.	The Honorable Wallace H. Nutting, Mayor, City of Biddeford, 205 Main Street, Biddeford, ME 04005.	December 15, 2006	230145
Mississippi:					
Rankin (FEMA Docket No.: B–7716).	Pearl River Valley Water Supply District (06–04–BN09P).	February 7, 2007; February 14, 2007; *Rankin County News*.	Mr. Benny French, P.E., PLS, General Manager, Pearl River Valley Water Supply District, P.O. Box 2180, Ridgeland, MS 39158.	February 12, 2007	280338
Rankin (FEMA Docket No.: B–7716).	Unincorporated areas of Rankin County (06–04–BN09P).	February 7, 2007; February 14, 2007; *Rankin County News*.	Mr. Norman McLeod, County Administrator, Rankin County, 211 East Government Street, Suite A, Brandon, MS 39042.	February 12, 2007	280142
Nevada: Clark (FEMA Docket No.: B–7716).	Unincorporated areas of Clark County (06–09–B934P).	December 14, 2006; December 21, 2006; *Las Vegas Review-Journal*.	The Honorable Rory Reid, Chair, Clark County, Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, NV 89106.	March 22, 2007	320003
New Mexico: Bernalillo (FEMA Docket No.: B–7712).	City of Albuquerque (07–06–0332P).	February 1, 2007; February 8, 2007; *The Albuquerque Journal*.	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	May 10, 2007	350002
North Carolina:					
Lee (FEMA Docket No.: B–7716).	City of Sanford (06–04–BM79P).	January 18, 2007; January 25, 2007; *The Sanford Herald*.	The Honorable Cornelia Olive, Mayor, City of Sanford, P.O. Box 3729, Sanford, NC 27331.	December 21, 2006	370143
Mecklenburg (FEMA Docket No.: B–7716).	City of Charlotte (06–04–BP55P).	January 18, 2007; January 25, 2007; *The Charlotte Observer*.	The Honorable Patrick McCrory, Mayor, City of Charlotte, 600 East Fourth Street, Charlotte, NC 28202.	September 29, 2006	370159
Orange (FEMA Docket No.: B–7716).	Unincorporated areas of Orange County (06–04–BQ22P).	January 17, 2007; January 24, 2007; *The Chapel Hill News*.	The Honorable Barry Jacobs, Chairman, Orange County Board of Commissioners, 2105 Moorefields Road, Hillsborough, NC 27278.	February 3, 2007	370342
Oklahoma: Carter North Carolina: Orange (FEMA Docket No.: B–7712).	City or Ardmore (06–06–B689P).	December 21, 2006; December 28, 2006; *Daily Ardmoreite*.	The Honorable Bob Clark, Mayor, City of Ardmore, P.O. Box 249, Ardmore, OK 73401.	November 30, 2006	400031
Texas:					
Galveston (FEMA Docket No.: B–7712).	City of Hitchcock (06–06–BK83P).	February 1, 2007; February 8, 2007; *The Galveston County Daily News*.	The Honorable Lee A. Sander, Mayor, City of Hitchcock, 7423 Highway 6, Hitchcock, TX 77563.	May 10, 2007	485479
Galveston (FEMA Docket No.: B–7712).	City of La Marque (06–06–BK38P).	February 1, 2007; February 8, 2007; *The Galveston County Daily News*.	The Honorable Larry Crow, Mayor, City of La Marque, 1111 Bayou Road, La Marque, TX 77568.	May 10, 2007	485486
Hays (FEMA Docket No.: B–7716).	City of San Marcos (06–06–B107P).	January 17, 2007; January 24, 2007; *The Free Press*.	The Honorable Susan Clifford-Narvaiz, Mayor, City of San Marcos, 630 East Hopkins, San Marcos, TX 78666.	January 22, 2007	485505

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Hays (FEMA Docket No.: B–7716).	Unincorporated areas of Hays County (06–06–B107P).	January 17, 2007; January 24, 2007; *The Free Press*.	The Honorable Jim Powers, Hays County Judge, 111 East San Antonio Street, Suite 300, San Marcos, TX 78666.	January 22, 2007	480321
Hood (FEMA Docket No.: B–7716).	City of Granbury (06–06–BG36P).	February 14, 2007; February 21, 2007; *Hood County News*.	The Honorable David Southern, Mayor, City of Granbury, 116 West Bridge Street, Granbury, TX 76048.	January 23, 2007	480357
Tarrant (FEMA Docket No.: B–7716).	City of Fort Worth (06–06–BG38P).	October 26, 2006; November 2, 2006; *North West Tarrant County Times-Record*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	February 1, 2007	480596
Tarrant (FEMA Docket No.: B–7716).	City of Saginaw (06–06–BG38P).	October 26, 2006; November 2, 2006; *North West Tarrant County Times-Record*.	The Honorable Gary Brinkley, Mayor, City of Saginaw, 333 West McLeroy Boulevard, Saginaw, TX 76179.	February 1, 2007	480610
Tarrant (FEMA Docket No.: B–7717).	City of Fort Worth (07–06–0091P).	February 15, 2007; February 22, 2007; *Fort Worth Star-Telegram*.	The Honorable Michael J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 761028.	May 24, 2007	480596

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 18, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E7–12690 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–B–7719]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Mitigation Assistant Administrator of FEMA reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by the other Federal, State, or regional entities. The changes BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This interim rule involves no policies that have federalism implications under Executive Order 13132, Federalism.

Executive Order 12988, Civil Justice Reform. This interim rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR,

1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona:					
Cochise	City of Sierra Vista (06–09–BA33P).	April 12, 2007; April 19, 2007; *Sierra Vista Herald*.	The Honorable Bob Strain, Mayor, City of Sierra Vista City Hall, 1011 North Coronado Drive, Sierra Vista, AZ 85635.	March 30, 2007	040017
Coconino	City of Williams (07–09–0666P).	April 12, 2007; April 19, 2007; *Arizona Daily Sun*.	The Honorable Kenneth Edes, Mayor, City of Williams, 113 South First Street, Williams, AZ 86046.	March 29, 2007	040027
Arkansas:					
Baxter	City of Mountain Home (07–06–0816P).	April 19, 2007; April 26, 2007; *The Baxter Bulletin*.	The Honorable David Osmon, Mayor, City of Mountain Home, 720 South Hickory Street, Mountain Home, AR 72653.	July 26, 2007	050531
Craighead	City of Jonesboro (07–06–0264P).	April 27, 2007; May 4, 2007; *Jonesboro Sun*.	The Honorable Doug Formon, Mayor, City of Jonesboro, 515 West Washington, Jonesboro, AR 72401.	April 30, 2007	050048
California:					
Placer	City of Roseville 06–09–BA39P).	April 11, 2007; April 18, 2007; *Roseville Press-Tribune*.	The Honorable Jim Gray, Mayor, City of Roseville, 311 Vernon Street, Suite 208, Roseville, CA 95678.	July 18, 2007	060243
Placer	Unincorporated areas of Placer County (06–09–BA39P).	April 11, 2007; April 18, 2007; *Roseville Press-Tribune*.	The Honorable Bruce Kranz, Chairman, Placer County, Board of Supervisors, 175 Fulweiler Avenue, Auburn, CA 95603.	July 18, 2007	060239
Sacramento	Unincorporated areas of Sacramento County (07–09–0205P).	April 19, 2007; April 26, 2007; *The Daily Recorder*.	The Honorable Don Nottoli, Chairman, Board of Supervisors Sacramento County, 700 H Street, Suite 2450, Sacramento, CA 95814.	July 26, 2007	060262
Colorado:					
Adams	City of Aurora (07–08–0252P).	April 20, 2007; April 27, 2007; *Eastern Colorado News*.	The Honorable Ed Tauer, Mayor, City of Aurora, 15151 East Alameda Parkway, Aurora, CO 80012.	July 27, 2007	080002
Adams	Unincorporated areas of Adams County (07–08–0252P).	April 20, 2007; April 27, 2007; *Eastern Colorado News*.	The Honorable Alice J. Nichol, Chairman, Adams County Board of Commissioners, 450 South Fourth Avenue, Brighton, CO 80601.	July 27, 2007	080001
Arapahoe	City of Englewood (06–08–B392P).	April 6, 2007; April 13, 2007; *The Englewood Herald*.	The Honorable Olga Wolosyn, Mayor, City of Englewood, 1000 Englewood Parkway, Englewood, CO 80110–2373.	July 13, 2007	085074
Araphaoe	City of Littleton (06–08–B392P).	April 6, 2007; April 13, 2007; *The Englewood Herald*.	The Honorable Jim Taylor, Mayor, City of Littleton, 2255 West Barry Avenue, Littleton, CO 80165.	July 13, 2007	080017
El Paso	City of Colorado Springs (06–08–A647P).	December 27, 2006; January 3, 2007 *El Paso County Advertiser and News*.	The Honorable Lionel Rivera Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, CO 80901.	April 4, 2007	080060
El Paso	City of Colorado Springs (05–08–0368P).	February 14, 2007; February 21, 2007; *El Paso County Advertiser and News*.	The Honorable Lionel Rivera Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, CO 80901.	May 23, 2007	080060
El Paso	Unincorporated areas of El Paso County (05–08–0368P).	February 14, 2007; February 21, 2007; *El Paso County Advertiser and News*.	The Honorable Sallie Clark Chair, El Paso County Board of Commissioners, 27 East Vermijo Avenue, Colorado Springs, CO 80903.	May 23, 2007	080059
Georgia:					
Forsyth	Unincorporated areas of Forsyth County (06–04–C359P).	March 21, 2007; March 28, 2007; *Forsyth County News*.	The Honorable Jack Conway, Chairman, Forsyth County Board of Commissioners, 110 East Main Street, Cumming, GA 30040.	June 27, 2007	130312
Gwinnett	Unincorporated areas of Gwinnett County (06–04–B747P).	April 19, 2007; April 26, 2007; *Gwinnett Daily Post*.	The Honorable Charles Bannister, Chairman, Gwinnett County Board of Commissioners, 75 Langley Drive, Lawrenceville, GA 30045.	July 26, 2007	130322
Indiana: Allen	City of New Haven (07–05–1901P).	April 19, 2007; April 26, 2007; *Journal Gazette*.	The Honorable Terry E. McDonald, Mayor, City of New Haven, 815 Lincoln Highway East, New Haven, IN 46774.	July 26, 2007	180004
Illinois:					
Cook	Village of Matteson (06–05–B267P).	April 12, 2007; April 19, 2007; *Daily Herald*.	The Honorable Mark W. Stricker, Village President, Village of Matteson, 4900 Village Commons, Matteson, IL 60443.	July 19, 2007	170123
Du Page	Village of Lisle (07–05–1672P).	April 27, 2007; May 4, 2007; *Lisle Sun*.	The Honorable Joseph Broda Mayor, Village of Lisle, 925 Burlington Avenue, Lisle, IL 60532.	March 30, 2007	170211
McHenry	Village of Hebron (07–05–0618P).	April 19, 2007; April 26, 2007; *The Northwest Herald*.	The Honorable Frank Beatty President, Village of Hebron, P.O. Box 372 Hebron, IL 60034.	July 26, 2007	170086
McHenry	Unincorporated areas of McHenry County (07–05–0618P).	April 19, 2007; April 26, 2007; *The Northwest Herald*..	The Honorable Kenneth D. Koehler, County Board Chairman, McHenry County, 2200 North Seminary Avenue, Woodstock, IL 60098.	July 26, 2007	170732
Kansas:					

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Sedgwick	City of Wichita (07–07–0461P).	April 19, 2007; April 26, 2007; *The Wichita Eagle*.	The Honorable Carlos Mayans, Mayor, City of Wichita, City Hall, First Floor, 455 North Main, Wichita, KS 67202.	March 30, 2007	200328
Sedgwick	Unincorporated areas of Sedgwick County (07–07–0461P).	April 19, 2007; April 26, 2007; *The Wichita Eagle*.	The Honorable Dave Unruh, Chairman, Sedgwick County Board of Commissioners, 525 North Main, Suite 320, Wichita, KS 67203.	March 30, 2007	200321
Louisiana: Livingston	Unincorporated areas of Livingston Parish (06–06–BJ93P).	April 5, 2007; April 12, 2007; *The Livingston Parish News*.	The Honorable Mike Grimmer, President, Livingston Parish, P.O. Box 427, Livingston, LA 70754.	July 12, 2007	220113
Maine:					
Cumberland	Town of Harpswell (07–01–0567P).	April 12, 2007; April 19, 2007; *Portland Press Herald*.	The Honorable Samuel W. Alexander Chair, Board of Selectmen, Town of Harpswell, P.O. Box 39, Harpswell, ME 04079.	April 2, 2007	230169
Knox	Town of Rockport (07–01–0131P).	April 19, 2007; April 26, 2007; *The Courier Gazette*.	The Honorable Robert H. Nichols, Chairman, Board of Selectmen, Town of Rockport, P.O. Box 10, Rockport, ME 04856.	April 2, 2007	230077
Massachusetts: Norfolk.	Town of Westwood (07–01–0169P).	April 19, 2007; April 26, 2007; *Westwood Press*.	The Honorable Anthony Antonellis, Chairman, Board of Selectmen, Town of Westwood, 580 High Street, Westwood, MA 02090.	March 30, 2007	255225
Michigan: Oakland ...	City of Troy (06–05–BZ47P).	April 13, 2007; April 20, 2007; *Oakland County Legal News*.	The Honorable Louise E. Schilling, Mayor, City of Troy, 500 West Big Beaver Road, Troy, MI 48084.	April 19, 2007	260180
Minnesota: Hennepin	City of Golden Valley (06–05–BK37P).	April 18, 2007; April 25, 2007; *Star Tribune*.	The Honorable Linda Loomis, Mayor, City of Golden Valley, 6677 Olson Memorial Highway, Golden Valley, MN 55427.	July 25, 2007	270162
Nebraska: Lancaster	Village of Firth (06–07–B874P).	March 26, 2007; April 3, 2007; *Lincoln Journal Star*.	The Honorable David Hobelman, Chairman, Village of Firth Board, P.O. Box 38, Firth, NE 68358.	August 2, 2007	310135
North Dakota: Grand Forks.	City of Grand Forks (07–08–0331P).	April 26, 2007; May 3, 2007; *Grand Forks Herald*.	The Honorable Michael R. Brown, Mayor, City of Grand Forks, P.O. Box 5200, Grand Forks, ND 58206.	August 2, 2007	85365
Ohio:					
Franklin	City of Columbus (06–05–B004P).	April 12, 2007; April 19, 2007; *The Columbus Dispatch*.	The Honorable Michael B. Coleman Mayor, City of Columbus, City Hall, 2nd Floor, 90 West Broad Street, Columbus, OH 43215.	March 26, 2007	390170
Franklin	Unincorporated areas of Franklin County (06–05–B004P).	April 12, 2007; April 19, 2007; *The Columbus Dispatch*.	Mr. Don L. Brown, Franklin County Administrator, 373 South High Street, 26th Floor, Columbus, OH 43215–6314.	March 26, 2007	390167
Warren	Unincorporated areas of Warren County (07–05–0021P).	April 12, 2007; April 19, 2007; *The Pulse-Journal*.	The Honorable C. Michael Kilburn, President, Warren County, Board of Commissioners, 406 Justice Drive, Lebanon, OH 45036.	July 19, 2007	390757
Oklahoma:					
Oklahoma	City of Midwest City (06–06–BI13P).	April 18, 2007; April 25, 2007; *The Sun*.	The Honorable Russell Smith Mayor, City of Midwest City, 100 North Midwest Boulevard, Midwest City, OK 73110.	April 30, 2007	400405
Pottawatomie	Citizen Potawatomi Nation (06–06–B458P).	April 26, 2007; May 3, 2007; *The Shawnee News-Star*.	The Honorable John A. Barrett Chairman, Citizen Potawatomi Nation, 1601 South Gordon Cooper Drive, Shawnee, OK 74801.	April 6, 2007	400553
Pottawatomie	City of Shawnee (06–06–B458P).	April 26, 2007; May 3, 2007; *The Shawnee News-Star*.	The Honorable Pierre Taron, Mayor, City of Shawnee, P.O. Box 1448, Shawnee, OK 74802.	April 6, 2007	400178
Pottawatomie	Unincorporated areas of Pottawatomie County (06–06-B458P).	April 26, 2007; May 3, 2007; *The Shawnee News-Star*.	Mr. Bob Guinn, Pottawatomie County Commissioner, 14101 Acme Road, County Courthouse, Shawnee, OK 74804.	April 6, 2007	400496
Tulsa	City of Broken Arrow (05–06–0076P).	April 19, 2007; April 26, 2007; *Tulsa World*.	The Honorable Richard Carter, Mayor, City of Broken Arrow, 220 South First Street, Broken Arrow, OK 74012.	July 26, 2007	400236
Pennsylvania:					
Chester	Borough of South Coatesville (07–03–0540P).	April 19, 2007; April 26, 2007; *The Daily Local*.	The Honorable Gregory V. Hines, Council President, Borough of South Coatesville, 136 Modena Road, South Coatesville, PA 19320.	March 30, 2007	420288
Montgomery	Township of East Norriton (07–03–0101P).	April 12, 2007; April 19, 2007; *The Times Herald*.	The Honorable Donald J. Gracia, Chairman, Board of Supervisors, East Norriton Township, 2501 Stanbridge Street, East Norriton, PA 19401.	March 23, 2007	420950
Puerto Rico: Puerto Rico.	Commonwealth of Puerto Rico (06–02–B737P).	April 5, 2007; April 12, 2007; *The San Juan Star*.	The Honorable Anibal Acevedo-Vila, Governor of the Commonwealth of Puerto Rico, P.O. Box 82, La Fortaleza, San Juan, PR 00901.	July 12, 2007	720000
South Carolina:					

State and county	Location and case No.	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Jasper	City of Hardeeville (06–04–C661P).	April 19, 2007; April 26, 2007; *The Beaufort Gazette*.	The Honorable Rodney Cannon, Mayor, City of Hardeeville, 205 East Main Street, Hardeeville, SC 29927.	July 26, 2007	450113
Richland	Unincorporated areas of Richland County (07–04–1972P).	April 27, 2007; May 4, 2007; *The Columbia Star*.	The Honorable Joseph McEachern, Chairman, Richland County Council, Richland County Administration Building, 2020 Hampton Street, Second Floor, Columbia, SC 29202.	April 12, 2007	450170
Tennessee:					
Rutherford	City of Murfreesboro (07–04–2511P).	April 19, 2007; April 26, 2007; *Daily News Journal*.	The Honorable Tommy Bragg, Mayor, City of Murfreesboro, 111 West Vine Street, Murfreesboro, TN 37130.	July 26, 2007	470168
Rutherford	Unincorporated areas of Rutherford County (07–04–2511P).	April 19, 2007; April 26, 2007; *Daily News Journal*.	The Honorable Ernest Burgess, Mayor, Rutherford County, County Courthouse, Room 101, Murfreesboro, TN 37130.	July 26, 2007	470165
Texas:					
Collin	City of Plano (07–06–0426P).	April 12, 2007; April 19, 2007; *Plano Star Courier*.	The Honorable Pat Evans, Mayor, City of Plano, 1520 Avenue K, Plano, TX 75074.	July 19, 2007	480140
Tarrant	City of Fort Worth (07–06–0368P).	April 12, 2007; April 19, 2007; *Fort Worth Star-Telegram*.	The Honorable Mike J. Moncrief, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	July 19, 2007	480596
Virginia: Independent City.	City of Norton (06–03–B601P).	April 12, 2007; April 19, 2007; *The Coalfield Progress*.	The Honorable B. Robert Raines, Mayor, City of Norton, Municipal Building, P. O. Box 618, Norton, VA 24273.	July 19, 2007	510108

Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.''

Dated: June 18, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–12693 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule; removal.

SUMMARY: The Federal Emergency Management Agency (FEMA) removes the final flood elevation determination published at 72 FR 27746 on May 17, 2007 for the Unincorporated areas of Frederick County, Maryland, Case No. 06–03–B384P, Community Number 240027.

DATES: *Effective Date:* This rule is effective July 2, 2007.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: On June 7, 2007, FEMA published at 72 FR 31460 a removal of the interim change in flood elevation determination for the Unincorporated areas of Frederick County, Maryland, Case No. 06–03–B384P, Community Number 240027, published at 72 FR 271 on January 4, 2007. Inadvertently, the change in flood elevation for the Unincorporated areas of Frederick County, Maryland, Case No. 06–03–B384P, Community Number 240027, was published as a final rule in 72 FR 27746 on May 17, 2007.

As previously stated in 72 FR 31460, during the 90-day appeal period, FEMA received an appeal submitted by a property owner located within the revised area. After further investigation, it was found that the aforementioned flooding sources had been revised for the countywide map revision for Frederick County, Maryland, currently scheduled to go into effect in September 2007. When comparing the Letter of Map Revision (LOMR) modeling to the countywide restudy, it was determined that the modeling for the countrywide restudy more accurately represented existing conditions. Therefore, the LOMR was rescinded to eliminate the potential of incorrect flood insurance determinations along the revised flooding sources.

Accordingly, the final flood elevation determination inadvertently published at 72 FR 27746 on May 17, 2007 for the Unincorporated areas of Frederick County, Maryland, Case No. 06–03–B384P, Community No. 240027, is hereby removed.

This matter is not a rulemaking governed by the Administrative Procedure Act (APA), 5 U.S.C. 553. FEMA voluntarily publishes flood elevation determinations for notice and comment; however, they are governed by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and do not fall under the APA. If APA applicability is contested, however, FEMA asserts, for the reasons stated above, that it has good cause to issue this removal immediately, and without prior notice and opportunity to comment, because delaying implementation of this action to await public notice and comment is unnecessary, impracticable, and contrary to the public interest.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 65

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 65 is amended as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

■ 2. The table published at 72 FR 27746 on May 17, 2007 under the authority of § 65.4 is amended to remove the following:

The final flood elevation determination published at 72 FR 27746 on May 17, 2007 for the Unincorporated areas of Frederick County, Maryland, Case No. 06–03–B384P, Community No. 240027.

Dated: June 18, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E7–12700 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD) + Elevation in feet (NAVD) Modified
Pinal County, Arizona and Incorporated Areas Docket No.: FEMA–B–7454				
Arizona	Pinal County (Unincorporated Areas).	McClellan Wash	Approximately 0.61 mile west of Battagila Drive.	+1,566
			Approximately 6.8 miles upstream of confluence with McClellan Wash Split.	+1,824

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD) + Elevation in feet (NAVD) Modified
	City of Eloy	Santa Cruz Wash	Approximately 0.72 mile west of Ethington Road.	+1,382
			Approximately 1,000 feet south of Shedd Road.	+1,440
	City of Eloy	Santa Rosa Canal	Approximately 400 feet west of Henness Road.	+1,481
			Approximately 222 feet east of Toltec Highway.	+1,528
	City of Casa Grande	North Branch Santa Cruz Wash.	Approximately 0.86 mile west of Thornton Road.	+1,363
			Approximately 1.85 miles east of Peart Road.	+1,409
	City of Casa Grande	Arizola Drain	Approximately 0.64 mile west of Cox Road.	+1,407
			Approximately 5.02 miles above confluence with North Branch Santa Cruz Wash.	+1,453

#Depth in feet above ground.
*National Geodetic Vertical Datum.
+North American Vertical Datum.

ADDRESSES

Pinal County (Unincorporated Areas)

Maps are available for inspection at: 140 N. Florence Street, Florence, AZ 85232.

City of Casa Grande

Maps are available for inspection at: The City Hall 510 E. Florence Blvd., Casa Grande, AZ 85222.

City of Eloy

Maps are available for inspection at: City Hall 628 N. Main St., Eloy, AZ 85231 or the City Library at: 100 E. 7th St., Eloy, AZ 85231.

Pinal County, Arizona and Incorporated Areas
Docket No. FEMA B–7456

Arizona	Pinal County (Unincorporated Areas), City of Casa Grande.	Arizola Drain	Shallow Flooding Area—Between I–10/SR–84 Interchange to confluence with North Santa Cruz Wash.	#1

#Depth in feet above ground.
*National Geodetic Vertical Datum.
+North American Vertical Datum.

ADDRESSES

City of Casa Grande

Maps are available for inspection at: The City Hall 510 E. Florence Blvd., Casa Grande, AZ 85222.

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD) + Elevation in feet (NAVD)
City of Eureka, Utah **Docket No.: FEMA–B–7454**				
Utah	City of Eureka	Eureka Gulch	Approximately 0.52 mile downstream of Church Street.	+6,303
			Approximately 550 feet upstream of Bulk Plant Road.	+6,571

#Depth in feet above ground.
*National Geodetic Vertical Datum.
+North American Vertical Datum.

ADDRESSES

City of Eureka

Maps are available for inspection at the office of the Chief Executive Officer at City Hall, 15 North Church Street, Eureka, UT 84628.

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet (NGVD) + Elevation in feet (NAVD)
City of Eureka, Utah Docket No.: FEMA–B–7473				
Utah	City of Eureka	Eureka Gulch	Approximately 0.30 miles downstream of Church Street.	+6,306
			Approximately 830 feet upstream of Church Street.	+6,396
	City of Eureka	Eureka Gulch	Approximately 490 feet upstream of Spring Street.	+6,528
			Approximately 425 feet upstream of Bulk Plant Road.	+6,569

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

City of Eureka

Maps are available for inspection at: City Hall, 15 North Church Street, Eureka, Utah.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Gila County, Arizona and Incorporated Areas Docket No.: FEMA–B–7456			
Bar X Wash	Shallow Flooding—North side of Bar X Wash approximately 1059 feet above confluence with Tonto Creek at Roosevelt Lake to approximately 634 feet above confluence with Tonto Creek at Roosevelt Lake.	#1	Gila County (Unincorporated Areas).
	Shallow Flooding—North side of Bar X Wash approximately 1059 feet above confluence with Tonto Creek at Roosevelt Lake to approximately 634 feet above confluence with Tonto Creek at Roosevelt Lake.	#1	
	Shallow Flooding—Approximately 1.02 miles above confluence with Tonto Creek at Roosevelt Lake to approximately 1.01 miles above confluence with Roosevelt Lake.	#2	
Butcher Hook	Shallow Flooding—North side of Butcher Hook approximately 1772 feet above confluence with Tonto Creek at Roosevelt Lake to approximately 922 feet above confluence with Tonto Creek at Roosevelt Lake.	#1	Gila County (Unincorporated Areas).
	Shallow Flooding—North side of Butcher Hook approximately 0.39 mile above confluence with Tonto Creek at Roosevelt Lake to approximately 1772 feet above confluence with Tonto Creek at Roosevelt Lake.	#1	
	Shallow Flooding—South side of Butcher Hook approximately 0.45 mile above confluence with Tonto Creek at Roosevelt Lake to approximately 0.39 mile above confluence with Tonto Creek at Roosevelt Lake.	#1	
	Shallow Flooding—North side of Butcher Hook approximately 1772 feet above confluence with Tonto Creek at Roosevelt Lake to approximately 1247 feet above confluence with Tonto Creek at Roosevelt Lake.	#2	
Chalk Springs Creek	Shallow Flooding—Approximately 1.25 miles above confluence with Tonto Creek at Roosevelt Lake to approximately 1.02 miles above confluence with Tonto Creek at Roosevelt Lake.	#1	Gila County (Unincorporated Areas).
	Shallow Flooding—Approximately 1.01 miles above confluence with Tonto Creek at Roosevelt Lake to 0.96 mile above confluence with Tonto Creek at Roosevelt Lake.	#1	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
South Oak Creek	Shallow Flooding—Approximately 0.84 mile above confluence with Tonto Creek at Roosevelt Lake to approximately 0.99 mile above confluence with Tonto Creek at Roosevelt Lake.	#1	Gila County (Unincorporated Areas).
Walnut Creek	Shallow Flooding—Approximately 0.52 mile above confluence with Tonto Creek at Roosevelt Lake to approximately 0.44 mile above confluence with Tonto Creek at Roosevelt Lake.	#1	Gila County (Unincorporated Areas).
Bar X Wash	Approximately 645 feet upstream of confluence with Tonto Creek at Roosevelt Lake.	+2237	Gila County (Unincorporated Areas).
	Approximately 182 feet west of State Route 188	+2282	
Butcher Hook	Approximately 920 feet upstream of confluence with Tonto Creek at Roosevelt Lake.	+2242	Gila County (Unincorporated Areas).
	Approximately 517 feet west of State Route 188	+2294	
Chalk Springs Creek	Approximately 0.50 mile upstream of confluence with Tonto Creek at Roosevelt Lake.	+2277	Gila County (Unincorporated Areas).
	Approximately 894 feet west of Earl Road	+2389	
Haystack Butte	Approximately 0.54 mile upstream of confluence with Tonto Creek at Roosevelt Lake.	+2308	Gila County (Unincorporated Areas).
	Approximately 675 feet west of Rio Salada Lane	+2416	
Lambing Creek	Approximately 0.44 mile upstream of confluence with Tonto Creek at Roosevelt Lake.	+2322	Gila County (Unincorporated Areas).
	Approximately 0.89 mile upstream of confluence with Tonto Creek at Roosevelt Lake.	+2377	
Landing Creek	Approximately 222 feet east of Shereeve Lane	+2284	Gila County (Unincorporated Areas).
	Approximately 846 feet west of State Route 188	+2362	
Park Creek	Approximately 526 feet upstream of confluence with Tonto Creek at Roosevelt Lake.	+2312	Gila County (Unincorporated Areas).
	Approximately 289 feet west of State Route 188	+2361	
Reno Creek	Approximately 1455 feet upstream of confluence with Tonto Creek at Roosevelt Lake.	+2319	Gila County (Unincorporated Areas).
	Approximately 757 feet west of State Route 188	+2356	
South Oak Creek	Approximately 0.44 mile upstream of confluence with Tonto Creek at Roosevelt Lake.	+2221	Gila County (Unincorporated Areas).
	Approximately 1.00 mile upstream of confluence with Tonto Creek at Roosevelt Lake.	+2288	
Sycamore Creek	Approximately 0.84 mile upstream of confluence with Tonto Creek at Roosevelt Lake.	+2224	Gila County (Unincorporated Areas).
	Approximately 490 feet west of State Route 188	+2286	
Sycamore Creek Split Flow	Approximately 0.48 mile upstream of confluence with Tonto Creek at Roosevelt Lake.	+2213	Gila County (Unincorporated Areas).
	Approximately 0.65 mile upstream of confluence with Tonto Creek at Roosevelt Lake.	+2222	
Tonto Creek at Roosevelt Lake	Approximately 11.12 miles above Roosevelt Dam	+2171	Gila County (Unincorporated Areas).
	Approximately 2.2 miles upstream of Reno Creek	+2373	
Walnut Creek	Approximately 1364 feet upstream of confluence with Tonto Creek at Roosevelt Lake.	+2270	Gila County (Unincorporated Areas).
	Approximately 505 feet west of Walnut Springs Road	+2346	

Depth in feet above ground.
* National Geodetic Vertical Datum.
+ North American Vertical Datum.

ADDRESSES

Gila County (Unincorporated Areas)

Maps available for inspection at: 1400 E. Ash Street, Globe, AZ 85501 or 714 S. Beeline Highway, Suite 200, Payson, AZ 85541.

Eagle County, Colorado and Incorporated Areas
Docket Nos.: FEMA–B–7439 and FEMA–B–7464

Bighorn Creek	At confluence with Gore Creek	+8,431	Town of Vail.
	Approximately 350 feet upstream of Columbine Drive	+8,639	
Black Gore Creek	At confluence with Lower Gore Creek	+8,575	Town of Vail.
	Approximately 1,280 feet upstream of confluence with Lower Gore Creek.	+8,628	
Booth Creek	At confluence with Gore Creek	+8,296	Town of Vail.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 1,300 feet upstream of interstate Highway 70.	+8,392	
Buffehr Creek	At confluence with Gore Creek	+7,956	Town of Vail, Eagle County (Unincorporated Areas).
	Approximately 1,700 feet upstream of Circle Drive	+8,180	
Colorado River	At Garfield County and Eagle County corporate limit	+6131	Eagle County (Unincorporated Areas).
	Approximately 200 feet downstream of Interstate 70	+6145	
Eagle River	Approximately 500 feet downstream of U.S. Highway 6	+6,277	Town of Gypsum Eagle County Unincorporated Areas).
	Just downstream of confluence with Brush Creek	+6,502	
East Mill Creek	At confluence with Gore Creek	+8,175	Town of Vail, Eagle County (Unincorporated Areas).
	Just upstream of Vail Road	+8,292	
Gore Creek	Just upstream of confluence with Eagle River	+7,728	Town of Vail, Eagle County (Unincorporated Areas).
	At confluence with Upper and Lower Gore Creeks	+8,561	
Lower Gore Creek	At confluence with Gore Creek	+8,561	Town of Vail, Eagle County (Unincorporated Areas).
	At Divergence from Upper Gore Creek	+8,610	
Middle Creek	At confluence with Gore Creek	+8,118	Town of Vail.
	Approximately 850 feet upstream of Interstate Highway 70	+8,335	
Pitkin Creek	At confluence with Gore Creek	+8,366	Town of Vail.
	Approximately 200 feet upstream of Fall Line Drive	+8,454	
Red Sandstone Creek	At confluence with Gore Creek	+8,078	Town of Vail.
	Just upstream of Potato Patch Drive	+8,254	
Roaring Fork River	At Eagle County/Garfield County boundary	+6,380	Town of Basalt, Eagle County (Unincorporated Areas).
	Just downstream of Emma Road	+6,600	
South Side Split Flow	At confluence with Roaring Fork River	+6,553	Town of Basalt, Eagle County (Unincorporated Areas).
	Approximately 1,200 feet downstream of State Highway 82 Bypass.	+6,563	
Spraddle Creek	At confluence with Gore Creek	+8,138	Town of Vail.
	Approximately 1,150 feet upstream of Interstate Highway 70.	+8,274	
Upper Gore Creek	At confluence with Gore Creek	+8,562	Town of Vail, Eagle County (Unincorporated Areas).
	Approximately 1,000 feet upstream of Interstate Highway 70 westbound.	+8,682	
West Mill Creek	Just downstream of Gore Drive	+8,165	Town of Vail, Eagle County (Unincorporated Areas).
	Just upstream of Vail Road	+8,292	

Depth in feet above ground.
* National Geodetic Datum.
+ National American Vertical Datum.

ADDRESSES

Town of Basalt

Maps are available for inspection at the Town Hall, 101 Midland Avenue, Basalt, Colorado 81621.

Eagle County (Unincorporated Areas)

Maps are available for inspection at 500 Broadway Street, Eagle, Colorado 81631.

Town of Gypsum:

Maps are available for inspection at 50 Lundgren Boulevard, Gypsum, Colorado 81637.

Town of Vail

Maps are available for inspection at the Community Development Office, 75 South Frontage Road, Vail, Colorado 81657.

Eagle County, Colorado, and Incorporated Areas
Docket No.: B–7704

Eagle River	Just upstream of the confluence with the Colorado River	+6,144	Eagle County, (Unincorporated Areas), Town of Avon, Town of Eagle, Town of Gypsum, Town of Minturn.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 1,040 feet downstream of the confluence with Two Elk Creek.	+7,989	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Eagle County (Unincorporated Areas)

Maps are available for inspection at the Eagle County Building, 500 Broadway Street, Eagle, Colorado 81631.

Town of Avon

Maps are available for inspection at Avon Municipal Complex, 400 Benchmack Road, Avon, CO 81620.

Town of Eagle Q02

Maps are available for inspection at Town Hall, Town of Eagle, 200 Broadway, Eagle, CO 81631.

Town of Gypsum

Maps are available for inspection at Town Hall, Town of Gypsum, 50 Lundgren Boulevard, Gypsum, CO 81637.

Town of Minturn

Map are available for inspection at Town Office, Town of Minturn, 302 Pine Street, Minturn, CO 81645.

Hancock County, Indiana and Incorporated Areas
Docket No: FEMA–B–7704

Bills Branch	At East 96th Street	+790	Town of McCordsville.
	Approximately 400 feet upstream of North Wind River Run.	+838	
Brandywine Creek	Approximately 6,000 feet downstream of County Road 500 South.	+831	City of Greenfield, Hancock County (Unincorporated Areas).
	Approximately 790 feet upstream of County Road 400 North.	+887	
Briney Ditch	At the confluence with Little Brandywine Creek	+859	Hancock County (Unincorporated Areas).
	Approximately 2,170 feet upstream of Interstate Highway 40.	+895	
Dry Branch	At County Road 700 West	+831	Town of McCordsville, Hancock County (Unincorporated Areas).
	Approximately 1,580 feet upstream of County Road 500 West.	+858	
Jackson Ditch	Approximately 1,190 feet downstream of West Staat Street.	+845	Town of Fortville, Hancock County (Unincorporated Areas).
	Approximately 600 feet upstream of County Road 200 West.	+857	
Jackson Arm Ditch	At the confluence with Jackson Ditch	+856	Hancock County (Unincorporated Areas).
	Approximately 2,010 feet upstream of West 850 North	+865	
Little Brandywine Creek	At Steel Ford Road	+856	City of Greenfield, Hancock County (Unincorporated Areas).
	Approximately 230 feet upstream of County Road 300 North.	+911	
North Fork	At County Road 700 West	+820	Town of McCordsville, Hancock County (Unincorporated Areas).
	Approximately 1,170 feet upstream of County Road 900 North.	+853	
Putter Ditch	At the confluence with Brandywine Creek	+861	City of Greenfield.
	Approximately 695 feet upstream of the confluence with Brandywine Creek.	+861	
Rash Ditch	At the confluence with Jackson Ditch	+855	Hancock County (Unincorporated Areas).
	Just upstream of Meridian Road	+866	
Stansbury Ditch	At the confluence with Dry Branch	+843	Town of McCordsville, Hancock County (Unincorporated Areas).
	Approximately 4,610 feet upstream of County Road 700 North.	+861	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
West Fork Bills Branch	At the confluence with Bills Branch	+796	Town of McCordsville.
	Approximately 2,005 feet upstream of Cardinal Drive	+821	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

Town of Fortville

Maps are available for inspection at Courthouse Annex, 111 South American Legion Place, Greenfield, Indiana 46140.

Town of Greenfield

Maps are available for inspection at 10 South State Street, Greenfield, Indiana 46140.

Hancock County (Unincorporated Areas)

Maps are available for inspection at Courthouse Annex, 111 South American Legion Place, Greenfield, Indiana 46140.

Town of McCordsville

Maps are available for inspection at 9175 Stormy Port, McCordsville, Indiana 46055.

Clark County, Nevada, and Incorporated Areas
Docket No.: FEMA–B–7708

Virgin River	5.0 miles downstream of the confluence of Pulsipher Wash.	+1473	Clark County (Unincorporated Areas), City of Mesquite.
	0.5 miles upstream of the confluence of the Virgin River Avulsion.	+1597	
Virgin River Avulsion	0.3 miles upstream of the confluence with the Virgin River	+1591	City of Mesquite.
	0.8 miles upstream of the confluence with the Virgin River	+1598	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Mesquite

Maps are available for inspection at Office of the City Engineer, 10 E. Mesquite Boulevard, Mesquite, NV 89027.

Clark County (Unincorporated Areas)

Maps are available for inspection at Office of the Director of Public Works, 500 Grand Central Pky, Las Vegas, NV 89155.

Ozaukee County, Wisconsin, and Incorporated Areas
Docket No.: FEMA–B–747

Canyon Creek	At mouth of Lake Michigan	*5901	City of Port Washington, Ozaukee County (Unincorporated Areas).
	At intersection of Interstate 43	*701	
Cedar Creek	At mouth at Milwaukee River	*679	City of Cedarburg, Village of Grafton, Ozaukee County (Unincorporated Areas).
	6450 feet upstream of County Highway Y	*836	
Fredonia Creek	At mouth at Milwaukee River	[1]*781	Village of Fredonia, Ozaukee County (Unincorporated Areas).
	2500 feet upstream from County Highway D	*831	
Milwaukee River	At County Line Road	*653	Village of Thiensville, City of Mequon, Village of Grafton, Village of Saukville, Village of Fredonia, Village of Newburg, Ozaukee County (Unincorporated Areas).
	Downstream of northern crossing of Riverside Road	*798	
	Upstream of south crossing of Riverside Road	*805	
	Downstream of Hickory Road	*835	
Mineral Springs	At mouth at Sauk Creek	[1]*590	City of Port Washington.
	300 feet upstream from State Highway 32	*719	
Mole Creek	At mouth at Milwaukee River	[1]*746	Village of Grafton, Ozaukee County (Unincorporated Areas).
	600 feet upstream of Center Road	*818	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
North Branch of Milwaukee River.	At mouth at Milwaukee River	*798	Ozaukee County (Unincorporated Areas).
	Downstream of northern crossing of Riverside Road	*799	
Pigeon Creek	At mouth at Milwaukee River approximately 100 feet downstream from Green Bay Road.	[1]*660	Village of Thiensville, City of Mequon
	1900 feet upstream of Highland Road	*732	
Sauk Creek	At mouth of Lake Michigan	*590	City of Port Washington, Village of Belgium, Ozaukee County (Unincorporated Areas).
	2000 feet upstream of County Highway KK	*796	
Ulao Creek	At mouth at Milwaukee River	[1]*664	City of Mequon,Village of Grafton, Ozaukee County, (Unincorporated Areas).
	2300 feet upstream of State Highway 32	*744	
Un-named Tributary #1 to Belgium Holland Drainage Ditch.	At intersection with County Highway K	*720	Village of Belgium, Ozaukee County, (Unincorporated Areas).
	100 feet downstream of Park Street	*731	
Overflow #1	At the downstream confluence of Un-named Tributary #1 to Belgium Holland Drainage Ditch.	*723	Ozaukee County (Unincorporated Areas).
	At the upstream overflow from Un-named Tributary #1 to Belgium Holland Drainage Ditch (750 feet downstream of Park St).	*724	
Overflow #2	At the confluence of Un-Named Tributary #1 to Belgium Holland Drainage Ditch.	*730	Village of Belgium, Ozaukee County (Unincorporated Areas).
	At the upstream overflow from Un-named Tributary #1 to Belgium Holland Drainage Ditch (2750 feet downstream of Jay Rd).	*730	
Un-named Tributary #1 to Milwaukee River.	At mouth of the Milwaukee River	[1]*758	Village of Saukville.
	1690 feet upstream of Dekora Woods Boulevard	*775	
Un-named Tributary #1 to Ulao Creek.	At mouth of Ulao Creek	*664	City of Mequon.
	1700 feet upstream of County Highway W	*673	
Un-named Tributary to Un-named Tributary #1 to Ulao Creek.	At mouth of Un-named Tributary #1 to Ulao Creek	*664	City of Mequon.
	6750 feet upstream of Interstate 43	*673	
Un-named Tributary #2 to Pigeon Creek.	At mouth of Pigeon Creek	*623	City of Mequon, City of Cedarburg, Ozaukee County (Unincorporated Areas).
	2300 feet upstream of State Highway 181	*806	
Un-named Tributary #3 to Milwaukee River.	200 feet downstream of Wheeler Avenue	*791	Village of Fredonia.
	500 feet upstream of Meadowbrook Drive	*798	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.
[1] Flood Elevation based on Backwater.

ADDRESSES

Village of Belgium

Maps are available for inspection at 195 Commerce St, Belgium, WI 53004–0224.

City of Cedarburg

Maps are available for inspection at W63 N645 Washington Avenue, Cedarburg, WI 53012–0049.

Village of Fredonia

Maps are available for inspection at Village Hall, 416 Fredonia Ave, Fredonia, WI 53021.

Village of Grafton

Maps are available for inspection at Village Hall—Thomas Johnson, 1971 Washington St., Grafton, WI 53024.

City of Mequon

Maps are available for inspection at 11333 N. Cedarburg Road, Mequon, WI 53092.

Village of Newburg

Maps are available for inspection at Village Hall, 614 Main St., Newburg, WI 53060.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Unincorporated Areas of Ozaukee County			
Maps are available for inspection at Planning, Resources, and Land Management Department 121 West Main Street, P.O. Box 994, Port Washington, WI 53704–0994.			
City of Port Washington			
Maps are available for inspection at Office of Planning and Development, 100 W. Grand Avenue Port Washington, WI 53074.			
Village of Saukville			
Maps are available for inspection at Planning Department, 639 East Green Bay Ave., Saukville, WI 53080.			
Village of Thiensville			
Maps are available for inspection at 250 Elm Street, Thiensville, WI 53092.			

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 18, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–12698 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–12–P

Proposed Rules

Federal Register
Vol. 72, No. 126
Monday, July 2, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7721]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
Warren County, Mississippi, and Incorporated Areas				
Clear Creek	At Tiffintown Road	None	+144	(Warren County Unincorporated Areas).
	Approximately 6490 feet upstream of Tiffintown Road	None	+150	
Tributary 1	At Tiffintown Road	None	+144	(Warren County Unincorporated Areas).
	Approximately 1825 feet upstream of Tiffintown Road	None	+145	
Crouches Creek	Approximately 840 feet downstream of confluence with Crouches Creek Tributary 2.	None	+155	(Warren County Unincorporated Areas).
	Approximately 2730 feet upstream of confluence with Crouches Creek Tributary 2.	None	+164	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
Tributary 2	At confluence with Crouches Creek	None	+159	(Warren County Unincorporated Areas).
	At Freetown Road	None	+165	
Tributary 3	At confluence with Crouches Creek	None	+159	(Warren County Unincorporated Areas).
	Approximately 2970 feet upstream of confluence with Crouches Creek.	None	+166	
Glass Bayou	At Fort Hill Drive	None	+123	City of Vicksburg.
	At Evergreen Drive	None	+208	
Muddy Creek	At Tucker Road	None	+148	(Warren County Unincorporated Areas).
	Approximately 4565 feet upstream of Tucker Road	None	+150	
Tributary 1	At confluence with Muddy Creek	None	+148	(Warren County Unincorporated Areas).
	Approximately 2970 feet upstream of confluence with Muddy Creek.	None	+176	
Paces Bayou	At U.S. Highway 61	None	+96	City of Vicksburg.
	Approximately 3530 feet upstream of U.S. Highway 61.	None	+108	(Warren County Unincorporated Areas).
Tributary 1	At Redbone Road	None	+121	City of Vicksburg.
	Approximately 1390 feet upstream of Redbone Road	None	+123	
Tributary 3	At Redbone Road	None	+115	City of Vicksburg.
	Approximately 2040 feet upstream of Redbone Road	None	+118	(Warren County Unincorporated Areas).
Silver Creek	Approximately 1500 feet downstream of confluence with Silver Creek Tributary 2.	None	+162	(Warren County Unincorporated Areas).
	Approximately 8615 feet upstream of confluence with Silver Creek Tributary 3.	None	+259	
Tributary 2	Approximately 745 feet upstream of confluence with Silver Creek.	None	+181	(Warren County Unincorporated Areas).
	Approximately 4890 feet upstream of confluence with Silver Creek.	None	+217	
Tributary 3	Approximately 1070 feet upstream of confluence with Silver Creek.	None	+191	(Warren County Unincorporated Areas).
	Approximately 4975 feet upstream of confluence with Silver Creek.	None	+228	
Stouts Bayou	At Interstate 20	None	+122	City of Vicksburg.
	At Spring Street	None	+197	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Vicksburg

Maps are available for inspection at 1401 Walnut Street, Vicksburg, MS 39180.
Send comments to The Honorable Laurence E. Leyens, Mayor, City of Vicksburg, 1401 Walnut Street, Vicksburg, MS 39180.

Warren County (Unincorporated Areas)

Maps are available for inspection at 913 Jackson Street, Vicksburg, MS 39183.
Send comments to Mr. Carl Flanders, Chairman, Warren County Board of Supervisors, 913 Jackson Street, Vicksburg, MS 39183.

Grand County, Utah, and Incorporated Areas

Pack Creek	At the confluence with Mill Creek	*4022	+4030	Grand County (Unincorporated Areas)
	160 feet upstream of Mill Creek Drive	None	+4199	City of Moab

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Moab

Maps are available for inspection at 217 East Center Street, Moab, UT 84532.
Send comments to The Honorable Dave Sakirson, Moab City Mayor, 217 East Center Street, Moab, UT 84532.

Grand County (Unincorporated Areas)

Maps are available for inspection at Grand County Courthouse, Moab, UT 84532.
Send comments to Joette Langianese, Chair, Grand County Council, 125 East Center Street, Moab, UT 84532.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 18, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E7–12697 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7718]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

E*xecutive Order 13132, Federalism.* This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Cabarrus County, North Carolina and Incorporated Areas				
Adams Creek	Approximately 150 feet upstream of NC 73	None	+630	Cabarrus County (Unincorporated Areas).
	Approximately 1,460 feet upstream of NC 73 Highway E.	None	+630	
Afton Run	Approximately 50 feet upstream of Dogwood Boulevard.	None	+665	City of Kannapolis.
	Approximately 1.5 miles upstream of Dogwood Boulevard.	None	+710	
Anderson Creek	Approximately 50 feet upstream of Bethel Church Road (State Road 1125).	None	+566	Cabarrus County (Unincorporated Areas).
	Approximately 900 feet upstream of Sam Black Road (State Road 1127).	None	+613	
Tributary 1	At the confluence with Anderson Creek	None	+575	Cabarrus County (Unincorporated Areas).
	At Sam Black Road (State Road 1127)	None	+611	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Caldwell Creek Tributary	Approximately 1,125 feet upstream of the confluence with Caldwell Creek.	+592	+593	Cabarrus County (Unincorporated Areas).
	Approximately 1,700 feet upstream of Pioneer Mill Road (State Road 1134).	None	+669	
Chambers Branch	Approximately 110 feet upstream of U.S. Highway 29	None	+702	City of Kannapolis.
	Approximately 1,180 feet upstream of East 1st Street	None	+718	
Clear Creek	At the confluence with Rocky River	+474	+469	Cabarrus County (Unincorporated Areas), Town of Midland.
	Approximately 1.6 miles upstream of Ben Black Road (State Road 1118).	None	+535	
Coddle Creek	Approximately 150 feet downstream of Coddle Creek Dam.	+621	+620	Cabarrus County (Unincorporated Areas).
	At the Rowan/Cabarrus/Iredell County boundary	+676	+674	
Tributary 1	Approximately 500 feet upstream of the confluence with Coddle Creek.	None	+543	Cabarrus County (Unincorporated Areas), City of Concord.
	Approximately 1,800 feet upstream of Rocky River Road (State Road 1139).	None	+555	
Tributary 2	Approximately 950 feet upstream of the confluence with Coddle Creek.	None	+543	Cabarrus County (Unincorporated Areas).
	Approximately 1,300 feet upstream of Chapel Creek Road Southwest.	None	+551	City of Concord.
Tributary 3	Approximately 200 feet upstream of the confluence with Coddle Creek.	None	+569	City of Concord.
	Approximately 1.0 mile upstream of Roberta Church Road.	None	+598	
Cold Water Creek	At the confluence of Little Cold Water Creek	None	+550	Cabarrus County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Moose Road	None	+653	City of Concord, City of Kannapolis.
Common Ford Branch	Approximately 0.4 mile upstream of Penninger Road (State Road 2113).	None	+618	Cabarrus County (Unincorporated Areas).
	Approximately 1.5 miles upstream of Penninger Road (State Road 2113).	None	+682	
Dutch Buffalo Creek	Approximately 150 feet upstream of NC 73	None	+524	Cabarrus County (Unincorporated Areas).
	Approximately 1,120 feet upstream of Sapp Road (State Road 2402).	None	+684	
Tributary 1	At the confluence with Dutch Buffalo Creek	None	+674	Unincorporated Areas of Cabarrus County.
	Approximately 0.7 mile upstream of Pless Road (State Road 2432).	None	+688	
Horton Branch	Approximately 80 feet upstream of Bethel Church Road (State Road 1125).	None	+575	Cabarrus County (Unincorporated Areas).
	Approximately 0.6 mile upstream of Sam Black Road (State Road 1127).	None	+632	
Irish Buffalo Creek	Approximately 600 feet upstream of Cannon Farm Road.	+732	+733	City of Kannapolis.
	Approximately 0.8 mile upstream of Cannon Farm Road.	+740	+743	
Tributary 1	Approximately 350 feet upstream of the confluence with Irish Buffalo Creek.	None	+611	City of Concord.
	Approximately 910 feet upstream of Hanover Drive Northwest.	None	+639	
Tributary 2	Approximately 1,200 feet upstream of the confluence with Irish Buffalo Creek.	None	+624	City of Concord, City of Kannapolis.
	Approximately 1,950 feet upstream of Orphanage Road.	None	+645	
Tributary 3	Approximately 750 feet upstream of the confluence with Irish Buffalo Creek.	None	+671	City of Kannapolis.
	Approximately 500 feet upstream of Mooresville Road	None	+704	
Tributary 4	Approximately 1,250 feet upstream of the confluence with Irish Buffalo Creek.	None	+735	City of Kannapolis.
	Approximately 0.7 mile upstream of the confluence with Irish Buffalo Creek.	None	+745	
Tributary 5	Approximately 1,350 feet upstream of the confluence with Irish Buffalo Creek.	+732	+735	City of Kannapolis.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 0.7 mile upstream of the confluence with Irish Buffalo Creek.	None	+750	
Jones Branch	Approximately 500 feet upstream of the confluence with Rocky River.	None	+530	Cabarrus County (Unincorporated Areas).
	Approximately 1,690 feet upstream of Falcon Drive (State Road 1269).	None	+595	
Lick Branch	At the confluence with Dutch Buffalo Creek	None	+666	Cabarrus County (Unincorporated Areas).
	Approximately 1,160 feet upstream of Sapp Road (State Road 2402).	None	+740	
Little Buffalo Creek	At the confluence with Dutch Buffalo Creek	None	+531	Cabarrus County (Unincorporated Areas).
	Approximately 1.9 miles upstream of Drye Road (State Road 2443).	None	+593	
Little Meadow Creek	Approximately 100 feet upstream of Reed Mine Road (State Road 1100).	None	+501	Cabarrus County (Unincorporated Areas).
	Approximately 330 feet upstream of County Line Road (State Road 2623).	None	+607	
Mallard Creek	Approximately 2,250 feet upstream of Morehead Road.	+569	+570	Cabarrus County (Unincorporated Areas).
	At the Cabarrus/Mecklenberg County boundary	+573	+576	Town of Harrisburg.
Tributary 1	Approximately 850 feet upstream of the confluence with Mallard Creek.	None	+571	Town of Harrisburg.
	At the Cabarrus/Mecklenberg County boundary	None	+590	
Tributary 1A	Approximately 350 feet upstream of the confluence with Mallard Creek Tributary 1.	None	+571	Town of Harrisburg.
	Approximately 1.0 mile upstream of the confluence with Mallard Creek Tributary 1.	None	+643	
Tributary 1B	At the confluence with Mallard Creek Tributary 1	None	+586	Town of Harrisburg.
	Approximately 1,650 feet upstream of the confluence with Mallard Creek Tributary 1.	None	+623	
Tributary 2	At the confluence with Mallard Creek Tributary 1	+570	+573	City of Concord, Town of Harrisburg.
	Approximately 1,290 feet upstream of Hudspeth Road (State Road 1302).	None	+634	
Meadow Creek	Approximately 1,500 feet downstream of Reed Mine Road (State Road 1100).	None	+495	Cabarrus County (Unincorporated Areas).
	Approximately 0.9 mile upstream of Reed Mine Road (State Road 1100).	None	+500	
Mill Creek	At the confluence with Coddle Creek	+622	+650	Cabarrus County (Unincorporated Areas), City of Kannapolis.
	Approximately 100 feet upstream of the Cabarrus/Rowan County boundary.	None	+715	
Miller Branch	Approximately 250 feet upstream of the confluence with Irish Buffalo Creek.	None	+656	Cabarrus County (Unincorporated Areas), City of Kannapolis.
	Approximately 0.9 mile upstream of Mooresville Road	None	+767	
Morris Branch	Approximately 660 feet upstream of the confluence with Rocky River.	+567	+566	Town of Harrisburg.
	Approximately 1,280 feet upstream of Rocky River Crossing Road.	+598	+602	
Muddy Creek	At the confluence with Rocky River	+479	+478	Cabarrus County (Unincorporated Areas), Town of Midland.
	At the confluence of Muddy Creek Tributary 1	None	+492	
Tributary 1	At the confluence with Muddy Creek	None	+492	Cabarrus County (Unincorporated Areas) Town of Midland.
	Approximately 150 feet upstream of NC 24–27 Highway E.	None	+525	
Overcash Branch	Approximately 1,000 feet upstream of the confluence with Irish Buffalo Creek.	None	+664	City of Kannapolis.
	Approximately 740 feet upstream of Quail Woods Court.	None	+697	
Park Creek	At the confluence with Coddle Creek	+648	+652	Cabarrus County (Unincorporated Areas).
	At the Cabarrus/Rowan County boundary	None	+679	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Patterson Branch Tributary ...	Approximately 75 feet upstream of the confluence with Patterson Branch.	+702	+703	City of Kannapolis.
	Approximately 1,800 feet upstream of Beaumont Avenue.	None	+747	
Ridenhour Branch	At the downstream side of Colfax Drive Southeast (State Road 2513).	None	+552	Cabarrus County (Unincorporated Areas), City of Concord.
	Approximately 0.5 mile upstream of the confluence with Ridenhour Branch Tributary.	None	+628	
Ridenhour Branch Tributary ..	At the confluence with Ridenhour Branch	None	+599	Cabarrus County (Unincorporated Areas), City of Concord.
	Approximately 1.2 miles upstream of Lake Lynn Road (State Road 2640).	None	+671	
Rocky River	At the Union/Stanly/Cabarrus County boundary	+474	+469	Cabarrus County (Unincorporated Areas).
	At the Cabarrus/Mecklenberg/Iredell County boundary	None	+687	City of Concord, City of Kannapolis, Town of Harrisburg, Town of Midland.
Tributary 11	Approximately 200 feet downstream of NC 200	None	+508	Cabarrus County (Unincorporated Areas).
	Approximately 0.7 mile upstream of NC 200	None	+555	
Rogers Lake Branch	Approximately 100 feet upstream of Rogers Lake Road.	None	+715	City of Kannapolis.
	Approximately 190 feet upstream of Richard Avenue	None	+742	
Royal Oaks Branch	Approximately 350 feet upstream of the confluence with Cold Water Creek.	None	+582	Cabarrus County (Unincorporated Areas), City of Concord.
	Approximately 650 feet upstream of Lake Concord Road.	None	+660	City of Kannapolis.
Shamrock Branch	Approximately 75 feet downstream of Wilson Street ...	None	+595	City of Concord.
	Approximately 1,050 feet upstream of Shamrock Street Northeast.	None	+644	
Stricker Branch	Approximately 750 feet upstream of the confluence with Irish Buffalo Creek.	None	+597	City of Concord.
	Approximately 180 feet upstream of NC 73	None	+636	
Threemile Branch	At the confluence with Cold Water Creek	None	+558	City of Concord, City of Kannapolis.
	Approximately 370 feet upstream of Plymouth Street	None	+751	
Water Creek	Approximately 500 feet upstream of the confluence with Little Cold Water Creek.	None	+586	Cabarrus County (Unincorporated Areas).
	Approximately 0.7 mile upstream of Gold Hill Road (State Road 2408).	None	+625	
Yow Branch	Approximately 80 feet upstream of NC 200	None	+507	Cabarrus County (Unincorporated Areas), Town of Mount Pleasant.
	Approximately 1,130 feet upstream of NC 200 Highway.	None	+507	

* National Geodetic Vertical Datum.
# Depth in feet above ground.
+ North American Vertical Datum.

ADDRESSES

City of Concord

Maps are available for inspection at City of Concord GIS Division, 66 Union Street South, Concord, North Carolina.
Send comments to The Honorable J. Scott Padgett, Mayor of the City of Concord, P.O. Box 308, Concord, North Carolina 28026.

City of Kannapolis

Maps are available for inspection at Kannapolis City Hall, 246 Oak Avenue, Kannapolis, North Carolina.
Send comments to The Honorable Bob Misenheimer, Mayor of the City of Kannapolis, 246 Oak Avenue, Kannapolis, North Carolina 28081.

Town of Harrisburg

Maps are available for inspection at Harrisburg Town Hall, 4100 Main Street, Suite 101, Harrisburg, North Carolina.
Send comments to The Honorable Tim Hagler, Mayor of the Town of Harrisburg, P.O. Box 100, Harrisburg, North Carolina 28075.

Town of Midland

Maps are available for inspection at Midland Town Hall, 4293B Highway 24–27 East, Midland, North Carolina.
Send comments to The Honorable John Crump, Mayor of the Town of Midland, 4293B Highway 24–27 East, Midland, North Carolina 28107.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Town of Mount Pleasant				
Maps are available for inspection at Mount Pleasant Town Hall, 8590 Park Drive, Mount Pleasant, North Carolina. Send comments to The Honorable Troy Barnhardt, Mayor of the Town of Mount Pleasant, P.O. Box 787, Mount Pleasant, North Carolina 28124.				
Cabarrus County (Unincorporated Areas)				
Maps are available for inspection at Cabarrus County Planning Services Department, 65 Church Street Southeast, Concord, North Carolina. Send comments to Mr. John D. Day, Cabarrus County Manager, 65 Church Street Southeast, Concord, North Carolina 28025.				
Henderson County, North Carolina and Incorporated Areas				
Allen Branch	At the confluence with Clear Creek	None	+2,081	Henderson County (Unincorporated Areas), City of Hendersonville.
	Approximately 200 feet upstream of Luther Capell Lane.	None	+2,183	
Bat Fork Creek	At the confluence with Mud Creek	+2,084	+2,082	Henderson County (Unincorporated Areas), City of Hendersonville.
	Approximately 200 feet upstream of U.S. 176	None	+2,159	
Battle Creek	At the downstream side of U.S. 64	None	+2,069	Henderson County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Battle Creek Road (State Road 1211).	None	+2,082	
Big Willow Creek	Approximately 0.4 mile upstream of the confluence with French Broad River.	None	+2,081	Henderson County (Unincorporated Areas).
	At the confluence of South Fork Big Willow Creek and North Fork Big Willow Creek.	None	+2,081	
Tributary 1	Approximately 1,200 feet upstream of the confluence with Big Willow Creek.	+2,081	+2,104	Henderson County (Unincorporated Areas).
	Approximately 40 feet upstream of Lakeshore Drive	+2,081	+2,109	
Boylston Creek	Approximately 50 feet downstream of Banner Farm Road.	+2,173	+2,172	Town of Mills River.
	Approximately 230 feet upstream of Turkey Pen Gap Road.	None	+2,190	
Tributary 7	At the confluence with Boylston Creek	None	+2,103	Henderson County (Unincorporated Areas), Town of Mills River.
	Approximately 1,090 feet upstream of Cross Creek Court.	None	+2,128	
Britton Creek	At the confluence with Mud Creek	+2,082	+2,081	Henderson County (Unincorporated Areas), City of Hendersonville.
	Approximately 90 feet upstream of Mistletoe Trail	None	+2,284	
Tributary 2	At the confluence with Britton Creek	+2,083	+2,082	Henderson County (Unincorporated Areas), City of Hendersonville.
	Approximately 150 feet upstream of Stonebrook Drive (State Road 2050).	None	+2,154	
Broad River	At the Henderson/Rutherford County boundary	None	+1,411	Henderson County (Unincorporated Areas).
	At the Buncombe/Henderson County boundary	None	+1,719	
Cane Creek	Approximately 100 feet upstream of I–26	+2,061	+2,062	Henderson County (Unincorporated Areas).
	Approximately 350 feet downstream of the confluence with Robinson Creek.	+2,095	+2,094	Town of Fletcher.
Clear Creek	At the confluence with Mud Creek	+2,079	+2,078	Henderson County (Unincorporated Areas).
	Approximately 1.0 mile upstream of Apple Valley Road (State Road 1572).	None	+2,171	
Devils Fork	At the confluence with Bat Fork Creek	+2,086	+2,083	Henderson County (Unincorporated Areas), City of Hendersonville.
	At Old Dana Road (State Road 1738)	+2,136	+2,135	
Dunn Creek	At the confluence with Bat Fork Creek	None	+2,099	Henderson County (Unincorporated Areas), City of Hendersonville.
	Approximately 570 feet upstream of Howard Gap Road (State Road 1006).	None	+2,144	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Featherstone Creek	At the confluence with Mud Creek	+2,071	+2,069	Henderson County (Unincorporated Areas).
	Approximately 240 feet upstream of Locust Grove Road (State Road 1528).	None	+2,253	
Finley Creek	At the confluence with Perry Creek and Shepherd Creek.	None	+2,131	Henderson County (Unincorporated Areas).
	Approximately 1,980 feet upstream of Old Kanuga Road (State Road 1138).	None	+2,146	
Gash Creek	Approximately 400 feet downstream of Etowah School Road (State Road 1205).	None	+2,081	Henderson County (Unincorporated Areas).
	Approximately 1,250 feet upstream of U.S. 64	None	+2,101	
Green River	At the Henderson/Polk County boundary	None	+1,442	Henderson County (Unincorporated Areas).
	Approximately 300 feet upstream of Bear Paw Ridge Road.	None	+2,166	
Henderson Creek	At the confluence with Clear Creek	None	+2,118	Henderson County (Unincorporated Areas).
	Approximately 1,240 feet upstream of Pace Road (State Road 1762).	None	+2,146	
Hickory Creek (near Gerton)	At the confluence with Broad River	None	+1,483	Henderson County (Unincorporated Areas).
	Approximately 320 feet upstream of Boulder Lane	None	+3,652	
Higgins Branch	At the confluence with Kimsey Creek	None	+2,062	Town of Fletcher.
	Approximately 1,820 feet upstream of Birkshire Way	None	+2,178	
Hoopers Creek	At the confluence with Cane Creek	+2,075	+2,074	Henderson County (Unincorporated Areas), Town of Fletcher.
	Approximately 30 feet downstream of Lindsey Loop Road (State Road 1571).	None	+2,181	
Kimsey Creek	Approximately 50 feet upstream of U.S. 74	+2,061	+2,062	Henderson County (Unincorporated Areas), Town of Fletcher.
	Approximately 1,880 feet upstream of Kimzey Creek Drive.	None	+2,155	
King Creek	At the confluence with Bat Fork Creek	None	+2,084	Henderson County (Unincorporated Areas), City of Hendersonville, Village of Flat Rock.
	Approximately 0.5 mile upstream of West Blue Ridge Road (State Road 1812).	None	+2,178	
Tributary 3	At the confluence with King Creek	None	+2,099	Henderson County (Unincorporated Areas), City of Hendersonville, Village of Flat Rock.
	Approximately 210 feet upstream of Rutledge Drive (State Road 1166).	None	+2,171	
Kyles Creek	At the confluence with Clear Creek	None	+2,118	Henderson County (Unincorporated Areas).
	Approximately 140 feet downstream of Terrys Gap Road (State Road 1565).	None	+2,187	
Lanning Mill Creek	At the confluence with Kyles Creek	None	+2,176	Henderson County (Unincorporated Areas).
	Approximately 800 feet upstream of the confluence with Kyles Creek.	None	+2,187	
Lewis Creek	At the confluence with Clear Creek	None	+2,126	Henderson County (Unincorporated Areas).
	Approximately 80 feet downstream of Pilot Mountain Road (State Road 1783).	None	+2,169	
Little Willow Creek	At Pleasant Grove Road (State Road 1191)	None	+2,083	Henderson County (Unincorporated Areas).
	Approximately 1.6 miles upstream of the confluence with French Broad River.	None	+2,113	
Mill Pond Creek	Approximately 175 feet upstream of Hysong Lane	+2,076	+2,075	Henderson County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Mountain Road (State Road 1381).	None	+2,202	
Mills River	Approximately 0.6 mile upstream of Hooper Lane (State Road 1353).	None	+2,063	Town of Mills River.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	At the confluence of North Fork Mills River and South Fork Mills River.	None	+2,119	
Mud Creek	Approximately 1.4 miles upstream of the confluence with French Broad River.	+2,063	+2,062	Henderson County (Unincorporated Areas), City of Hendersonville.
	Approximately 300 feet upstream of Walnut Cove Road (State Road 1125).	None	+2,161	Town of Fletcher, Village of Flat Rock.
North Fork Big Willow Creek	At the confluence with Big Willow Creek	None	+2,081	Henderson County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Big Willow Creek.	None	+2,099	
North Fork Mills River	At the confluence with Mills River	None	+2,119	Henderson County (Unincorporated Areas).
	Approximately 1.3 miles upstream of Rush Branch Road.	None	+2,259	
Perry Creek	At the confluence with Shepherd Creek	None	+2,131	Henderson County (Unincorporated Areas).
	Approximately 1,530 feet upstream of Price Road (State Road 1137).	None	+2,147	
Piney Branch	At the confluence with South Fork Big Willow Creek ..	None	+2,082	Henderson County (Unincorporated Areas).
	Approximately 0.8 mile upstream of Big Willow Road (State Road 1191).	None	+2,218	
Reedypatch Creek	At the confluence with Broad River	None	+1,461	Henderson County (Unincorporated Areas).
	Approximately 540 feet upstream of Bald Rock Road (State Road 1710).	None	+2,176	Henderson County (Unincorporated Areas).
Rock Creek (into Green River).	At the confluence with Green River	None	+2,067	Henderson County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Green River Road (State Road 1106).	None	+2,103	
Shaw Creek	At the downstream side of U.S. 64	None	+2,069	Henderson County (Unincorporated Areas).
	Approximately 1,400 feet upstream of Turley Falls Road (State Road 1215).	None	+2,122	
Shephard Creek	At South Lakeside Drive (State Road 1148)	None	+2,126	Henderson County (Unincorporated Areas).
	At the confluence of Perry Creek and Finley Creek	None	+2,131	
South Fork Big Willow Creek	At the confluence with Big Willow Creek	None	+2,081	Henderson County (Unincorporated Areas).
	Approximately 1,810 feet upstream of Patterson Road (State Road 1194).	None	+2,103	
South Fork Mills River	At the confluence with Mills River	None	+2,119	Henderson County (Unincorporated Areas).
	Approximately 3.2 miles upstream of Dalton Road (State Road 1340).	None	+2,258	Town of Mills River.
South Wash Creek	At the confluence with Wash Creek	None	+2,153	Town of Laurel Park.
	Approximately 50 feet downstream of Lake Drive	None	+2,217	
Tonys Creek	At the confluence with Shepherd Creek	None	+2,126	Henderson County (Unincorporated Areas), Town of Laurel Park.
	Approximately 0.5 mile upstream of Willow Road (State Road 1171).	None	+2,201	
Wash Creek	Approximately 400 feet upstream of the confluence with Mud Creek.	+2,090	+2,091	Henderson County (Unincorporated Areas).
	Approximately 330 feet upstream of Railroad	None	+2,202	City of Hendersonville, Town of Laurel Park.
Wolfpen Creek	Approximately 500 feet upstream of the confluence with Clear Creek.	+2,092	+2,091	Henderson County (Unincorporated Areas).
	Approximately 90 feet upstream of Chestnut Gap Road (State Road 1742).	None	+2,130	City of Hendersonville.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

City of Hendersonville

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	

Maps are available for inspection at Hendersonville City Hall, 145 Fifth Avenue East, Hendersonville, North Carolina.
Send comments to The Honorable Greg Newman, Mayor of the City of Hendersonville, P.O. Box 1670, Hendersonville, North Carolina 28793.

Town of Fletcher

Maps are available for inspection at Fletcher Town Hall, 4005 Hendersonville Road, Fletcher, North Carolina.
Send comments to The Honorable Mark Biberdors, Mayor of the Town of Fletcher, 4005 Hendersonville Road, Fletcher, North Carolina 28732.

Town of Laurel Park

Maps are available for inspection at Laurel Park Town Hall, 441 White Pine Drive, Laurel Park, North Carolina.
Send comments to The Honorable Henry T. Johnson, Mayor of the Town of Laurel Park, 441 White Pine Drive, Laurel Park, North Carolina 28739.

Town of Mills River

Maps are available for inspection at Mills River Town Hall, 5046 Boylston Highway, Suite 3, Mills River, North Carolina.
Send comments to The Honorable Roger Snyder, Mayor of the Town of Mills River, 5046 Boylston Highway, Suite 3, Mills River, North Carolina 28759.

Henderson County (Unincorporated Areas)

Maps are available for inspection at Henderson County Administration Building, 100 North King Street, Hendersonville, North Carolina.
Send comments to Mr. Steve Wyatt, Henderson County Manager, 100 North King Street, Hendersonville, North Carolina 28792.

Village of Flat Rock

Maps are available for inspection at Flat Rock Village Hall, 110 Village Center Drive, Flat Rock, North Carolina.
Send comments to The Honorable Ray E. Shaw, Jr., Mayor of the Village of Flat Rock, P.O. Box 1288, Flat Rock, North Carolina 28731.

Clinton County, Pennsylvania, and Incorporated Areas

Fishing Creek	Approximately 550 feet downstream of Peale Avenue	+567	+569	Borough of Mill Hall, Township of Bald Eagle.
	Approximately 4420 feet upstream of Furnace Road (Township Route 323).	+860	+862	Township of Lamar, Township of Porter.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Borough of Mill Hall

Maps are available for inspection at Beach Creek Avenue, Mill Hall, PA 17751.
Send comments to The Honorable Thomas E. Bettner, Mayor, Mill Hall Borough, 117 North Chestnut Street, Mill Hall, PA 17751.

Township of Bald Eagle

Maps are available for inspection at 604 Lusk Run Road, Mill Hall, PA 17751.
Send comments to Mr. Cristopher Dwyer, Chairman Supervisor, Bald Eagle Township, 604 Lusk Run Road, Mill Hall, PA 17751.

Township of Lamar

Maps are available for inspection at 148 Beagle Road, Mill Hall, PA 17751.
Send comments to Mr. Michael L. Geyer, Chairman, Lamar Township, 148 Beagle Road, Mill Hall, PA 17751.

Township of Porter

Maps are available for inspection at 153 Clintondale Hill Road, Mill Hall, PA 17751.
Send comments to Mr. Larry Dotterer, Chairman, Porter Township, P.O. Box 95, Lamar, PA 16848.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 18, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–12691 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7720]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFEs modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Allen County, Indiana, and Incorporated Areas				
Aboite Creek	Approximately 350 feet downstream of Powell Road ..	+756	+755	Allen County (Unincorporated Areas).
	Approximately 2,000 feet upstream of Powell Road	+756	+755	
Brown Ditch	At the confluence with Adam Schlemmer-Baker Ditch	+793	+792	Allen County (Unincorporated Areas).
	Approximately 650 feet upstream of the confluence with Adam Schlemmer-Baker Ditch.	+793	+792	
Bullerman Branch	Approximately 775 feet upstream of the confluence with Bullerman Ditch.	+777	+778	Allen County (Unincorporated Areas), City of Fort Wayne.
	Approximately 600 feet downstream of Stellhorn Road	+777	+778	
Durnell Ditch	Approximately 1,056 feet upstream of Interstate Highway 69.	+787	+786	City of Fort Wayne.
	Approximately 615 feet downstream of State Highway 14/Illinois Road.	+808	+807	
Junk Ditch	At the confluence with St. Mary's River	+758	+759	City of Fort Wayne.
	Approximately 150 feet upstream of Taylor Street	+758	+759	
Lawrence Branch	At the confluence with Flaugh Ditch	+775	+776	City of Fort Wayne.
	Approximately 150 feet upstream of the confluence with Flaugh Ditch.	+775	+776	
Martin Ditch	At the confluence with MaumeeRiver	+749	+748	City of New Haven.
	Approximately 2,900 feet upstream of confluence with Maumee River.	+749	+748	
St. Mary's River	Just downstream of Bostick Road	+771	+772	Allen County (Unincorporated Areas).
	At South County Line Road East	+776	+778	
Willow Creek Branch No. 7 ..	At the confluence with WillowCreek	+825	+824	Allen County (Unincorporated Areas).
	Approximately 1,500 feet downstream of Woods Road	+825	+824	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	

Depth in feet above ground.

ADDRESSES

City of Fort Wayne

Maps are available for inspection at 1 Main Street, Room 630, Fort Wayne, IN 46802.
Send comments to The Honorable Graham Richard, Mayor, City of Fort Wayne, 1 Main Street, Fort Wayne, IN 46802.

City of New Haven

Maps are available for inspection at 815 Lincoln Highway East, New Haven, IN 46774.
Send comments to The Honorable Terry E. McDonald, Mayor, City of New Haven, 815 Lincoln Highway East, New Haven, IN 46774.

Allen County (Unincorporated Areas)

Maps are available for inspection at 1 East Main Street, Room 630, Fort Wayne, IN 46802.
Send comments to Linda K. Bloom, President, County Commissioners, 1 East Main Street, Room 200, Fort Wayne, IN 46802.

Pearl River County, Mississippi, and Incorporated Areas

East Hobolochitto Creek	Just upstream of West Union Road	None	+86	Pearl River County (Unincorporated Areas).
	Approximately 420 feet upstream of Savannah Millard Road.	None	+147	
Jumpoff Creek	At the confluence with East Hobolochitto Creek	None	+162	Pearl River County (Unincorporated Areas).
	Just upstream of Norfolk Southern Railroad	None	+238	
Juniper Creek	At the confluence with East Hobolochitto Creek	None	+166	Pearl River County (Unincorporated Areas).
	Approximately 1,900 feet upstream of Dupont-Harris Road.	None	+252	
Long Branch	At the confluence with West Hobolochitto Creek	None	+72	Pearl River County (Unincorporated Areas).
	Approximately 6,900 feet upstream of Nelle Burkes Road.	None	+161	
Mill Creek No. 1	At the Pearl River-Hanconk County Boundary	None	+79	Pearl River County (Unincorporated Areas).
	Approximately 4,800 feet upstream of Mill Creek 2 Tributary 4.	None	+175	
No. 3	Approximately 170 feet upstream of Boley Bypass Road.	None	+54	Pearl River County (Unincorporated Areas).
	Approximately 14,600 feet upstream of Highway 11	None	+180	
No. 4	Just upstream of the dam	None	+91	Pearl River County (Unincorporated Areas).
	Approximately 6,200 feet upstream of Rock Ranch Road.	None	+143	
West Hobolochitto Creek	Approximately 600 feet downstream of Henleyfield-McNeill Road.	None	+98	Pearl River County (Unincorporated Areas).
	Approximately 200 feet upstream of Highway 26	+133	+130	
White Sand Creek	At the confluence with West Hobolochitto Creek	None	+129	Pearl River County (Unincorporated Areas).
	Approximately 4,050 feet upstream of White Sand Creek Tributary 7.	None	+247	
Wolf River	Approximately 16,100 feet downstream of McNeill-McHenryRoad.	None	+120	Pearl River County (Unincorporated Areas).
	Approximately 2,500 feet upstream of Highway 11	None	+241	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.

ADDRESSES

Pearl River County (Unincorporated Areas)

Maps are available for inspection at Department of Planning and Development, 167 Savannah-Millard Road, Poplarville, MS 39470.
Send comments to Ms. Bettye Stockstill, President, Board of Supervisors, Pearl River County Courthouse, 207 West Pearl Street, Poplarville, MS 39470.

Smith County, Texas, and Incorporated Areas

Blackhawk Creek	Approximately 2000 feet downstream of intersection with Blackjack Rd.	None	+332	City of Whitehouse (Smith County), Unincorporated Areas.
	Approximately 1750 feet upstream of intersection with FM 346 E.	None	+483	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground		Communities affected
		Effective	Modified	
Tributary 1	Confluence with Blackhawk Creek	None	+383	City of Whitehouse.
	Approximately 250 feet upstream of Hagan Rd intersection.	None	+419	
Tributary 2	Confluence with Blackhawk Creek	None	+418	City of Whitehouse.
	Approximately 2000 feet upstream of interstection with CR 2319.	None	+460	
Hill Creek	Approximately 3500 feet from intersection with Troup Highway.	None	+379	City of Whitehouse (Smith County), Unincorporated Areas.
	Approximately 2500 feet downstream of intersection with Bascom Rd.	None	+465	
Horsepen Branch	Approximately 8000 feet downstream of confluence with Kickapoo Creek.	None	+392	City of Troup.
	Approximately 1100 feet downstream of confluence with Kickapoo Creek.	None	+411	
Mud Creek	Approximately 7000 feet downstream from intersection with Old Tyler Rd. (County Line).	None	+315	(Smith County) Unincorporated Areas.
	Approximately 140 feet upstream from intersection with TroupHighway.	None	+333	
Prairie Creek South	Approximately 1750 feet downstream of intersection with Old Omen Rd.	None	+382	(Smith County) Unincorporated Areas, New Chapel Hill.
	1750 feet upstream of intersection with Henderson Hwy.	None	+422	
Prairie Creek Tributary 1	Confluence with Prairie Creek South	None	+391	(Smith County) Unincorporated Areas.
	1500 feet upstream from Dam	None	+451	

*National Geodetic Vertical Datum.
+North American Vertical Datum.
#Depth in feet above ground.

ADDRESSES

City of Troup

Maps are available for inspection at 100 N. Broadway, Tyler, TX 75702.
Send comments to The Honorable John Whitsell, Mayor, City of Troup, PO Box 637, Troup, TX 75789.

City of Whitehouse

Maps are available for inspection at 100 N. Broadway, Tyler, TX 75702.
Send comments to The Honorable Jake Jacobson, Mayor, City of Whitehouse, PO Box 776, Whitehouse, TX 75791.

New Chapel Hill

Maps are available for inspection at 100 N. Broadway, Tyler, TX 75702.
Send comments to The Honorable Robert Whitaker, Mayor, 14475 State Hwy 64 E, Tyler, TX 75707.

Unincorporated Areas of Smith County

Maps are available for inspection at 100 N. Broadway, Tyler, TX 75702.
Send comments to The Honorable Joel P. Baker, County Judge, Smith County, 200 E. Ferguson, Ste. 100, Tyler, TX 75702.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: June 18, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–12692 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212 and 225

RIN 0750–AF74

Defense Federal Acquisition Regulation Supplement; Waiver of Specialty Metals Restriction for Acquisition of Commercially Available Off-the-Shelf Items (DFARS Case 2007–D013)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to waive application of 10 U.S.C. 2533b for acquisitions of commercially available off-the-shelf (COTS) items. 10 U.S.C. 2533b, established by section 842 of the National Defense Authorization Act for Fiscal Year 2007, places restrictions on the acquisition of specialty metals not melted or produced in the United States.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before August 1, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2007–D013, using any of the following methods:

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

E-mail: *dfars@osd.mil.* Include DFARS Case 2007–D013 in the subject line of the message.

Fax: (703) 602–7887.

Mail: Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0328.

SUPPLEMENTARY INFORMATION:

A. Background

Section 842(a) of the National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) establishes a new specialty metals domestic source restriction, which is codified at 10 U.S.C. 2533b. A proposed rule is being developed to comprehensively implement 10 U.S.C. 2533b in the DFARS. However, this proposed rule is being published separately in order to expedite the exercise of a statutory exception to the requirements of 10 U.S.C. 2533b for COTS items.

As defined in subsection (c) of 41 U.S.C. 431 (Section 35 of the Office of Federal Procurement Policy Act), ''COTS item''—

(i) Means any item of supply that is—

(A) A commercial item;

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

41 U.S.C. 431(a) requires that the acquisition regulations list the provisions of law that are inapplicable to contracts and subcontracts for COTS items. Covered provisions of law must be included on that list unless the Administrator of the Office of Federal Procurement Policy (OFPP) makes a written determination that it would not be in the best interest of the United States to exempt such contracts from the applicability of that provision of law. Covered provisions of law are those that, as determined by OFPP, impose on contractors Government-unique policies, procedures, requirements, or restrictions, except for—

○ A provision of law that provides for criminal or civil penalties; or

○ A provision of law that specifically refers to 41 U.S.C. 431, and states that the law is nevertheless applicable to COTS items.

10 U.S.C. 2533b does not provide for criminal or civil penalties; nor does it refer to 41 U.S.C. 431 and state that the law is nevertheless applicable to COTS items. Accordingly, this proposed rule—

○ Creates a new DFARS section 212.570 to list 10 U.S.C. 2533b as inapplicable to contracts and subcontracts for the acquisition of COTS items; and

○ Includes acquisitions of COTS items containing specialty metals as an exception at DFARS 225.7002–2.

Exercise of this statutory COTS waiver is critical to DoD's access to the commercial marketplace. Manufacturers make component purchasing decisions based on factors such as cost, quality, availability, and maintaining the state of the art—not the country in which specialty metals in the components were melted. In addition, many commercial items commonly acquired in large quantities by DoD, such as computers, commercial-off-the shelf engines, and semi-conductors, may contain a small percentage of components made of specialty metals, subjecting the manufacturers to costly and burdensome, if not impossible, tracking requirements. Many manufacturers of COTS items are unwilling to change their existing processes, inventory systems, or facilities and incur the significant expense associated with tracking the sourcing of specialty metals in the components of a COTS item in order to generate sales to DoD, which typically represent a very small percentage of overall revenue for COTS items.

Section 2533b permits DoD to process a domestic non-availability determination, but such process poses difficulties for DoD in meeting mission-sensitive requirements in a timely manner. In order for DoD to be able to support a determination, a contractor must—

(1) Work with its suppliers at every tier to identify non-compliant parts from among potentially hundreds of thousands of parts;

(2) Determine that it cannot find a compliant source, either because lead times are longer than the contract permits, or because sufficient quantity is not available; and

(3) Research whether and by when it can become compliant.

Once the information on noncompliant parts and their nonavailability is provided to DoD, the Department must conduct a validation review and develop a report to document the determination. All of these efforts taken together may entail thousands of hours of work, at considerable cost to the taxpayer, and a significant addition in lead time to the acquisition cycle.

For all of these reasons, an exemption from 10 U.S.C. 2533b for COTS items is in the best interest of the Government.

This rule was not subject to Office of Management and Budget review under

Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because manufacturers of COTS items have not generally changed their manufacturing and purchasing practices based on DoD regulations. The burden generally falls on the Government to forego purchase of the item or to process a domestic nonavailability determination requested by the prime contractor. So far, only large contractors have had the resources to request a domestic nonavailability determination. If there is any impact of this proposed rule, it should be beneficial, because small businesses providing COTS items, many of whom are subcontractors, will not have to—

○ Rely on the prime contractor to request a domestic nonavailability determination from the Government; or

○ Face the decision whether to cease doing business with the Government or set up systems to track and segregate all DoD parts that contain specialty metals.

Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2007–D013.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) does not apply, because the proposed rule contains no information collection requirements.

List of Subjects in 48 CFR Parts 212 and 225

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR parts 212 and 225 as follows:

1. The authority citation for 48 CFR parts 212 and 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

2. Section 212.570 is added to read as follows:

212.570 Applicability of certain laws to contracts and subcontracts for the acquisition of commercially available off-the-shelf items.

10 U.S.C. 2533b, Requirement to buy strategic materials critical to national security from American sources, is not applicable to contracts and subcontracts for the acquisition of commercially available off-the-shelf items as defined in 41 U.S.C. 431(c).

PART 225—FOREIGN ACQUISITION

3. Section 225.7002–2 is amended by adding paragraph (q) to read as follows:

225.7002–2 Exceptions.

* * * * *

(q) Acquisitions of commercially available off-the-shelf items containing specialty metals.

[FR Doc. E7–12763 Filed 6–29–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 172

[RSPA Docket No. 2006–26322 (HM–206F)]

RIN 2137–AE21

Hazardous Materials: Revision of Requirements for Emergency Response Telephone Numbers

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: In this NPRM, PHMSA proposes to amend the Hazardous Materials Regulations (HMR) to clarify requirements governing emergency response information services provided by arrangement with hazardous materials offerors. In order to preserve the effectiveness of these arrangements for providing accurate and timely emergency response information, PHMSA proposes to require that basic identifying information (offeror name or contract number) be included in shipping papers. This information will enable the service provider to identify the shipper on whose behalf it is accepting responsibility for providing emergency response information in the event of a hazardous materials incident.

DATES: Comments must be received by August 31, 2007. To the extent possible, we will consider late filed comments as we determine what further action will be taken.

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

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *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 System; U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand Delivery:* To U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001 between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

Instructions: Include the agency name and docket number PHMSA–06–26322 (HM–206F) or the Regulatory Identification Number (RIN) for this rulemaking at the beginning of your comment. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard or access our Web site at *http://dms.dot.gov.*

Docket: You may view the public docket through the Internet at *http://dms.dot.gov* or in person at the Docket Operations office at the above address.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Office of Hazardous Materials Standards, telephone (202) 366–8553, Pipeline and Hazardous Materials Safety Administration.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Office of Hazardous Materials Standards, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation.

SUPPLEMENTARY INFORMATION:

I. Background

The proposed rule would make a narrow, clarifying change to the requirements of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180) applicable to shipping papers for certain hazardous materials shipments. With limited exceptions not applicable here, the HMR require that shipments of hazardous materials be accompanied by shipping papers and other documentation designed to communicate to transport workers and

emergency responders the hazards associated with a specific shipment. This information must include the immediate hazard to health; risks of fire or explosion; immediate precautions to be taken in the event of an accident; immediate methods for handling fires; initial methods for handling spills in the absence of fire; and preliminary first aid measures. The information must be in writing, in English, and presented on a shipping paper or related shipping document (see § 172.602).

In addition to written emergency response information, § 172.604 of the HMR requires a person who offers a hazardous material for transportation in commerce to provide an emergency response telephone number on the shipping paper. The emergency response telephone number must connect a caller to the offeror or to a party capable of, and accepting responsibility for, providing detailed information about the hazardous materials shipment. The emergency response telephone number is used by emergency responders and transport workers to obtain detailed, product-specific information, including directions for remedial measures to be taken in the event of an incident during transportation.

The telephone number must be answered by a person who is knowledgeable about the material being shipped and possesses comprehensive emergency response and incident mitigation information for that material, or has immediate access to a person who possesses such knowledge. Under this standard, ''immediate access'' requires that the emergency response information be provided to the emergency responder or transportation worker promptly and with no undue delay. Additionally, the emergency response telephone number must be active, with no limitations, during the entire time a shipment is in transportation, including storage incidental to movement and intermodal shipments that are transferred from one carrier to another for continued transportation. The term ''storage incidental to movement'' means storage occurring between the time a hazardous material is offered for transportation and the time it is delivered to the consignee (see definition for ''storage incidental to movement'' in § 171.8).

As set forth in § 172.604(a), it is the responsibility of the person who offers a hazardous material for transportation to provide an emergency response telephone number meeting the requirements in the HMR. As currently required in § 172.604(b), a person offering a hazardous material must ensure that the emergency response service provider has up-to-date information on the hazardous material and that the emergency response service provider is capable of and has accepted responsibility for providing detailed emergency response information.

As revised under a final rule, HM–223A, published on July 28, 2005 (70 FR 43638), the definition of a ''person who offers or offeror'' (49 CFR 171.8) includes ''any person who performs, or is responsible for performing, any pre-transportation function required under this subchapter for transportation of the hazardous material in commerce.'' The definition goes on to provide that a carrier is not an offeror when it performs a function as a condition of accepting a hazardous material shipment for continued transportation without performing a pre-transportation function (see definition for ''pre-transportation function'' in § 171.8). Offerors and carriers may rely on information provided by a previous offeror or carrier unless they know, or a reasonable person acting in the circumstances and exercising reasonable care would know, that the information provided to them is incorrect.

Any person subject to the HMR, who by action or inaction and with knowledge of incorrect information, prevents immediate access to emergency response information creates a potential safety hazard and is in violation of the HMR. Additionally, an offeror or an interconnecting carrier who knowingly or willfully provides incorrect information to a subsequent carrier, or a subsequent carrier who knowingly accepts and continues to use inaccurate information, is in violation of the HMR. A civil or criminal penalty (see §§ 107.329 and 107.333) may be assessed against any person subject to the HMR who knowingly or willfully offers for transportation or transports a hazardous material in a manner not complying with the HMR.

II. Purpose of This NPRM

We have become aware of a number of problems associated with emergency response telephone numbers on shipping papers, specifically related to the increasing use by shippers of emergency response service providers to comply with the requirements of § 172.604. In such situations, the original shipper (offeror) enters into a contract or agreement with an agency or organization (industry associations may offer this service to their members) accepting responsibility for providing detailed emergency response information in accordance with § 172.604(b). The telephone number on the shipping paper is the telephone number of the emergency response service provider, but the original shipper is not required to include a notation to this effect on the shipping paper, nor is the name of the original shipper required to appear on the shipping paper. Thus, the identity of the person who arranged with the emergency response service provider is not readily available through shipping documentation.

The International Vessel Operators Hazardous Materials Association (VOHMA) has requested that we revise the emergency response telephone number requirement to link the emergency response service provider to the original shipper who arranged for the emergency response service. VOHMA states that valuable time is lost when shipments are delayed while emergency responders or enforcement officers are attempting to obtain or verify emergency response information and their efforts are obstructed because the party who arranged with the emergency response service is not noted on the shipping papers.

This problem is exacerbated because, under the HMR, a carrier or freight forwarder preparing a shipping paper for the continued movement of a hazardous material in commerce may rely on information provided by the original shipper for the preparation of the new shipping paper (for example, the classification of the material, the compatibility of the material with the packaging being used, or the emergency response telephone number), so long as the carrier or freight forwarder exercises due care. For example, a carrier or freight forwarder may rely on an emergency response telephone number provided by a preceding offeror unless it is aware (or should be aware) of facts indicating the emergency response telephone number is not operative and does not meet the requirements of § 172.604(b).

The initial shipment of hazardous materials may be handled by several entities before reaching its final destination. For example, a motor carrier may accept a shipment from the originating shipper for transportation and deliver the material to a freight forwarder to arrange continued transportation. The freight forwarder may prepare shipping papers using the emergency response telephone number provided by the originating shipper. The freight forwarder may then arrange for continued shipment of the hazardous material by rail; a rail carrier may prepare shipping documentation using the information, including the emergency response telephone number,

provided by the freight forwarder. The shipping documentation accompanying the shipment may or may not include the name of the originating shipper. In cases where the originating shipper arranges with an emergency response service to provide telephone service, the nexus between the shipper and emergency response service provider may be lost as new shipping papers are prepared at each stage of transportation.

Without the name of the person who arranged for an emergency response service, an emergency response service provider may not be able to communicate the product-specific information that was provided by the shipper. This could result in a serious problem if transportation workers or emergency response personnel must use the telephone number to request assistance in handling an accident or emergency. Most emergency response services will attempt to provide assistance whether or not they can verify that the original shipper arranged for emergency response service. However, without the identification of the party who has made arrangements with the service, it may not be possible for the emergency response service to quickly access information specific to the material involved in the accident, thereby defeating the purpose of the requirement in § 172.604 to enable transport workers and emergency response personnel to expeditiously obtain detailed information about a hazardous materials shipment. A delay or improper response due to lack of accurate and timely emergency response information may place emergency response personnel, transportation workers and the general public and environment at increased risk. Expeditious identification of the hazards and direction for appropriate clean up associated with specific hazardous materials is critical in mitigating the consequences of hazardous materials incidents.

III. Proposals in this NPRM

To remedy the problem discussed above, in this NRPM, we propose to require the person who offers a hazardous material for transportation and who uses an emergency response service provider to comply with the requirements of § 172.604 to be identified on the originating shipping paper and any subsequent shipping papers that use the service provider's emergency response number. Specifically, we propose to:

- Require that the shipper (offeror) who has made the arrangement with the emergency response service provider be identified on the shipping paper. Any party preparing a shipping paper would be required to identify the original shipper, by name or contract number, with the emergency response telephone number indicated on the shipping paper, and clearly note the identification in association with the emergency response telephone number, or insert and identify its own emergency response telephone number conforming to the requirements in Subpart G of Part 172.
- Clarify that any person preparing a subsequent shipping paper for continued transport of hazardous materials may not omit the original shipper's (offeror's) name if the shipper is the registrant for the emergency response telephone service. Again, the name of the original shipper or its contract number with the emergency response service provider would be required to be included on the shipping paper, or the person preparing subsequent shipping papers must insert and identify by name its own valid emergency response number conforming to the requirements in Subpart G of Part 172.

In addition to the amendments described above, we are also proposing the following clarifications:

—To clarify that international telephone numbers used to comply with the emergency response telephone number requirement must include the country code and city code. VOHMA requested this clarification to ensure that emergency responders and transportation workers have a complete emergency response telephone number for international shipments.

—To clarify that the emergency response telephone number requirements do not apply to transport vehicles or freight containers containing lading that has been fumigated and displays the FUMIGANT marking, as required by § 173.9 of the HMR, unless other hazardous materials are present in the cargo transport unit.

The proposals in this NPRM are intended to fill a gap that was unforeseen when we initially adopted these requirements in 1989 under Docket HM–126C (54 FR 27138, 06/27/89). If adopted, the proposed rule should serve to eliminate delays in transportation due to lack of information, and eliminate enforcement problems created when enforcement personnel are not able to verify emergency response telephone numbers. Most importantly, the proposals in this NPRM will help to ensure that transportation workers and emergency response personnel are provided with accurate, timely information about the hazardous materials involved in a transportation accident or other emergency.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. This proposed rule is a non-significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034].

If adopted, the proposals in this NPRM should result in minimal costs to shippers to add the required information to shipping papers. The emergency response telephone number is currently required on the shipping paper. Adding a notation to identify the person who arranged with an emergency response services provider should not add any significant time to the process of completing a shipping paper or to the cost of providing it. Moreover, the proposed notation on a shipping paper of the identity of the person who made arrangements with an emergency response telephone service is currently common industry practice for the initial shipper.

The small costs that may be incurred are more than offset by the safety benefits resulting from faster and more efficient response to hazardous materials transportation accidents and other emergencies. The provisions of this NPRM clarify and support the intent of the current emergency response telephone number requirement by ensuring emergency response personnel have immediate access to crucial emergency information specific to the hazardous material involved.

B. Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria set forth in Executive Order 13132 (''Federalism''). Any rule resulting from this rulemaking will preempt State, local and Indian tribe requirements but will not have substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazmat law contains an express preemption provision (49 U.S.C.

5125(b)), preempting State, local, and Indian tribe requirements on covered subjects, as follows:

(1) The designation, description, and classification of hazardous materials;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;

(3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This proposed rule addresses covered subject item (3) above and would preempt State, local, and Indian tribe requirements not meeting the ''substantively the same'' standard. Federal hazmat law provides at section 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of a final rule and not later than two years after the date of issuance. The proposed effective date of Federal preemption for this rule is (90 days after publication of a final rule).

C. Executive Order 13175

This proposed rule was analyzed in accordance with the principles and criteria set forth in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this proposed rule does not have tribal implications, and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines the rule is not expected to have a significant impact on a substantial number of small entities. In this case, although the requirements of the proposed rule would apply to a substantial number of small entities, none would sustain significant economic impact as a result of the rule.

Identification of potentially affected small entities. Businesses likely to be affected by the rule are persons who offer for transportation or transport hazardous materials in commerce, including hazardous materials manufacturers and distributors; freight forwarders, transportation companies, including air, highway, rail, and vessel carriers and hazardous waste generators.

Unless alternative definitions have been established by the agency in consultation with the Small Business Administration (SBA), the definition of ''small business'' has the same meaning as under the Small Business Act. Since no such special definition has been established, we employ the thresholds published by SBA for establishments that will be subject to the proposed amendments if adopted. Based on data for 1997 compiled by the U.S. Census Bureau, more than 95 percent of persons that would be affected by this rule are small businesses.

Related Federal rules and regulations. There are no related Federal rules or regulations governing the transportation of hazardous materials in domestic or international commerce.

Alternate proposals for small businesses. The Regulatory Flexibility Act directs agencies to establish exceptions and differing compliance standards for small businesses, where it is possible to do so and still meet the objectives of applicable regulatory statutes. In the case of hazardous materials transportation, it is not possible to establish exceptions or differing standards and still accomplish our safety objectives.

Conclusion. While the proposed rule would apply to a substantial number of small entities, there would not be a significant impact on those entities. This proposed rule revises the HMR's emergency response telephone requirements to enable emergency response services and others providing such service to supply the required HMR emergency response information to first responders. The impact of this new requirement is expected to be minimal; the indication of the emergency response telephone number on shipping papers is a current requirement and the proposed notation of the identity of the emergency response telephone services' registrant is currently common industry practice for the initial shipper. The problem, as discussed in the preamble of this rulemaking, primarily arises from subsequent carriers omitting the registrant's name when preparing new shipping papers for a shipment continuing on to its final destination. Our proposal to add the identification of the telephone number's registrant to shipping papers will eliminate an obstruction that could interfere with the transmission of crucial emergency response information to first responders on the scene of an incident. Additionally, the proposal would serve to eliminate delays in transportation due to lack of information, and eliminate enforcement problems stemming from possible invalid emergency response telephone number violations.

This proposed rule has been developed in accordance with Executive Order 13272 (''Proper Consideration of Small Entities in Agency Rulemaking'') and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

E. Paperwork Reduction Act

By requiring that additional information be included in certain shipping papers, this NPRM may result in a minimal increase in annual paperwork burden and costs attributable to the HMR. PHMSA currently has an approved information collection under OMB Control Number 2137–0034, ''Hazardous Materials Shipping Papers & Emergency Response Information,'' reflecting 6,536,111 burden hours and expiring on May 31, 2008.

Under the Paperwork Reduction Act of 1995, no person is required to respond to an information collection unless it has been approved by OMB and displays a valid OMB control number. Section 1320.8(d), Title 5, Code of Federal Regulations requires that PHMSA provide interested members of the public and affected agencies an opportunity to comment on information and recordkeeping requests.

This notice identifies a revised information collection request that PHMSA will submit to OMB for approval based on the requirements in this proposed rule. PHMSA has developed burden estimates to reflect changes in this proposed rule. PHMSA estimates that the additional information collection and recordkeeping burden as proposed in this rule would be as follows:

OMB Control No. 2137–0034:

Annual Number of Respondents: 250,000.

Annual Responses: 260,000,000.

Annual Burden Hours: 1,805.

Annual Costs: $1,805.00.

PHMSA specifically requests comments on the information collection and recordkeeping burdens associated with developing, implementing, and

maintaining these requirements for approval under this proposed rule.

Requests for a copy of this information collection should be directed to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (PHH–11), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, SE., East Building, 2nd Floor, PHH–10, Washington, DC 20590–0001, Telephone (202) 366–8553.

Address written comments to the Dockets Unit as identified in the **ADDRESSES** section of this rulemaking. We will consider all comments regarding information collection burdens received prior to the close of the comment period identified in the **DATES** section of this rulemaking. In addition, you may submit comments specifically related to the information collection burden to the PHMSA Desk Officer, Office of Management and Budget at fax number 202–395–6974. If these proposed requirements are adopted in a final rule, PHMSA will submit the revised information collection and recordkeeping requirements to the OMB for approval.

F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

G. Unfunded Mandates Reform Act

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $120.7 million or more to either State, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

H. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. We regulate hazardous materials transported by aircraft, vessel, rail, and highway. The potential for environmental damage or contamination exists when packages of hazardous materials are involved in accidents or en route incidents resulting from cargo shifts, valve failures, package failures, or loading, unloading, or handling problems. The ecosystems that could be affected by a release include air, water, soil, and ecological resources (for example, wildlife habitats). The adverse environmental impacts associated with releases of most hazardous materials are short-term impacts that can be greatly reduced or eliminated through proper emergency response action and prompt clean up of the accident scene. The proposals in this NPRM would improve the effectiveness of the HMR by enabling emergency responders on the scene of a hazardous materials incident to quickly and efficiently identify hazards and mitigate potential risks to the environment. There are no significant environmental impacts associated with proposals in this NPRM.

I. Privacy Act

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), which may also be found at *http://dms.dot.gov.*

List of Subjects in 49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR Chapter I as follows:

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

1. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53.

2. In § 172.201, revise paragraph (d) to read as follows:

§ 172.201 Preparation and retention of shipping papers.

* * * * *

(d) *Emergency response telephone number.* Except as provided in § 172.604(c), a shipping paper must contain an emergency response telephone number and, if utilizing an emergency response telephone number service provider, identify the person who has a contractual agreement with the service provider, as prescribed in subpart G of this part.

* * * * *

3. In § 172.604, make the following changes:

a. Revise paragraph (a) introductory text;

b. At the end of paragraph (a)(3)(i), remove the word ''or'';

c. Revise paragraphs (a)(3)(ii) and (b); and

d. Add new paragraph (c)(3).

The addition and revisions read as follows:

§ 172.604 Emergency response telephone number.

(a) A person who offers a hazardous material for transportation must provide an emergency response telephone number, including the area code or country code and city code. This information is for use in the event of an emergency involving the hazardous material. The telephone number must be—

(1) * * *

(2) * * *

(3) * * *

(ii) Entered once on the shipping paper in a clearly visible location. This provision may be used only if the telephone number applies to each hazardous material entered on the shipping paper, and if it is indicated that the telephone number is for emergency response information (for example: ''EMERGENCY CONTACT: * * *).

(b) The telephone number required by paragraph (a) of this section must include the number of the person offering the hazardous material for transportation or of an emergency response service provider capable of, and accepting responsibility for, providing the information required by paragraph (a)(2). Where an emergency response service provider is used, the offeror must be identified by name or contract number on the shipping paper and must ensure the service provider has received current information on the material. A person preparing subsequent shipping papers for continued transportation in commerce must include the information required by this section.

(c) * * *

(3) Transport vehicles or freight containers containing lading that has been fumigated and displays the FUMIGANT marking (see § 172.302(g)) as required by § 173.9 of this subchapter), unless other hazardous

materials are present in the cargo transport unit.

Issued in Washington, DC on June 21, 2007 under authority delegated in 49 CFR Part 106.

Theodore L. Willke,

Acting Associate Administrator for Hazardous Materials Safety.

[FR Doc. E7–12665 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 72, No. 126
Monday, July 2, 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 27, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: National Animal Identification System; Information Requirements for Species Data by State.

OMB Control Number: 0579–NEW.

Summary of Collection: The U.S. Department of Agriculture initiated implementation of the National Animal Identification System (NAIS) in 2004. The NAIS is a cooperative State-Federal-industry program administered by USDA's Animal and Plant Health Inspection Service (APHIS). The purpose of the NAIS is to provide a streamlined information system that will help producers and animal health officials respond quickly and effectively to animal disease events in the United States. Premises registration continues to advance, as does the interest in the NAIS from industry, legislators, etc. Veterinary Service (VS) needs assistance from each State to provide ''species at the premises'' statistics, since this information is stored at the State-level only, rather than in the National Information Records Repository. For States who wish to gather this information themselves, VS is asking that those States include this information in the quarterly cooperative agreement progress reports submitted to the Eastern and Western Regions. VS is providing a spreadsheet that the Regions can use to keep track of premises registered by species and use as a tool for submission of data.

Need and Use of the Information: VS will use the information provided on the report form to track progress being made as participation in the program increases. The information will also be used on a quarterly basis to help ascertain progress being made by species and the species organizations working with APHIS to increase participation. This information will help staff determine if additional efforts need to be made with particular species groups that are not participating at desired levels. Without this premises registration component, an effective NAIS would be impossible, and without this national system, animal disease outbreaks will be more difficult to trace and contain.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 15.

Frequency of Responses: Reporting: Quarterly.

Total Burden Hours: 64.

Animal and Plant Health Inspection Service

Title: National Animal Identification System; Information Requirements for Tribal Participants in Premises Registration.

OMB Control Number: 0579–NEW.

Summary of Collection: The U.S. Department of Agriculture initiated implementation of the National Animal Identification System (NAIS) in 2004. The NAIS is a cooperative State-Federal-industry program administered by USDA's Animal and Plant Health Inspection Service (APHIS). The purpose of the NAIS is to provide a streamlined information system that will help producers and animal health officials respond quickly and effectively to animal disease events in the United States. Meeting the needs of Native Americans has been a priority for USDA since the inception of the NAIS, and APHIS has sought to have Tribal representatives involved in the development of the system. APHIS is now providing the opportunity for participating Tribes to designate which premises registration system they prefer to use. APHIS will make a form available to interested Tribes.

Need and Use of the Information: APHIS will use the information provided on VS Form 1–63 to initiate the process for getting the interested Tribal entity or organization set up to use the premises registration system of their choice. Without this premises registration component, an effective NAIS would be impossible, and without this national system, animal disease outbreaks will be more difficult to trace and contain.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 60.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 90.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–12737 Filed 6–29–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1515]

Expansion of Foreign–Trade Zone 70, Detroit, Michigan

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

Whereas, the Greater Detroit Foreign Trade Zone, Inc., grantee of Foreign–Trade Zone 70, submitted an application to the Board for authority to expand the zone to include a site at the Willow Run Airport (Site 19) in Ypsilanti, Michigan, within the Detroit Customs and Border Protection port of entry (FTZ Docket 41–2006; filed 10/16/06);

Whereas, notice inviting public comment was given in the **Federal Register** (71 FR 62080, 10/23/06) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 70 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, and subject to the Board's standard 2,000–acre activation limit for the overall zone project.

Signed at Washington, DC, this 22nd day of June 2007.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign–Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. E7–12758 Filed 6–29–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1514]

Expansion of Foreign–Trade Zone 230, Piedmont Triad Area, North Carolina

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

Whereas, the Piedmont Triad Partnership, grantee of Foreign–Trade Zone 230, submitted an application to the Board for authority to expand the zone to include seven sites in the Piedmont Triad area and to formally delete 110 acres (Parcel 2) within Site 3 from the zone plan, adjacent to the Winston–Salem Customs and Border Protection port of entry (FTZ Docket 13–2006; filed 4/7/06; amended 4/13/07);

Whereas, notice inviting public comment was given in the **Federal Register** (71 FR 19871, 4/18/06) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal, as amended, is in the public interest;

Now, therefore, the Board hereby orders:

The application, as amended, to expand FTZ 230 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, subject to the Board's standard 2,000–acre activation limit for the overall zone project, and further subject to a sunset provision that would terminate authority on June 30, 2012, for any of the proposed sites (Sites 7–13) where no activity has occurred under FTZ procedures before that date.

Signed at Washington, DC, this 21st day of June 2007.

David M. Spooner,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign–Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. E7–12757 Filed 6–29–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year review (''Sunset Review'') of the antidumping duty order listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same order.

DATES: *Effective Date:* July 2, 2007.

FOR FURTHER INFORMATION CONTACT: Juanita Chen, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–1904. For information from the Commission, contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Initiation of Reviews

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty order:

DOC case no.	ITC case no.	Country	Product
A–570–846	731–TA–744.	PRC	Brake Rotors (2nd Review).

Countervailing Duty Proceedings

No Sunset Reviews of countervailing duty orders are scheduled for initiation in July 2007.

Suspended Investigations

No Sunset Reviews of suspended investigations are scheduled for initiation in July 2007.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the Department's regulations regarding Sunset Reviews (19 CFR 351.218) and *Sunset Policy Bulletin,* the Department's schedule of Sunset Reviews, case history information (*i.e.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists available to the public on the Department's sunset Internet Web site at the following address: *http://ia.ita.doc.gov/sunset.* All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of this notice of initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties (defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in these Sunset Reviews must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the orders without further review.

See 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: June 21, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–12744 Filed 6–29–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Upcoming Sunset Reviews.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

FOR FURTHER INFORMATION CONTACT: Juanita Chen, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce. 14th Street & Constitution Ave., NW, Washington, DC 20230; telephone (202) 482–1904.

Upcoming Sunset Reviews for August 2007

There are no Sunset Reviews scheduled for initiation in August 2007.

For information on the Department's procedures for the conduct of sunset reviews, *See* 19 CFR 351.218. This notice is not required by statute but is published as a service to the international trading community. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3, ''Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders;'' Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin''). The Notice of Initiation of Five-year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Dated: June 21 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–12760 Filed 6–29–07; 8:45 am]

BILLING CODE 3510–DS–S

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Certain Stainless Steel Butt–Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from respondent Ta Chen Stainless Pipe Co., Ltd. (Ta Chen) and from Flowline Division of Markovitz Enterprises, Inc. (Flowline Division), Gerlin, Inc., Shaw Alloy Piping Products, Inc., and Taylor Forge Stainless, Inc., (collectively, petitioners), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain stainless steel butt–weld pipe fittings (pipe fittings) from Taiwan. Petitioners requested that the Department conduct the administrative review for Ta Chen, Liang Feng Stainless Steel Fitting Co., Ltd. (Liang Feng), Tru–Flow Industrial Co., Ltd. (Tru–Flow), Censor International Corporation (Censor), and PFP Taiwan Co., Ltd. (PFP).

With regard to Ta Chen, we preliminarily determine that sales have been made below normal value (NV). On September 28, 2006, Tru–Flow, Liang Feng, Censor, and PFP certified that they had no sales or shipments of subject merchandise to the United States during the period of review (POR). Based on Tru–Flow's, Liang Feng's, Censor's, and PFP's certified statements and on information from U.S. Customs and Border Protection (CBP) indicating that these companies had no shipments to the United States of the subject merchandise during the POR, we hereby give notice that we intend to rescind the review regarding these four companies. For a full discussion of the intent to rescind with respect to Liang Feng, Tru–Flow, Censor and PFP, see the ''Notice of Intent to Rescind in Part'' section of this notice.

If these preliminary results of review of Ta Chen's sales are adopted in the final results, we will instruct CBP to assess antidumping duties on appropriate entries based on the difference between the constructed export price (CEP) and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit comments in this proceeding are requested to submit with the argument: 1) a statement of the issues, 2) a brief summary of the argument, and 3) a table of authorities.

EFFECTIVE DATE: July 2, 2007.

FOR FURTHER INFORMATION CONTACT: Judy Lao or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–7924 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Period of Review

The POR for this administrative review is June 1, 2005, through May 31, 2006.

Background

On June 16, 1993, the Department published in the **Federal Register** the antidumping duty order on pipe fittings from Taiwan. *See Amended Final Determination and Antidumping Duty Order: Certain Stainless Steel Butt–Weld Pipe and Tube Fittings from Taiwan*, 58 FR 33250 (June 16, 1993). On June 2, 2006, the Department published a notice of opportunity to request administrative review for the period June 1, 2005, through May 31, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 32032 (June 2, 2006).

In accordance with 19 CFR 351.213(b)(1) and (2), on June 22, 2006, petitioners requested an antidumping duty administrative review for Ta Chen, Liang Feng, Tru–Flow, Censor International, and PFP (collectively, respondents), and on June 29, 2006, Ta Chen requested an administrative review. On July 27, 2006, and August 30, 2006, the Department published notices initiating this administrative review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation In Part*, 71 FR 42626 (July 27, 2006), and *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 71 FR 51573 (August 30, 2006).

On August 4, 2006, the Department issued its antidumping duty questionnaire to Ta Chen, and on August 31, 2006, the Department issued its antidumping duty questionnaire to Liang Feng, Tru–Flow, Censor International, and PFP. On September 11, 2006, Ta Chen submitted its response to section A of the Department's questionnaire. In addition, on September 28, 2006, the Department received statements from four of the respondents, Liang Feng, Tru–Flow, Censor, and PFP, certifying that they had neither sales nor exports of subject pipe fittings to the United States during the POR. On September 26, 2006, Ta Chen submitted its responses to sections B, C, and D of the Department's questionnaire.

On September 27, 2006, petitioners submitted comments regarding Ta Chen's section A response, primarily regarding alleged affiliation issues. On October 30, 2006, petitioners submitted comments on Ta Chen's section B, C, and D responses. On December 11, 2006, as a supplement to its September 27, 2006 comments, petitioners submitted additional comments regarding the disclosure requirements of related parties under U.S. Generally Accepted Accounting Principles (GAAP). On December 20, 2006, the Department issued a supplemental section D questionnaire to Ta Chen. On January 16, 2007, the Department issued a supplemental section A through C questionnaire to Ta Chen. Ta Chen responded to the Department's section D supplemental questionnaire on January 17, 2007. On February 15, 2007, Ta Chen responded to the Department's supplemental section A through C questionnaire.

On February 22, 2007, the Department extended the time limit for the preliminary results of this administrative review by 120 days, to not later than July 2, 2007. *See Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review*, 72 FR 7953 (February 22, 2007). On March 15, 2007, the Department issued a second section A through C supplemental questionnaire to Ta Chen. Ta Chen submitted its response to the Department's section A through C second supplemental response, and response regarding petitioners' comments on April 6, 2007.

On April 16, 2007, the Department issued a third section A through C supplemental questionnaire response. Ta Chen submitted its response to the Department's third section A through C supplemental questionnaire on April 25, 2007, which included a response to petitioner's March 23, 2007, comments. On May 7, 2007, petitioners submitted comments on Ta Chen's April 25, 2007, questionnaire response. On May 17, 2007, Ta Chen submitted a response on petitioners' May 7, 2007, comments. On May 22, 2007, petitioners submitted comments to Ta Chen's May 17, 2007 submission. On May 24, 2007, the Department issued a fourth section A through D supplemental questionnaire to Ta Chen. Ta Chen submitted its

response to the Department's third section A through D supplemental questionnaire on June 14, 2007. On June 18, 2007, petitioners submitted a request to the Department that it take additional steps to confirm that there were no shipments or entries from Liang Feng, Tru–Flow, Censor, and PFP of pipe fittings to the United States.

Notice of Intent to Rescind Review in Part

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Secretary concludes that there were no entries, exports, or sales of the subject merchandise during the POR. *See*, *e.g.*, *Certain Oil Country Tubular Goods from Mexico: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission*, 71 FR 27676–78 (May 12, 2006); *Stainless Steel Sheet and Strip in Coils from Japan: Final Rescission of Antidumping Duty Administrative Review*, 71 FR 26041 (May 3, 2006).

On September 28, 2006, Liang Feng, Tru–Flow, PFP, and Censor each submitted letters on the record certifying that their firms had no sales, entries, or exports of pipe fittings to the United States during the POR. To confirm their statements, the Department conducted a CBP data inquiry and determined that there were no identifiable entries of pipe fittings during the POR manufactured or exported by Liang Feng, Tru–Flow, PFP or Censor. *See Memo to the File, through Angelica Mendoza, Program Manager from Judy Lao: Ta Chen Stainless Pipe Co., Ltd. No Shipments Inquiry dated June 13, 2007*. Therefore, in accordance with 19 CFR 351.213(d)(3), the Department preliminarily intends to rescind this review as to Liang Feng, Tru–Flow, PFP and Censor.

Scope of the Order

The products covered by this review are certain stainless steel butt–weld pipe fittings, whether finished or unfinished, under 14 inches inside diameter. Certain welded stainless steel butt–weld pipe fittings are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise is used where one or more of the following conditions is a factor in designing the piping system: (1) corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; and (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: elbows, tees, reducers, stub ends, and caps. The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from the order. The pipe fittings subject to the order are currently classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States (HTSUS).

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the review is dispositive. Pipe fittings manufactured to American Society of Testing and Materials specification A774 are included in the scope of this order.

Affiliation

We note that in this proceeding there is an ongoing claim by the petitioners that Ta Chen and its U.S. subsidiary, Ta Chen International Corporation (TCI), have several related parties that were not disclosed in its financial statements, and therefore, Ta Chen's and TCI's financial statements (and thus its underlying accounting records) should not be relied upon for the purposes of this determination. For the preliminary results, we have determined that the evidence on the record does not warrant a finding that the Department should disregard Ta Chen's or TCI's financial statements. However, we intend to solicit additional information from Ta Chen regarding its current affiliation with certain entities alleged by petitioners for our final results.

Product Comparisons

For the purpose of determining appropriate product comparisons to pipe fittings sold in the United States, we considered all pipe fittings covered by the scope that were sold by Ta Chen in the home market during the POR to be ''foreign like products,'' in accordance with section 771(16) of the Tariff Act of 1930, as amended (the Act). Where there were no contemporaneous sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the physical characteristics reported by Ta Chen, as follows: specification, seam, grade, size and schedule.

The record shows that Ta Chen both purchased from and entered into tolling arrangements with unaffiliated Taiwanese manufacturers of pipe fittings. We have preliminarily determined that Ta Chen is the sole exporter of the pipe fittings under review, because record evidence, such as purchase orders, does not indicate that these manufacturers had knowledge that the pipe fittings would be exported to the United States. Therefore, knowledge that the pipe fittings would also be sold to the United States cannot be imputed to those unaffiliated manufacturers. *See* 19 CFR 351.401(h).

Section 771(16)(A) of the Act defines ''foreign like product'' to be ''{t}he subject merchandise and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, that merchandise.'' Thus, consistent with the Department's past practice in reviews under this order, for products that Ta Chen has identified with certainty that it purchased from a particular unaffiliated producer and resold in the U.S. market, we have restricted the matching of products to products purchased by Ta Chen from the same unaffiliated producer and resold in the home market. *See, e.g.*, *Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 71 FR 39663 (July 13, 2006), and *Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39735 (July 11, 2005).

Date of Sale

The Department's regulations state that it will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. *See* 19 CFR 351.401(i). If the Department can establish ''a different date {that} better reflects the date on which the exporter or producer establishes the material terms of sale,'' the Department may choose a different date. *Id.*

In the present review, Ta Chen claimed that invoice date should be used as the date of sale in both the home market and the U.S. market. *See* Ta Chen's Section A Resp., at 14–16 (Sept. 11, 2006). For home market (HM) sales, the Department examined whether the date Ta Chen issued its *pro forma* invoice or its actual invoice best reflects the date of sale and determined that actual invoice date should be the sale date, consistent with the practice in all the previous reviews of this proceeding. *See* Ta Chen's Section B Resp., at 8 (September 26, 2006), Ta Chen's Supplemental Section A through C Resp., at 16 (February 15, 2007), and Ta

Chen's Supplemental Section A through C Resp., at 16–18 (April 6, 2007). For U.S. sales, Ta Chen only had constructed export price (CEP) sales, and we used the invoice date for sales to the first unaffiliated U.S. customer.

Fair Value Comparisons

To determine whether sales of pipe fittings by Ta Chen to the United States were made at prices below NV, we compared CEP to NV, as described below. Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual U.S. transactions to the monthly weighted–average NV of the foreign like product.

Constructed Export Price

Section 772(b) of the Act defines CEP as ''the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter '' Consistent with recent past reviews, pursuant to section 772(b) of the Act, we calculated the price of Ta Chen's sales based on CEP because the sale to the first unaffiliated U.S. customer was made by Ta Chen's U.S. affiliate, TCI. *See Analysis Memorandum for the Preliminary Results of Administrative Review of Certain Stainless Steel Butt–Weld Pipe Fittings from Taiwan: Ta Chen Stainless Pipe Co., Ltd.* (June 25, 2007) (Analysis Memo). Ta Chen has two channels of distribution for U.S. sales: 1) Ta Chen ships the merchandise to TCI for inventory in warehouses and subsequent resale to unaffiliated buyers (stock sales), and 2) Ta Chen ships the merchandise directly to TCI's U.S. customer (indent sales). The Department finds that both stock and indent sales qualify as CEP sales because the original sales contract is between TCI and the U.S. customer. In addition, TCI handles all communication with the U.S. customer, from customer order to receipt of payment, and incurs the risk of non–payment. In addition, TCI handles customer complaints concerning issues such as product quality, specifications, delivery, and product returns. TCI is also responsible for the ocean freight for all U.S. sales and all selling efforts to the U.S. customer. *See* Ta Chen's Section A Resp., at A10- A13 (Sept. 11, 2006), and Ta Chen's Section A–C Resp. at 1–4, and 13–16 (April 6, 2007).

We calculated CEP based on ex–warehouse or delivered prices to unaffiliated purchasers in the United States and, where appropriate, we added billing adjustments and deducted discounts. In accordance with section 772(d)(1) of the Act, the Department deducted direct and indirect selling expenses, including inventory carrying costs incurred by TCI for stock sales, related to commercial activity in the United States. We also made deductions for movement expenses, which include foreign inland freight, foreign brokerage and handling, ocean freight, containerization expense, Taiwan harbor construction tax, marine insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. customs duties. Finally, in accordance with sections 772(d)(3) and 772(f) of the Act, we deducted CEP profit.

Normal Value

1. Home Market Viability

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Ta Chen's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Because Ta Chen's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. *See* Ta Chen's Section A Resp., at 2 (Sept. 11, 2006).

2. Cost of Production Analysis

Because we disregarded sales below the cost of production (COP) in the prior administrative review, we have reasonable grounds to believe or suspect that sales by Ta Chen in its home market were made at prices below the COP, pursuant to sections 773(b)(1) and 773(b)(2)(A)(ii) of the Act. *See Certain Stainless Steel Butt–Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 71 FR 39663, 39665–66 (July 13, 2006), and *Certain Stainless Steel Butt–Weld Pipe Fittings From Taiwan: Final Results and Final Rescission in Part of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 71 FR 67098 (Nov. 20, 2006).

Therefore, pursuant to section 773(b)(1) of the Act, we conducted a COP analysis of home market sales by Ta Chen.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted–average COP based on the sum of Ta Chen's cost of materials and fabrication for the foreign like product, plus indirect selling expenses and packing costs. We relied on the COP data submitted by Ta Chen in its original and supplemental cost questionnaire responses. For these preliminary results, the Department did not make any adjustments to the COP calculation. *See Memo to Neal M. Halper, through Michael P. Martin, from Trinette Boyd: Cost of Production and Constructed Value Programming Instructions for the Preliminary Determination – Ta Chen Stainless Pipe Co., Ltd.*, dated July 2, 2007.

B. Test of Home Market Prices

We compared the weighted–average COP to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made within an extended period of time in substantial quantities, and were not at prices that permitted the recovery of all costs within a reasonable period of time, in accordance with sections 773(b)(1)(A) and 773(b)(1)(B) of the Act. Where appropriate, we compared the COP to home market prices on a product–specific basis. We deducted imputed credit expenses, indirect selling expenses and packing from home market prices, and, where appropriate, added interest revenue received for late payments by customers.

C. Results of COP Test

In accordance with section 773(b)(1) of the Act, when less than 20 percent of Ta Chen's sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because we determined that the below–cost sales were not made in substantial quantities, as defined by section 773(b)(2)(C) of the Act. When 20 percent or more of Ta Chen's sales of a given product during the POR were at prices less than the COP, we determined that such sales have been made in ''substantial quantities'' within an extended period of time, in accordance with sections 773(b)(2)(B) and 773(b)(2)(C) of the Act. In such cases, because we use POR average costs, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we appropriately disregarded below–cost sales and used

the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

3. Price–to-Price Comparisons

As there were sales at prices above the COP for all product comparisons, we based NV on prices to home market customers. We deducted credit expenses and added interest revenue. In addition, we made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Finally, in accordance with section 773(a)(6) of the Act, we also deducted home market packing costs and added U.S. packing costs.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the CEP transaction. The NV LOT is that of the starting–price sales in the comparison market. For CEP, it is the level of the constructed sale from the exporter to the importer. To determine whether NV sales are at a different LOT than CEP sales, we examine different selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, where possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales for which we are unable to quantify an LOT adjustment, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP sales affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision).

Ta Chen reported two channels of distribution in the home market: unaffiliated distributors and end–users. We examined the selling activities reported for each channel of distribution and organized the reported selling activities into the following four selling functions: sales process and marketing support, freight and delivery, inventory maintenance and warehousing, and warranty and technical services. We found that Ta Chen's level of selling functions to its home market customers for each of the four selling functions did not vary significantly by channel of distribution. *See* Ta Chen's Section A Resp., at A10–14 (Sept. 11, 2006); *see also* Ta Chen's Sections A–D Supp. Resp., at 9–14 (Feb. 15, 2007); Ta Chen's Sections A–C Suppl. Resp., at 13–16. Therefore, we preliminarily conclude that the selling functions for the reported channels of distribution constitute one LOT in the comparison market.

For CEP sales, we examined the selling activities related to each of the selling functions between Ta Chen and its U.S. affiliate, TCI. Ta Chen reported that all of its sales to the United States are CEP sales made through TCI, *i.e.*, through one channel of distribution, and claimed that there is only one LOT. We examined the four selling functions and found that Ta Chen's selling functions for sales to TCI are performed regardless of whether shipments are going to TCI or directly to the unaffiliated customer. Therefore, we preliminary determine that Ta Chen's U.S. sales constitute a single LOT.

We then compared the selling functions Ta Chen provided in the home market LOT with the selling functions provided to the U.S. LOT. In the home market, Ta Chen provides significant selling functions related to the sales process and marketing support, warranty and technical service, inventory maintenance, and some technical services in the comparison market, which it does not for the U.S. LOT. On this basis, we determined that the HM LOT is not similar Ta Chen's U.S. LOT. However, since we have preliminarily determined that there is only one LOT in the home market, we are unable to calculate a LOT adjustment. Because we have preliminarily determined that NV is established at a LOT that is at a more advanced stage of distribution than the LOT of the CEP transactions, and we are unable to quantify a LOT adjustment pursuant to section 773(a)(7)(A) of the Act, for these preliminary results we have applied a CEP offset to the NV–CEP comparisons, in accordance with section 773(a)(7)(B) of the Act.

Currency Conversion

For purposes of the preliminary results, we made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the weighted–average dumping margin for the period June 1, 2005, through May 31, 2006, to be as follows:

%	Weighted–Average Margin
Ta Chen Stainless Pipe Co., Ltd	0.52%

The Department will disclose calculations performed for these preliminary results of review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments are limited to issues raised in such briefs or comments and may be filed no later than five days after the time limit for filing the case briefs or comments. *See* 19 CFR 351.309(d). Parties who submit argument in these proceedings are requested to submit with the argument: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. *See* 19 CFR 351.309(c). An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. *See* 19 CFR 351.310(d). The Department will issue the final results of this administrative review, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of this review the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer–specific *ad valorem* rate for merchandise exported by Ta Chen which is subject to this review. The Department intends to issue assessment instructions to CBP 15 days after the publication of final results of this review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the period of review produced by Ta Chen or by any of the companies for which we are rescinding this review and for which Ta Chen or each no–shipment

respondent did not know its merchandise would be exported by another company to the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be the rate listed in the final results of review; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 51.01 percent, which is the ''all others'' rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 25, 2007.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–12750 Filed 6–29–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Application to Amend an Export Trade Certificate of Review Issued to Northwest Fruit Exporters.

SUMMARY: Export Trading Company Affairs (''ETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or e-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a non-confidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be non-confidential. An original and five (5) copies, plus two (2) copies of the non-confidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021–B H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, non-confidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 84–18A12.''

A summary of the application for an amendment follows.

Summary of the Application:

Applicant: Northwest Fruit Exporters (''NFE''), 105 South 18th Street, Suite 227, Yakima, Washington 98901.

Contact: James R. Archer, Manager to NFE, Telephone: (509) 576–8004.

Application No.: 84–18A12.

Date Deemed Submitted: June 19, 2007.

The original NFE Certificate was issued on June 11, 1984 (49 FR 24581, June 14, 1984) and last amended on September 28, 2006 (71 FR 58785, October 5, 2006).

Proposed Amendment: NFE seeks to amend its Certificate to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): K–K Packing & Storage, LLC, Zillah, Washington; Manzaneros Mexicanos De Washington, Yakima, Washington; and Valicoff Fruit Co., Inc., Wapato, Washington;

2. Delete the following companies as ''Members'' of the Certificate: Cascade Fresh Fruits, LLC, Manson, Washington; John's Farm LLC, Brewster, Washington; Lloyd Garretson Co., Yakima, Washington; Obert Cold Storage, Inc., Zillah, Washington; PAC Marketing International, LLC, Yakima, Washington; Rowe Farms, Inc., Naches, Washington; and Voelker Fruit and Cold Storage, Yakima, Washington; and

3. Change the listing of the following ''Member'': Sage Processing LLC, Wapato and Zillah, Washington to the new listing Pacific Coast Cherry Packers, LLC, Yakima, Washington.

Dated: June 26, 2007.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E7–12756 Filed 6–29–07; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice of meeting.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Friday, July 27, 2007.

ADDRESSES: The meeting will be held at the Naval Post Graduate School, Monterey, CA.

FOR FURTHER INFORMATION CONTACT: Ms. Vicki Schneider, ITS Noesis Business Unit, 4100 N. Fairfax Drive, Suite 800, Arlington, VA 22203, 703–741–0300.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition, Technology and Logistics, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Department in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development efforts in electronics and photonics with a focus on benefits to national defense. These reviews may form the basis for research and development programs initiated by the Military Departments and Defense Agencies to be conducted by industry, universities, or in government laboratories. The agenda for this meeting will include programs on molecular electronics, microelectronics, electro-optics, and electronic materials.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 2), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: June 26, 2007.

C. R. Choate,

Alternate, OSD Federal Register Liaison OFficer, Department of Defense.

[FR Doc. 07–3210 Filed 6–29–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 254. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 254 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Dates:* July 1, 2007.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transporation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 253. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: June 26, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, DoD.

BILLING CODE 5001–06–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 254 ARE UPDATES TO THE RATES FOR COPPER CENTER, GLENNALLEN AND SELDOVIA, ALASKA.						
ALASKA						
ADAK	120		79		199	07/01/2003
ANCHORAGE [INCL NAV RES]						
05/01 - 09/15	181		97		278	04/01/2007
09/16 - 04/30	99		89		188	04/01/2007
BARROW	159		95		254	05/01/2002
BETHEL	135		82		217	06/01/2007
BETTLES	135		62		197	10/01/2004
CLEAR AB	90		82		172	10/01/2006
COLD BAY	90		73		163	05/01/2002
COLDFOOT	165		70		235	10/01/2006
COPPER CENTER						
05/01 - 09/30	129		80		209	07/01/2007
10/01 - 04/30	89		76		165	07/01/2007
CORDOVA						
05/01 - 09/30	95		78		173	06/01/2007
10/01 - 04/30	85		77		162	06/01/2007
CRAIG	140		79		219	04/01/2007
DEADHORSE	95		67		162	05/01/2002
DELTA JUNCTION	90		77		167	02/01/2007
DENALI NATIONAL PARK						
06/01 - 08/31	117		73		190	04/01/2007
09/01 - 05/31	75		69		144	04/01/2007
DILLINGHAM	114		69		183	06/01/2004
DUTCH HARBOR-UNALASKA	121		84		205	04/01/2006
EARECKSON AIR STATION	90		77		167	06/01/2007
EIELSON AFB						
05/01 - 09/15	169		95		264	02/01/2007
09/16 - 04/30	75		86		161	02/01/2007
ELMENDORF AFB						
05/01 - 09/15	181		97		278	04/01/2007
09/16 - 04/30	99		89		188	04/01/2007
FAIRBANKS						
05/01 - 09/15	169		95		264	02/01/2007
09/16 - 04/30	75		86		161	02/01/2007
FOOTLOOSE	175		18		193	06/01/2002
FT. GREELY	90		77		167	02/01/2007
FT. RICHARDSON						
05/01 - 09/15	181		97		278	04/01/2007
09/16 - 04/30	99		89		188	04/01/2007
FT. WAINWRIGHT						
05/01 - 09/15	169		95		264	02/01/2007
09/16 - 04/30	75		86		161	02/01/2007
GLENNALLEN						
05/01 - 09/30	129		80		209	07/01/2007
10/01 - 04/30	89		76		165	07/01/2007
HAINES						
04/01 - 09/30	109		75		184	06/01/2007
10/01 - 03/31	89		73		162	06/01/2007
HEALY						

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
06/01 - 08/31	117	73	190	04/01/2007
09/01 - 05/31	75	69	144	04/01/2007
HOMER				
05/15 - 09/15	131	84	215	07/01/2007
09/16 - 05/14	79	78	157	07/01/2007
JUNEAU				
05/01 - 09/30	129	89	218	04/01/2006
10/01 - 04/30	79	84	163	04/01/2006
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
05/01 - 08/31	129	92	221	04/01/2006
09/01 - 04/30	79	87	166	04/01/2006
KENNICOTT	249	110	359	04/01/2007
KETCHIKAN				
05/01 - 09/30	135	85	220	06/01/2007
10/01 - 04/30	98	81	179	06/01/2007
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK	140	79	219	04/01/2007
KODIAK				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
KOTZEBUE				
05/15 - 09/30	179	90	269	06/01/2007
10/01 - 05/14	139	89	228	06/01/2007
KULIS AGS				
05/01 - 09/15	181	97	278	04/01/2007
09/16 - 04/30	99	89	188	04/01/2007
MCCARTHY	249	110	359	04/01/2007
MCGRATH	165	69	234	10/01/2006
MURPHY DOME				
05/01 - 09/15	169	95	264	02/01/2007
09/16 - 04/30	75	86	161	02/01/2007
NOME	130	86	216	06/01/2007
NUIQSUT	180	53	233	05/01/2002
PETERSBURG	95	69	164	06/01/2007
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SELDOVIA				
05/15 - 09/15	131	84	215	07/01/2007
09/16 - 05/14	79	78	157	07/01/2007
SEWARD				
05/01 - 09/30	199	85	284	06/01/2007
10/01 - 04/30	69	72	141	06/01/2007
SITKA-MT. EDGECUMBE				
05/01 - 09/30	119	83	202	02/01/2007
10/01 - 04/30	99	81	180	02/01/2007
SKAGWAY				
05/01 - 09/30	135	85	220	06/01/2007

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01 - 04/30	98	81	179	06/01/2007
SLANA				
05/01 - 09/30	139	55	194	02/01/2005
10/01 - 04/30	99	55	154	02/01/2005
SPRUCE CAPE				
05/01 - 09/30	123	91	214	04/01/2006
10/01 - 04/30	99	88	187	04/01/2006
ST. GEORGE	129	55	184	06/01/2004
TALKEETNA	100	89	189	07/01/2002
TANANA	130	86	216	06/01/2007
TOGIAK	100	39	139	07/01/2002
TOK				
05/01 - 09/30	109	69	178	02/01/2007
10/01 - 04/30	90	67	157	02/01/2007
UMIAT	350	35	385	10/01/2006
VALDEZ				
05/01 - 10/01	149	87	236	04/01/2007
10/02 - 04/30	79	80	159	04/01/2007
WASILLA				
05/01 - 09/30	144	88	232	06/01/2007
10/01 - 04/30	86	83	169	06/01/2007
WRANGELL				
05/01 - 09/30	135	85	220	06/01/2007
10/01 - 04/30	98	81	179	06/01/2007
YAKUTAT	100	71	171	06/01/2007
[OTHER]	90	77	167	02/01/2007
AMERICAN SAMOA				
AMERICAN SAMOA	122	73	195	12/01/2005
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	94	229	06/01/2007
HAWAII				
CAMP H M SMITH	177	112	289	06/01/2007
EASTPAC NAVAL COMP TELE AREA	177	112	289	06/01/2007
FT. DERUSSEY	177	112	289	06/01/2007
FT. SHAFTER	177	112	289	06/01/2007
HICKAM AFB	177	112	289	06/01/2007
HONOLULU (INCL NAV & MC RES CTR)	177	112	289	06/01/2007
ISLE OF HAWAII: HILO	112	104	216	06/01/2007
ISLE OF HAWAII: OTHER	180	104	284	06/01/2007
ISLE OF KAUAI	198	109	307	06/01/2007
ISLE OF MAUI	159	101	260	06/01/2007
ISLE OF OAHU	177	112	289	06/01/2007
KEKAHA PACIFIC MISSILE RANGE FAC	198	109	307	06/01/2007
KILAUEA MILITARY CAMP	112	104	216	06/01/2007
LANAI	295	139	434	06/01/2007
LUALUALEI NAVAL MAGAZINE	177	112	289	06/01/2007
MCB HAWAII	177	112	289	06/01/2007
MOLOKAI	178	99	277	06/01/2007
NAS BARBERS POINT	177	112	289	06/01/2007
PEARL HARBOR [INCL ALL MILITARY]	177	112	289	06/01/2007
SCHOFIELD BARRACKS	177	112	289	06/01/2007
WHEELER ARMY AIRFIELD	177	112	289	06/01/2007
[OTHER]	112	93	205	12/01/2006

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
MIDWAY ISLANDS				
MIDWAY ISLANDS				
INCL ALL MILITARY	100	45	145	06/01/2006
NORTHERN MARIANA ISLANDS				
ROTA	129	91	220	05/01/2006
SAIPAN	121	98	219	06/01/2007
TINIAN	85	69	154	06/01/2007
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				
AGUADILLA	87	70	157	07/01/2006
BAYAMON	195	77	272	08/01/2006
CAROLINA	195	77	272	08/01/2006
CEIBA				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FAJARDO [INCL ROOSEVELT RDS NAVS				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
FT. BUCHANAN [INCL GSA SVC CTR,	195	77	272	08/01/2006
HUMACAO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
LUIS MUNOZ MARIN IAP AGS	195	77	272	08/01/2006
LUQUILLO				
05/01 - 11/30	155	57	212	08/01/2006
12/01 - 04/30	185	57	242	08/01/2006
MAYAGUEZ	109	73	182	07/01/2006
PONCE				
01/01 - 05/31	139	73	212	07/01/2006
06/01 - 07/31	230	82	312	07/01/2006
08/01 - 11/30	139	73	212	07/01/2006
12/01 - 12/31	230	82	312	07/01/2006
SABANA SECA [INCL ALL MILITARY]	195	77	272	08/01/2006
SAN JUAN & NAV RES STA	195	77	272	08/01/2006
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	135	92	227	05/01/2006
12/15 - 04/14	187	97	284	05/01/2006
ST. JOHN				
04/15 - 12/14	163	98	261	05/01/2006
12/15 - 04/14	220	104	324	05/01/2006
ST. THOMAS				
04/15 - 12/14	240	105	345	05/01/2006
12/15 - 04/14	299	111	410	05/01/2006
WAKE ISLAND				
WAKE ISLAND	152	15	167	06/01/2006

[FR Doc. 07–3212 Filed 6–29–07; 8:45 am]

BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Plenary Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3. 140 through 160), the Department of the Army announces the following committee meeting:

Name of Committee: Army Science Board (ASB).

Date(s) of Meeting: July 18–19, 2007.

Time(s) of Meeting: 0800–1700, July 18, 2007. 0800–1500, July 19, 2007.

Place of Meeting: Arnold and Mabel Beckman Center, 100 Academy Drive, Irvine CA 92617.

FOR FURTHER INFORMATION CONTACT: For information on Homeland Security/Defense please contact Joe Forman at *Joe.Foreman@us.army.mil* or (703) 602–8112 and for Options for an Affordable LandWarNet, contact MAJ Fritz McNair at *Fritzgerald.mcnair@hqda.army.mil* or (703) 604–7108.

SUPPLEMENTARY INFORMATION: *Proposed Agenda:* The Army Science Board FY07 studies on Homeland Security/Defense and Options for an Affordable LandWarNet will meet on July 18–19, 2007, at the Arnold and Mabel Beckman Center in Irvine, CA. Purpose of the meeting will be to finalize findings and recommendations on Wednesday, July 18, 2007 in preparation for the final briefout to the study sponsors and senior Army leadership on Thursday, July 19, 2007.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 07–3230 Filed 6–28–07; 12:28 pm]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Administrative Matters (OMB Control Number 0704–0225)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through October 31, 2007. DoD proposes that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by August 31, 2007.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0225, using any of the following methods:

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

○*E-mail: dfars@osd.mil.* Include OMB Control Number 0704–0225 in the subject line of the message.

○*Fax:* (703) 602–7887.

○*Mail:* Defense Acquisition Regulations System, Attn: Ms. Felisha Hitt, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

○*Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Felisha Hitt, (703) 602–0310. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfars/index.htm.* Paper copies are available from Ms. Felisha Hitt, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title, Associated Forms, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 204, Administrative Matters, and related clauses at DFARS 252.204; DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code, and DD Form 2051–1, Request for Information/Verification of Commercial and Government Entity (CAGE) Code; OMB Control Number 0704–0225.

Needs and Uses: DoD uses this information to control unclassified contract data that is sensitive and inappropriate for release to the public; and to facilitate data exchange among automated systems for contract award, contract administration, and contract payment by assigning a unique code to each DoD contractor.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 8,860.

Number of Respondents: 11,921.

Responses per Respondent: 1.

Annual Responses: 11,921.

Average Burden per Response: .74 hours.

Frequency: On occasion.

Summary of Information Collection

DFARS 204.404–70(a) prescribes use of the clause at DFARS 252.204–7000, Disclosure of Information, in contracts that require the contractor to access or generate unclassified information that may be sensitive and inappropriate for release to the public. The clause requires the contractor to obtain approval of the contracting officer before release of any unclassified contract-related information outside the contractor's organization, unless the information is already in the public domain. In requesting this approval, the contractor must identify the specific information to be released, the medium to be used, and the purpose for the release.

DFARS 204.7207 prescribes use of the provision at DFARS 252.204–7001,

Commercial and Government Entity (CAGE) Code Reporting, in solicitations when CAGE codes for potential offerors are not available to the contracting officer. The provision requires an offeror to enter its CAGE code on its offer. If an offeror does not have a CAGE code, the offeror may request one from the contracting officer, who will ask the offeror to complete Section B of DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code. DoD periodically verifies CAGE code information through use of DD Form 2051–1, Request for Information/Verification of Commercial and Government Entity (CAGE) Code.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

[FR Doc. E7–12745 Filed 6–29–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Subcontracting Policies and Procedures (OMB Control Number 0704–0253)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through October 31, 2007. DoD proposes that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by August 31, 2007.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0253, using any of the following methods:

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

○ *E-mail: dfars@osd.mil.* Include OMB Control Number 0704–0253 in the subject line of the message.

○ *Fax:* (703) 602–7887.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

○ *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0328. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfars/index.htm.* Paper copies are available from Ms. Amy Williams, OUSD(AT&L)DPAP(DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 244, Subcontracting Policies and Procedures; OMB Control Number 0704–0253.

Needs and Uses: Administrative contracting officers use this information in making decisions to grant, withhold, or withdraw purchasing system approval at the conclusion of a purchasing system review. Withdrawal of purchasing system approval would necessitate Government consent to individual subcontracts.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 1,440.

Number of Respondents: 90.

Responses per Respondent: Approximately 1.

Annual Responses: 90.

Average Burden per Response: 16 hours.

Frequency: On occasion.

Summary of Information Collection

This information collection includes the requirements of DFARS 244.305–70, Granting, withholding, or withdrawing approval. DFARS 244.305–70 requires the administrative contracting officer, at the completion of the in-plant portion of a contractor purchasing system review, to ask the contractor to submit within 15 days its plan for correcting deficiencies or making improvements to its purchasing system.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

[FR Doc. E7–12747 Filed 6–29–07; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 31, 2007.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper

functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 25, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: Early Childhood Longitudinal Study Birth Cohort, Kindergarten Year Delayed Entry and Repeaters.

Frequency: One-time.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 10,483.

Burden Hours: 4,026.

Abstract: The ECLS–B is part of a longitudinal studies program. The ECLS–B is designed to follow a national representative sample of children born in 2001 from nine months of age through kindergarten. The cohort has already been seen at nine months and at two years. The current effort is directed towards seeing them in their kindergarten year. The children turned five in 2006, and while the majority of these children were in kindergarten in year 2006, some of them are repeating kindergarten and some were delayed entering kindergarten. It is these children, who are either repeating kindergarten or were delayed entering kindergarten, who are being contacted in this data collection.

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 3385. 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. E7–12669 Filed 6–29–07; 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 August 1, 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 25, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: New Collection.

Title: Student Achievement and Institutional Performance Pilot Program.

Frequency: Annually.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 5.

Burden Hours: 150.

Abstract: This is a Special Focus Competition, administered by the Fund for the Improvement for Postsecondary Education (FIPSE). This competition will support at least one consortium of institutions of higher education, associations, public and private non-profit organizations and/or states to develop methods and implement mechanisms to systematically measure, assess and report student achievement and institutional performance at the postsecondary level. Approval by the Office of Management and Budget (OMB) has been requested by July 19, 2007.

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 3387. 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* 202–245–6566. 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. E7–12670 Filed 6–29–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education (OVAE); Notice Reopening the Tribally Controlled Postsecondary Career and Technical Institutions Program (TCPCTIP) Fiscal Year (FY) 2007 Competition

Catalog of Federal Domestic Assistance (CFDA) Number: 84.245.

SUMMARY: On May 15, 2007 we published in the **Federal Register** (72 FR 27297) a notice inviting applications for the TCPCTIP for new awards for FY 2007. The May 15, 2007 notice for this FY 2007 competition established a June 14, 2007, deadline date for eligible applicants to apply for funding under the TCPCTIP.

In order to afford as many eligible applicants as possible an opportunity to receive funding under this program, we are reopening the TCPCTIP FY 2007 competition. The new application deadline date for this competition is July 9, 2007. Applicants must refer to the original notice inviting applications for this program that was published in the **Federal Register** (72 FR 27297) for all other requirements concerning this reopened competition.

DATES: *Deadline for Transmittal of Applications:* July 9, 2007 by 4:30 Washington, DC time for an electronic submission.

Submission of Applications: Applications for grants under this program may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6.

Other Submission Requirements in the original TCPCTIP May 15, 2007 notice inviting applications.

Note: You can access the electronic application, along with complete instructions for applying via Grants.gov, for the TCPCTIP at: *http://www.Grants.gov/* Once you access this site, you will receive specific instructions for completing your application and the electronic submission process. You must follow these requirements to ensure that your electronic application is received by the Department no later than 4:30 p.m., Washington, DC time, on the new application deadline date.

FOR FURTHER INFORMATION CONTACT: Lois Davis, U.S. Department of Education, 400 Maryland Avenue, SW., Room 11063, Potomac Center Plaza, Washington, DC 20202–7241. Telephone: (202) 245–7784 or e-mail: *Lois.Davis@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

SUPPLEMENTARY INFORMATION: Any eligible applicant may apply for funding under this program by the new application deadline date announced in this notice. Eligible applicants that submitted their applications for the TCPCTIP FY 2007 competition to the Department by the competition's original deadline date of June 14, 2007 may, but are not required to, re-submit their applications or re-apply in order to be considered for FY 2007 awards under this program. We encourage eligible applicants that have not submitted applications already to submit their applications as soon as possible. The deadline for submission of applications in this competition will not be extended any further.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 27, 2007.

Troy R. Justesen,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. E7–12759 Filed 6–29–07; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Notice of Sunshine Act Meeting

AGENCY: United States Election Assistance Commission.

ACTION: Notice of public meeting.

DATE & TIME: Thursday, July 19, 2007, 1 p.m.–4 p.m.

PLACE: The Charlotte Convention Center, Room 207D, 501 South College Street, Charlotte, NC 28202, (704) 339–6000.

AGENDA: The Commission will consider the adoption of a draft EAC manual on Poll Worker Recruitment, Training and Retention, and a draft EAC manual on Recruiting College Poll Workers. The Commission will consider other administrative matters.

This meeting will be open to the public.

PERSON TO CONTACT FOR INFORMATION: Bryan Whitener, Telephone: (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 07–3232 Filed 6–28–07; 1:06 pm]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection request is submitted for a three-year extension of its Contractor Legal Management Requirements, OMB Control Number 1910–5115. This information collection request covers information necessary to aid contractors and DOE personnel in making determinations regarding the reasonableness of all outside legal costs, including the costs of litigation.

DATES: Comments regarding this collection must be received on or before August 1, 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, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4650.

ADDRESSES: Written comments should be sent to: OMB DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503.

Comments should also be addressed to: Anne Broker, Office of the General Counsel, GC–12, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585–1290, or by fax at (202) 586–0325, or by e-mail at *anne.broker@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Anne Broker, U.S. Department of Energy, Office of the General Counsel, GC–12, 1000 Independence Avenue, SW., Washington, DC 20585–1290, telephone (202) 586–5060. E-mail: *anne.broker@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–5115; (2) *Information Collection Request Title:* Contractor Legal Management Requirements; (3) *Type of Review:* Renewal; (4) *Purpose:* The collection of this information continues to be necessary to provide a basis for DOE decisions on requests from applicable contractors for reimbursement of litigation and other legal expenses; (5) *Type of respondents:* Contractors at government owned or leased facilities that are required to submit a legal management plan under 10 CFR part 719; (6) *Estimated Number of Respondents:* 36; (7) *Estimated Total Burden Hours:* the burden hours for this collection are estimated to be approximately 465 to 570 hours on an annual basis. This estimate is based on the estimate that the preparation of the initial plan is 15–30 hours and that no more than 20% of the 36 contractors will need to submit a legal management plan in any given year. The estimate for the total also includes an estimate of approximately 10 hours for an annual budgetary update, which would be submitted by all contractors; (8) *Number of Information Collections:* One.

Statutory Authority: These requirements are promulgated under authority in section 161 of the Atomic Energy Act of 1954, 42 U.S.C. 2201; the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*; and the National Nuclear Security Administration Act, 50 U.S.C. 2401, *et seq.*

Issued in Washington, DC, on June 26, 2007.

David R. Hill,

General Counsel.

[FR Doc. E7–12732 Filed 6–29–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, July 19, 2007, 6 p.m.

ADDRESSES: 111 Memorial Drive, Barkley Centre, Paducah, Kentucky 42001.

FOR FURTHER INFORMATION CONTACT: Reinhard Knerr, Deputy Designated Federal Officer, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (270) 441–6825.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

6 p.m. Call to Order, Introductions, Review of Agenda, and Approval of June Minutes.
6:15 p.m. Deputy Designated Federal Officer's Comments.
6:30p.m. Federal Coordinator's Comments.
6:35p.m. Liaisons' Comments.
6:45p.m. Review of Action Items.
6:50p.m. Public Comments and Questions.
7p.m. Subcommittee Reports.
- Water Disposition/Water Quality Subcommittee.
- Community Outreach Subcommittee.
- Long Range Strategy/Stewardship Subcommittee.
- Executive Committee: Bylaws/Operating Procedures.

7:30 p.m. Public Comments and Questions.
7:40 p.m. Administrative Issues: Motions, Review of Work Plan, and Review of Next Agenda.
7:55 p.m. Final Comments.
8 p.m. Adjourn.

Breaks Taken As Appropriate

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Reinhard Knerr at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 115 Memorial Drive, Barkley Centre, Paducah, Kentucky between 8 a.m. and 5 p.m. on Monday through Friday or by writing to Reinhard Knerr, Department of Energy, Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (270) 441–6825.

Issued at Washington, DC on June 26, 2007.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E7–12730 Filed 6–29–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Idaho National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Laboratory. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, July 17, 2007, 8 a.m.–5 p.m.

Opportunities for public participation will be held from 1 to 1:15 p.m. and 3:30 to 3:45 p.m.

These times are subject to change; please contact the Federal Coordinator

(below) for confirmation of times prior to the meeting.

ADDRESSES: Red Lion Hotel, 475 River Parkway, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION CONTACT: Robert L. Pence, Federal Coordinator, Department of Energy, Idaho Operations Office, 1955 Fremont Avenue, MS–1203, Idaho Falls, ID 83415. Phone (208) 526–6518; Fax (208) 526–8789 or e-mail: *pencerl@id.doe.gov* or visit the Board's Internet home page at: *http://www.inlemcab.org.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Topics (agenda topics may change up to the day of the meeting; please contact Robert L. Pence for the most current agenda):

- Progress to Cleanup.
- Materials Test Reactor Engineering Evaluation/Cost Analysis.
- National Security Test Range—Environmental Assessment.
- Notice of Intent for Greater-Than-Class C Waste.
- Integrated Waste Treatment Unit Informational Briefing.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Robert L. Pence at the address or telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Robert L. Pence, Federal Coordinator, at the address and phone number listed above.

Issued at Washington, DC on June 26, 2007.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E7–12731 Filed 6–29–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, July 25, 2007, 2 p.m.—8 p.m.

ADDRESSES: Santa Fe Community College, Jemez Rooms, 6401 Richards Avenue, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; Fax (505) 989–1752 or E-mail: *msantistevan@doeal.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

2 p.m. Call to Order by Deputy Designated Federal Officer, Christina Houston.
Establishment of a Quorum, Lorelei Novak.
Welcome and Introductions by Facilitator, Ed Moreno.
Approval of Agenda.
Approval of Minutes of May 24, 2007, Board Meeting.
2:30 p.m. Board Business/Reports.
- Report from Chair, J. D. Campbell.
- Report from Vice-Chair, Fran Berting.
- Report from Department of Energy, Christina Houston.
- Report from Executive Director, Menice Santistevan.
- Environmental Monitoring, Surveillance, and Remediation Committee, Pam Henline.
- Waste Management Committee, Ralph Phelps.
- Consideration of Amended NNMCAB Bylaws (Final Adoption), Ed Moreno.

New Business.
3:30 p.m. Break.
3:45 p.m. Break-out Session—Committees Prepare Draft of Fiscal Year 2008 Work Plans.
5 p.m. Dinner Break.
6 p.m. Public Comment Period.
6:15 p.m. Consideration of Recommendations to DOE.
6:45 p.m. Committees Continue Preparing 2008 Draft Work Plans.
7:30 p.m. Draft Work Plans Presented to the Full Board.
7:45 p.m. Round Robin and Recap of Meeting: Issuance of Press Releases, Editorials, etc., Ed Moreno.
8 p.m. Adjourn, Christina Houston.

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes of this meeting will be available for public review and copying at the U.S. Department of Energy's Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9 a.m.—4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Santistevan at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org.*

Issued at Washington, DC on June 26, 2007.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. E7–12734 Filed 6–29–07; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[EERE–2007–BT–WAV–0005]

Energy Conservation Program for Consumer Products: Publication of the Petition for Waiver and Granting of the Application for Interim Waiver of Daikin U.S. Corporation From the DOE Residential and Commercial Package Air Conditioner and Heat Pump Test Procedures (Case No. CAC–011)

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

ACTION: Notice of Petition for Waiver, Granting of Extension of Interim Waiver, and Request for Comments.

SUMMARY: Today's notice publishes a Petition for Waiver from Daikin U.S. Corporation (Daikin). This Petition for Waiver (hereafter ''Daikin Petition'') requests a waiver of the Department of Energy (DOE) test procedures applicable to residential and commercial package central air conditioners and heat pumps. The waiver request is specific to Daikin's VRV–S (residential) and VRV (commercial) Variable Refrigerant Volume multi-split heat pumps and heat recovery systems. DOE is soliciting comments, data, and information with respect to the Daikin Petition. Today's notice also extends the Interim Waiver granted to Daikin on August 14, 2006. An alternate test procedure from the DOE test procedure for residential air conditioners and heat pumps is added to the Interim Waiver.

DATES: DOE will accept comments, data, and information regarding this Petition for Waiver until, but no later than, August 1, 2007. The Interim Waiver was granted August 14, 2006, and expired February 10, 2007. This Notice extends the Interim Waiver 180 days, until August 9, 2007.

ADDRESSES: Please submit comments, identified by case number (CAC–011), by any of the following methods:

- *Mail:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Ms. Brenda Edwards-Jones, U.S. Department of Energy, Building Technologies Program, Room 1J–018, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121.
- *E-mail: Michael.Raymond@ee.doe.gov.* Include either the case number [CAC–011], and/or ''Daikin Petition'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and case number for this proceeding. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format and avoid the use of special characters or any form of encryption. Wherever possible, include the electronic signature of the author. Absent an electronic signature, comments submitted electronically must be followed and authenticated by submitting the signed original paper document. DOE does not accept telefacsimiles (faxes). Any person submitting written comments must also send a copy of such comments to the petitioner. 10 CFR 430.27(d). The contact information for the petitioner of today's notice is: Russell Tavolacci, Director of Product Marketing, Daikin AC (Americas), Inc., 1645 Wallace Drive, Suite 110, Carrollton, TX 75006, (972) 245–1510, *Russell.tavollacci@daikinac.com.*

According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit two copies: One copy of the document including all the information believed to be confidential, and one copy of the document with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Docket: For access to the docket to read the background documents relevant to this matter, go to the U.S. Department of Energy, Forrestal Building, Room 1J–018 (Resource Room of the Building Technologies Program), 1000 Independence Avenue, SW., Washington, DC, (202) 586–2945, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Available documents include the following items: This notice, public comments received, the Petition for Waiver and Application for Interim Waiver, and prior DOE rulemakings regarding central air conditioners and heat pumps. Please call Ms. Brenda Edwards-Jones at the above telephone number for additional information regarding visiting the Resource Room. Please note that DOE's Freedom of Information Reading Room (formerly Room 1E–190 at the Forrestal Building) is no longer housing rulemaking materials.

FOR FURTHER INFORMATION CONTACT: Dr. Michael G. Raymond, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9611; e-mail: *Michael.Raymond.ee.doe.gov;* or Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, Mail Stop GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507; e-mail: *Francine.Pinto@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Title III of the Energy Policy and Conservation Act (EPCA) sets forth a variety of provisions concerning energy efficiency. Part B of Title III (42 U.S.C. 6291–6309) provides for the ''Energy Conservation Program for Consumer Products other than Automobiles.'' Part C of Title III (42 U.S.C. 6311–6317) provides for an energy efficiency program entitled ''Certain Industrial Equipment,'' which is similar to the program in Part B, and which includes commercial air conditioning equipment, packaged boilers, water heaters, and other types of commercial equipment.

Today's notice involves both residential products under Part B, and commercial equipment under Part C. Both parts provide for definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. With respect to test procedures, both parts generally authorize the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which reflect energy efficiency, energy use, and estimated annual operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3); 42 U.S.C. 6314(a)(2))

Daikin's petition requests a waiver from the DOE residential central air conditioner and heat pump test procedure for its VRV–S multi-split products. For testing and rating purposes, residential air conditioners and heat pumps use single-phase power, have a rated capacity less than 65 kBtu/h, and are not packaged terminal units. Daikin's petition also requests a waiver from the DOE commercial package air

conditioners and heat pump test procedure for its VRV multi-split products. Daikin makes this request for their VRV units because their rated capacities of 72 kBtu/h and 96 kBtu/h fall within the scope of the test procedure specified by DOE for small commercial package air conditioning and heating equipment.

On December 8, 2006, DOE published a final rule adopting test procedures for commercial package air conditioning and heating equipment, effective January 8, 2007. 71 FR 71340. DOE adopted ARI Standard 210/240–2003 for commercial package air conditioning and heating equipment with capacities <65,000 Btu/h and ARI Standard 340/360–2004 for commercial package air conditioning and heating equipment with capacities ≥65,000 Btu/h and <240,000 Btu/h. *Id.* at 71371. The capacities of Daikin's commercial VRV multi-split products fall in the ranges covered by ARI Standard 340/360–2004. The test procedures for Daikin's VRV–S residential multi-split air conditioners and heat pumps are set forth in 10 CFR Part 430, Subpart B, Appendix M.

DOE's regulations contain provisions allowing a person to seek a waiver from the test procedure requirements for covered products. These provisions are set forth in 10 CFR 430.27 for covered consumer/residential products and 10 CFR 431.401 for covered commercial equipment. The waiver provisions for commercial equipment are substantively identical to those for covered consumer products.

The waiver provisions allow the Assistant Secretary for Energy Efficiency and Renewable Energy (hereafter ''Assistant Secretary'') to temporarily waive test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics that prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1), 431.401(a)(1). The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR Sections 430.27(1), 431.401(f)(4). Waivers generally remain in effect until final test procedure amendments become effective, thereby resolving the problem that is the subject of the waiver.

The waiver process also allows the Assistant Secretary to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 10 CFR 430.27(a)(2), 431.401(a)(2). An Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary. 10 CFR 430.27(h), 431.401(e)(4).

II. Petition for Waiver

On May 12, 2005, Daikin filed an Application for Interim Waiver and a Petition for Waiver from the test procedures applicable to residential and commercial package air conditioners and heat pumps. In particular, Daikin requests a waiver from the DOE test procedures for its residential VRV–S multi-split models with nominal cooling capacities of 36, 48, and 60 kBtu/h. For these products, the applicable test procedure is set forth in 10 CFR part 430, subpart B, appendix M. Further, Daikin requests a waiver from the test procedures for its commercial VRV multi-split models with nominal cooling capacities of 72 and 96 kBtu/h, with and without heat recovery. For this equipment, the applicable test procedure is ARI 340/360–2004.

Daikin seeks a waiver from the DOE test procedures on the grounds that the VRV–S Series and VRV Series multi-split heat pump and heat recovery systems contain design characteristics that prevent testing according to the current DOE test procedures. Daikin asserts that the two primary factors that prevent testing of multi-split variable speed products, regardless of manufacturer, are the same factors stated in the waiver granted to Mitsubishi Electric for its line of commercial multi-splits:

- Testing laboratories cannot test products with so many indoor units.
- There are too many possible combinations of indoor and outdoor unit to test.

69 FR 52661, August 27, 2004.

Further, Daikin states that although the VRV and VRV–S product lines fit within the scope of the applicable DOE residential and commercial test procedures, the basic design of both lines is not commensurate with the intent of the test procedures. In particular, the test procedures do not provide for:

- Testing products with a large quantity of indoor units operating simultaneously.
- Testing of multi-split products whereas all connected indoor units physically cannot be located in a single room.
- Operating indoor units at several different static pressure ratings during a single test.
- Identifiying the precise number of part load tests required (ARI 340/360) for fully or infinitely variable speed products.
- Testing systems that have millions of combinations of indoor units configurable to a single outdoor unit.
- Measuring part load performance of a system operating in simultaneous operation (performing both heating and cooling functions at the same time).

Daikin requests that DOE grant to Daikin, for its VRV and VRV–S product designs, the same test procedure waiver previously granted to Mitsubishi Electric, until a suitable test method is determined (Daikin Petition, page 5). There is no substantive difference between the MEUS and Daikin products which would preclude DOE from granting the same waiver to both. Daikin states that failure to grant the waiver would prevent it from marketing its product. Also, it states it is the goal of Daikin to work closely with DOE, ARI, and other agencies to develop appropriate test procedures.

III. Application for Interim Waiver

On May 12, 2005, in addition to its Petition for Waiver, Daikin submitted to DOE an Application for Interim Waiver. An Interim Waiver may be granted if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. 10 CFR 430.27(g), 431.401(e)(3).

Daikin's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic hardship Daikin will likely experience if its Application for Interim Waiver is denied. However, in those instances where the likely success of the Petition for Waiver has been demonstrated, based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis. DOE has previously granted interim waivers to Fujitsu and Samsung for comparable residential and commercial multi-split air conditioners and heat pumps. 70 FR 5980, February 4, 2005; 70 FR 9629, February 28, 2005, respectively. DOE approved the Petition for Waiver to Mitsubishi for its comparable line of commercial multi-

split air conditioners and heat pumps. 69 FR 52660, August 27, 2004. The two prevailing reasons for granting the past waivers also apply to Daikin's VRV–S and VRV products: (1) Test laboratories cannot test products with so many indoor units (up to seventeen according to the Daikin petition—the practical limit is about five); and (2) it is impractical to test so many combinations of indoor units with each outdoor unit.

On August 14, 2006, DOE granted to Daikin an Interim Waiver from the DOE test procedures for its VRS–S and VRV product lines. However, that Interim Waiver expired February 10, 2007. Daikin has requested an 180-day extension of the Interim Waiver, or until DOE acts on Daikin's Petition for Waiver. 10 CFR 430.27(h), 10 CFR 431.401(e)(4). DOE is extending the Interim Waiver, and modifying it to specify that Daikin must use an alternate test procedure, which has also been included in two recent Mitsubishi waivers. Hence, it is ordered that:

The Application for Interim Waiver filed by Daikin is hereby modified and extended for 180 days, until August 9, 2007, for Daikin's new VRV and VRV–S central air conditioners and central air conditioning heat pumps.

For the models listed below:

1. Daikin shall not be required to test or rate its VRV–S residential products on the basis of the currently applicable test procedure, which is set forth in 10 CFR Part 430, subpart B, appendix M

2. Daikin shall not be required to test or rate its VRV commercial products on the basis of the currently applicable test procedure, which incorporates by reference ARI Standard 340/360–2004.

3. Daikin shall be required to test and rate its VRV–S and VRV products according to the alternate test procedure as set forth in section IV (3), ''Alternate test procedure.''

Outdoor units:

1. RXYMQ Series Heat Pumps with nominal capacities of 36, 48, and 60 kBtu/h, when combined with two or more of the below listed indoor units.

2. RXYQ Series Heat Pumps with nominal capacities of 72 and 96 kBtu/h, when combined with two or more of the below listed indoor units.

3. REYQ Series Heat Recovery units with nominal capacities of 72 and 96 kBtu/h, when combined with two or more of the below listed indoor units.

Indoor units:

1. FXAQ Series wall mounted indoor units with nominally rated capacities of 7, 9, 12, 18, and 24 kBtu/h.

2. FXLQ Series floor mounted indoor units with nominally rated capacities of 12, 18, and 24 kBtu/h.

3. FXNQ Series concealed floor mounted indoor units with nominally rated capacities of 12, 18, and 24 kBtu/h.

4. FXDQ Series low static ducted indoor units with nominally rated capacities of 7, 9, 12, 18, and 24 kBtu/h.

5. FXSQ Series medium static ducted indoor units with nominally rated capacities of 7, 9, 12, 24, 30, 36, and 48 kBtu/h.

6. FXMQ Series high static ducted indoor units with nominally rated capacities of 30, 36, and 48 kBtu/h.

7. FXZQ Series recessed cassette indoor units with nominally rated capacities of 7, 9, 12, 18, and 24 kBtu/h.

8. FXFQ Series recessed cassette indoor units with nominally rated capacities of 12, 18, 24, 30, and 36 kBtu/h.

9. FXHQ Series ceiling suspended indoor units with nominally rated capacities of 12, 24, and 36 kBtu/h.

This Interim Waiver is conditioned upon the presumed validity of statements, representations, and documentary materials provided by the petitioner. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect, or DOE determines that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. This Interim Waiver shall remain in effect until August 9, 2007.

IV. Alternate Test Procedure

In response to two recent petitions for waiver from Mitsubishi, DOE specified an alternate test procedure to provide a basis from which Mitsubishi could test and make valid energy efficiency representations. The MEUS petitions, including the alternate test procedure, were published in the **Federal Register** on April 9, 2007. 72 FR 17528, 17532.

DOE is including a similar alternate test procedure in the Interim Waiver for Daikin's products, and considering the same alternate test procedure in Daikin's future Decision and Order. This will allow Daikin to test and make energy efficiency representations regarding its products. DOE is also considering applying a similar alternate test procedure to other similar waivers for residential and commercial central air conditioners and heat pumps. Such cases include Samsung's petition for its multi-split products (70 FR 9629, February 28, 2005), Fujitsu's petition for its multi-split products (70 FR 5980, February 4, 2005), and Mitsubishi's petition for its R22 multi-split products (69 FR 52660, August 27, 2004).

As noted above, existing testing facilities have a limited ability to test multiple indoor units at one time, and the number of possible combination of indoor and outdoor units for some variable refrigerant flow zoning systems is impractical to test. Subsequent to the waiver that DOE granted for Mitsubishi's R22 models, ARI developed a committee to discuss the issue and work on developing an appropriate test protocol for variable refrigerant zoning systems. However, to date, no additional test methodologies have been adopted by the committee or put forth to DOE.

DOE believes that an alternate test procedure is needed in order that manufacturers can make representations for their products. DOE specified an alternate test procedure in the Mitsubishi waiver for R410A CITY MULTI products, and is considering including the following similar waiver language in the Decision and Order for Daikin's variable refrigerant flow multi-split air conditioner and heat pump models:

(1) The Petition for Waiver filed by Daikin AC (Americas), Inc. (Daikin) is hereby granted as set forth in the paragraphs below.

(2) Daikin shall be not be required to test or rate its variable refrigerant flow multi-split air conditioner and heat pump products covered in this waiver on the basis of the currently applicable test procedure, but shall be required to test and rate its products covered in this waiver according to the alternate test procedure as set forth in paragraph (3).

(3) Alternate test procedure.

(A) Daikin shall be required to test the products listed above according to those test procedures for central air conditioners and heat pumps prescribed by DOE at 10 CFR Parts 430 and 431, except that:

(i) For products covered by 10 CFR Part 430 (consumer products), Daikin shall not be required to comply with: (1) The first sentence in 10 CFR 430.24(m)(2), which refers to ''that combination manufactured by the condensing unit manufacturer likely to have the highest volume of retail sales;'' and (2) the third sentence in 10 CFR 430(m)(2) and the provisions of 10 CFR 430(m)(2)(i) and (ii). Instead of testing the combinations likely to have the highest volume of retail sales, Daikin may test a ''tested combination'' selected in accordance with the provisions of subparagraph (B) of this paragraph. Additionally, instead of following the provisions of 10 CFR 430(m)(2)(i) and (ii) for every other

system combination using the same outdoor unit as the tested combination, Daikin shall make representations concerning the VRV–S products covered in this waiver according to the provisions of subparagraph (C) below.

(ii) For products covered by 10 CFR Part 430 (consumer products), Daikin shall be required to comply with 10 CFR 430 Appendix M as amended in accordance with designated changes that are listed in the July 20, 2006 **Federal Register** Notice. 71 FR 41320, July 20, 2006. These designated changes are with respect to the following test procedure sections: 2.1, 2.2.3, 2.4.1, 3.2.4 (including Table 6), 3.6.4 (including Table 12), 4.1.4.2, and 4.2.4.2.

(iii) For products covered by 10 CFR Part 431 (commercial products), Daikin shall test a ''tested combination'' selected in accordance with the provisions of subparagraph (B) of this paragraph. For every other system combination using the same outdoor unit as the tested combination, Daikin shall make representations concerning the VRV products covered in this waiver according to the provisions of subparagraph (C) below.

(B) Tested combination. The term ''tested combination'' means a sample basic model comprised of units that are production units, or are representative of production units, of the basic model being tested. For the purposes of this waiver, the tested combination shall have the following features:

(i) The basic model of a variable refrigerant flow system used as a tested combination shall consist of an outdoor unit that is matched with between 2 and 5 indoor units.

(ii) The indoor units shall

(a) Represent the highest sales volume type models;

(b) Together, have a capacity between 95 percent and 105 percent of the capacity of the outdoor unit;

(c) Not, individually, have a capacity greater than 50 percent of the capacity of the outdoor unit;

(d) Have a fan speed that is consistent with the manufacturer's specifications; and

(e) All have the same external static pressure.

(C) Representations. Daikin may make representations about the energy efficiency of variable refrigerant flow multi-split air conditioner and heat pump products, for compliance, marketing, or other purposes, only to the extent that such representations are made consistent with the provisions outlined below:

(i) For multi-split combinations tested in accordance with this paragraph, Daikin may make representations based on these test results.

(ii) For multi-split combinations that are not tested, Daikin may make representations which are based on the testing results for the tested combination and which are consistent with either of the two following methods, except that only method (a) may be used, if available:

(a) Representation of non-tested combinations according to an Alternative Rating Method (ARM) approved by DOE.

(b) Representation of non-tested combinations at the same energy efficiency level as the tested combination with the same outdoor unit.

V. Summary and Request for Comments

Today's notice publishes Daikin's Petition for Waiver and extends Daikin's Interim Waiver until August 9, 2007, and modifies it by including an alternate test procedure. DOE is publishing Daikin's Petition for Waiver in its entirety. The petition contains no confidential information. Furthermore, today's notice includes an alternate test procedure that DOE is considering including in the final Decision and Order. In this alternate test procedure, DOE proposes defining a ''tested combination'' which Daikin could test in lieu of testing all retail combinations of its VRV and VRV–S multi-split air conditioner and heat pump products. Furthermore, should a manufacturer not be able to test all retail combinations, DOE proposes allowing manufacturers to rate waived products according to an alternate rating method approved by DOE, or to rate waived products the same as that for the specified tested combination.

DOE will also consider applying a similar alternate test procedure to other comparable petitions for waiver for residential and commercial central air conditioners and heat pumps. Such cases include Samsung's petition for its DVM products (70 FR 9629, February 28, 2005), and Fujitsu's petition for its Airstage variable refrigerant flow (VRF) products (70 FR 5980, February 4, 2005).

DOE is interested in receiving comments on this notice. Any person submitting written comments must also send a copy of such comments to the petitioner, whose contact information is included in the section entitled **ADDRESSES**, above. 10 CFR 430.27(d), 431.401(d)(2).

Issued in Washington, DC, on June 12, 2007.

Alexander A. Karsner,

Assistant Secretary, Energy Efficiency and Renewable Energy.

May 12, 2005.

Mr. David K. Garman

Assistant Secretary for Energy Efficiency and Renewable Energy

U.S. Department of Energy 1000 Independence Ave, SW., Washington, DC 20585–0121.

Re: Petition for Waiver of Test Procedure

Dear Assistant Secretary Garman: Daikin U.S. Corporation (DUS) respectfully submits this document as our Petition for Waiver of Test Procedure applicable to residential and commercial package air conditioners and heat pumps to the Department of Energy (DOE) for review and approval. This petition is submitted pursuant to the provisions of 10 CFR 431.29 *on the grounds that the basic models addressed herein contain design characteristics which prevent testing according to prescribed procedures.* This petition is being requested for Daikin's VRV and VRV–S multi-split heat pump and heat recovery systems incorporating variable speed compressor technology.

There are two primary factors that prevent the testing of multi-split variable speed product regardless of manufacturer which are:

- Testing laboratories cannot test products with so many indoor units.
- There are too many possible combinations of indoor and outdoor units to test.

Existing test standards that most closely relate to such product are ARI 210/240 (2003) and ARI 340/360 (2004).

Background

Daikin Industries Limited is a leading manufacturer of variable speed and Variable Refrigerant Volume (VRV) zoning systems which are offered for sale by DUS in the North American market. These products combine advanced technologies such as high efficiency variable speed compressors and fan motors along with electronic expansion valves and other devices to insure peak operating performance of the overall system. The systems are applied in both commercial and residential applications whereas zoning is applied in both commercial and residential applications whereas zoning is applied to provide users with peak utility of the system and energy savings. The capacity of this DUS product offerings range from 36,000 BTU/Hr to 96,000 BTU/Hr.

Our product offering shares many of the same design and characteristic features as that of the City Multi product manufactured and distributed by Mitsubishi Electric and Electronics USA, Inc. (MEUS), of which DOE has granted a waiver as described in the **Federal Register**/Vol. 69 No. 166/Friday, August 27, 2004/Notices, page 52,660. DOE granted MEUS' petition for waiver on the basis that 1) testing laboratories cannot test products with so many indoor units, and 2) there are too many possible combinations of indoor and outdoor units to test, therefore

preventing testing of the basic models according to prescribed test procedures.

An additional problem that prevents testing is the wide variety of indoor unit static pressure ratings available with these and other multi-split products. Testing facilities cannot effectively control multiple indoor static pressures that would be required with many of the indoor unit combinations available. To accomplish such testing a large number of test rooms would need to be utilized simultaneously, networked with data recording instrumentation and extensive piping configurations would need to be routed throughout the various test rooms. Obviously this process would be cost and time prohibitive.

Daikin's VRV and VRV–S product offering consists of multiple indoor units being connected to an outdoor unit. Indoor units for these products are available in Ducted (with many different indoor static pressure ratings as standard), 4-Way Cassette, Wall Mounted, Ceiling Suspended, Floor Standing and other models being readied for market introduction. There are over one million combinations possible with the current product offering and additional models continue to be manufactured for use with the VRV and VRV–S product line.

Characteristics of the VRV and VRV–S Products

Daikin's VRV and VRV–S systems have the following characteristics and application:

- Multi-split, multi-zone units utilizing an outdoor unit that serves up to as many as twenty indoor units.
- Variable speed technology that matches system capacity to the current load thereby utilizing only as much energy as required.
- Multi-zone applications, each indoor unit can be independently controlled with a local controller allowing the occupant to alter their environmental condition to meet their needs including set temperature, fan speed and mode of operation. This is a key feature of the system's utility to an end user.
- Ability to efficiently operate the compressor at loads as small as 10% of the rated capacity and variable up to the rated capacity of the system.
- Some products offer a ''heat recovery'' mode of operation which allows heat that is absorbed from one indoor zone (operating in the cooling mode) to be discharged into another calling for heat. This function reduces the load on the outdoor unit and improves overall system performance and utility.
- Variable speed indoor and outdoor high efficiency fan motors to precisely control operating pressures and airflow rates.
- Electronically controlled expansion valves to precisely control refrigerant flow, superheat, sub-cooling, pump down functions and even oil flow throughout the system.
- Indoor units comprising a wide variety of static pressure ratings.

Basic Models for Which a Waiver From Test Procedure Is Requested

Daikin requests a waiver from test procedures for the following basic model groups:

- VRV Series Outdoor Units:
  - RXYQ Series, Heat Pumps with nominally rated capacities of 72,000 and 96,000 BTU/Hr.
  - REYQ Series, Heat Recovery units with nominally rated capacities of 72,000 and 96,000 BTU/Hr.
- VRV–S Series Outdoor Units:
  - RXYMQ Series, Heat Pumps with nominal capacities of 36,000, 48,000 and 60,000 BTU/Hr.
- Compatible Indoor Units for Above Listed Outdoor Units:
  - FXAQ Series all mounted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000 and 24,000 BTU/Hr.
  - FXLQ Series floor mounted indoor units with nominally rated capacities of 12,000, 18,000 and 24,000 BTU/Hr.
  - FXNQ Series concealed floor mounted indoor units with nominally rated capacities of 12,000, 18,000 and 24,000 BTU/Hr.
  - FXDQ Series low static ducted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000 and 24,000 BTU/Hr.
  - FXSQ Series medium static ducted indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000, 24,000, 30,000, 36,000 and 48,000 BTU/Hr.
  - FXMQ Series high static ducted indoor units with nominally rated capacities of 30,000, 36,000 and 48,000 BTU/Hr.
  - FXZQ Series recessed cassette indoor units with nominally rated capacities of 7,000, 9,000, 12,000, 18,000 and 24,000 BTU/Hr.
  - FXFQ Series recessed cassette indoor units with nominally rated capacities of 12,000, 18,000, 24,000, 30,000 and 36,000 BTU/Hr.
  - FXHQ Series ceiling suspended indoor units with nominally rated capacities of 12,000, 24,000 and 36,000 BTU/Hr.

Test Procedures Applicable to Requested Waiver

DUS seeks a waiver to the test procedures as identified in ARI 210/240 (2003); Unitary Air Conditioning and Air Source Heat Pump Equipment and to ARI 340/360 (2004); Performance Rating of Commercial and Industrial Unitary Air Conditioning and Heat Pump Equipment. Although the capacity of Daikin's VRV and VRV–S product offering fit within the scope of these standards, the basic design of the product is not commensurate with the intent of the standards. The testing procedures outlined in these standards do not make provisions for:

- Testing products with a large quantity of indoor units operating simultaneously.
- Testing of multi-split products whereas all connected indoor units physically cannot be located in a single room.
- Having indoor units operating at several different static pressure ratings during a single test.
- The precise number of part load tests required (ARI 340/360) for fully or infinitely variable speed products are not identified.
- ARI 210/240 and ARI 340/360 provide no direction about how to test systems that have millions of combinations of indoor units configurable to a single outdoor unit.
- ARI 210/240 and ARI 340/360 do not provide a test method to measure part load performance of a system operating in simultaneous operation (performing both heating and cooling functions at the same time).

Alternative Test Procedures

There are no alternative test procedures available within the United States to provide a means to test and to rate the performance of such variable speed, multi-split, multi-zone product types. A draft ISO standard (ISO CD 15042 Multi-Split Systems) is nearing completion and will soon be distributed as a Draft Internal Ballot for comments. The actual final completion date of this ISO standard is unknown. The Engineering Committee of ARI's Ductless Section is also evaluating possible methods to provide testing and rating of such systems but no conclusion has been achieved as of this date.

Manufacturers of Similar Models Incorporating the Same Design Characteristics

Manufacturers of similar product within the United States market are:

- Samsung Electronics Co., Ltd.
- Sanyo Fisher (USA) Corp.
- Mitsubishi Electric & Electronics USA, Inc.
- Fujitsu General America
- Environmaster International
- LG Electronics USA, Inc.

Summary

As ruled in the **Federal Register** (page 52,660, Vol. 69, no. 166/Friday, August 27, 2004/Notices) DOE has previously concluded that the testing of product with the same design characteristic of Daikin's VRV and VRV–S product is not feasible under currently established test methods as a result of:

- ''Test laboratories cannot test products with so many indoor units''
- ''And there are too many possible combinations of indoor and outdoor units to test.''

Daikin U.S. Corporation respectfully asks that DOE grant the same waiver of test procedure for the VRV and VRV–S product design until a suitable test method is determined. Failure to receive such waiver or exemption from test standards would prevent Daikin U.S. from marketing our product even though DOE has previously granted waiver for other products currently in the market with similar design characteristics.

It is the goal of Daikin U.S. to work closely with DOE, ARI and other agencies in an effort to define an acceptable testing procedure as soon as possible. This type of product provides superior comfort to the end user, allows for independent zoning of facilities from a single outdoor unit, and incorporates state of the art technology such as variable speed compressors utilizing neodymium magnets to increase efficiency and electronic control of compressor speed, fan speed and even metering device opening positions. This type of product introduces technologies that will not only increase system efficiency and reduce National Energy Consumption but it also brings about a new level of comfort and control of end users.

We would be pleased to respond to any questions you may have regarding this

Petition for Waiver of Test Procedure. Please direct such comments and questions to Gary Nettinger, Director of Product Support at 404–395–8333, by e-mail at *gary.nettinger@daikin-ny.com,* or by mail at 65 Millennial Ct., Lawrenceville, GA 30045.

Sincerely,

Yoshinobu Inoue,
President; Daikin U.S. Corporation,
375 Park Avenue, Suite 3308, New York, NY 10152

[FR Doc. E7–12733 Filed 6–29–07; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2004–0122; FRL–8136–4]

Pollution Prevention through Nanotechnology Conference; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is convening a conference to better understand the benefits that nanotechnology can offer by preventing pollution, and to encourage development of nanotechnology that offers such benefits. A multi-stakeholder Steering Committee has helped develop a scope and agenda for the conference. Through a series of presentations and case studies, this conference will help inform subsequent research and commercialization of nanotechnology and nanomaterials that promote pollution prevention in an environmentally responsible manner.

DATES: The conference will be held on September 25 and 26, 2007 .

You may register for the conference on or before September 14, 2007. See also Unit IV. for additional registration information.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the conference, to give EPA as much time as possible to process your request.

Poster applications are due July 31, 2007.

ADDRESSES: The conference will be held at the Holiday Inn Rosslyn at Key Bridge, 1900 Fort Myer Dr., Arlington, VA 22209.

See Unit III. for poster application submissions.

See Unit IV. for registration submissions.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–1404; e-mail: *TSCA-Hotline@epa.gov*.

For technical information contact: Clive Davies, Design for the Environment Branch, Economics, Exposure, and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001; telephone number: (202) 564–3821; email: *davies.clive@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to those persons who manufacture, import, process, or use nanoscale materials, especially to prevent pollution. Representatives from industry; non-governmental organizations concerned with the environment and human health; academia; and government may all be interested in attending.

Since many entities may be interested, the Agency has not attempted to fully describe all of the entities that may have an interest in this matter. If you have questions regarding the applicability of this action to a particular entity, consult the technical 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 ID number EPA–HQ–OPPT–2004–0122. All documents in the docket are listed in the docket's index available at *http://www.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, 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 OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure. 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*. All documents relating to this conference are available at http://www.epa.gov/oppt/nano.

II. Background

A. Pollution Prevention

Pollution prevention is reducing or eliminating waste at the source by modifying production processes, promoting the use of non-toxic or less-toxic substances, implementing conservation techniques, and re-using materials rather than putting them into the waste stream.

B. Beneficial Characteristics

The unique and potentially useful properties of nanomaterials include dramatically increased surface areas and reactivities, improved strength-weight ratios, increased electrical conductivity, and changes in color and opacity. Materials designed to take advantage of these properties are finding application in a variety of areas, such as electronics, medicine, and environmental protection.

This conference is focused on three major areas of pollution prevention:

• *Products.* Products that are less toxic, less polluting, and wear-resistant.

• *Processes.* Processes that are more efficient and waste-reducing.

• *Energy and resource efficiency.* Processes and products that use less energy and fewer raw materials because of greater efficiency.

To emphasize the importance of the responsible development [1] of

[1] A Matter of Size: Triennial Review of the National Nanotechnology Initiative, 2006, The National Academies Press, ''Responsible Development'', page 73, ''...responsible development of nanotechnology can be characterized as the balancing of efforts to maximize the technology's positive contributions and minimize its negative consequences. Thus, responsible development involves an examination both of applications and of potential implications.

Continued

nanotechnology, conference speakers and attendees are encouraged to apply ''life-cycle thinking'' as they make presentations or attend conference sessions. Life-cycle thinking involves consideration of environmental and human health endpoints such as toxicity and exposure that occur over the material's life cycle. Design, production, use, and disposal are all relevant to life-cycle thinking.

The questions below are intended to focus presentations and discussions at the conference. Answers to these questions could help guide subsequent work in P2 through nanotechnology.

1. Which nanotechnologies show the greatest promise for preventing pollution?

Considerations:

• This question should be viewed through the lens of life-cycle thinking to minimize the possibility of unintended consequences.

• Which pollution prevention applications are the most likely to find real-world applications?

• What barriers exist to the adoption of nanotechnology-enabled pollution prevention applications?

2. What are the most promising areas of research on pollution prevention applications of nanotechnologies?

Considerations:

• Which research areas could improve our understanding of the full life-cycle of nanomaterials?

• How can the beneficial properties of engineered products of nanotechnology such as increased surface activity, greater conductivity, improved strength-weight ratio, altered optical properties (changes in color or opacity), and flame retardancy be used to improve materials and products and reduce the production of pollutants at their source?

3. What recommendations do conference participants have for promoting and encouraging pollution prevention in the development and application of nanotechnology?

Considerations:

• What actions could be taken, and by whom?

• What mechanisms, programs, or associations could promote the research, development, and adoption of such applications?

• What role can EPA programs play?

III. Call for Posters

Posters are an excellent forum for authors to present informally, yet in a highly visible fashion, their most recent work regarding pollution prevention through nanotechnology. A poster session provides an opportunity for authors to directly communicate with participants of the conference and engage in detailed one-on-one discussions. Successful posters should reflect the goals of the Pollution Prevention through Nanotechnology Conference. We encourage you to submit an entry for the poster session in the area of nanotechnology products, nanotechnology processes, or nanotechnology energy/resource efficiency. Posters with a focus on safer chemistries through use of nanotechnology are especially encouraged. Because of space constraints, a limited number of posters will be accepted in each area. To submit an entry for the poster session, please send a short description (less than one-page) of the poster you would like to display. The description should identify which category your poster fits within (products, processes, or efficient use of resources), how it responds to the concepts raised in the three questions listed above and how it addresses responsible development, and whether environmental benefits can be quantified, such as reduction of use of hazardous chemicals or energy or resource savings. Poster applications are due July 31, 2007. Please submit poster applications to the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

IV. How Can I Request to Attend this Conference?

You may register for the conference electronically through EPA's website, at *http://www.epa.gov/oppt/nano* by September 14, 2007. Advance requests will assist in planning adequate seating; however, members of the public may attend without prior registration. You may also submit a request to attend this conference to the technical person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI. Requests to attend the conference, identified by docket ID number EPA–HQ–OPPT–2004–0122, must be received on or before September 14, 2007.

List of Subjects Environmental protection, Chemicals, Pollution prevention, Nanotechnology, Nanoscale materials.

Dated: June 25, 2007.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. E7–12764 Filed 6–29–07; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From June 28, 2007, Open Meeting in Portland, Maine

June 28, 2007.

The following item has been deleted from the Agenda scheduled for consideration at the June 28, 2007, Open Meeting in Portland, Maine and previously listed in the Commission's Notice of June 21, 2007.

Item no.	Bureau	Subject
1	Media	*Title:* Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; and Compatibility Between Cable Systems and Consumer Electronics Equipment. (CS Docket No. 97–80, PP Docket No. 00–67). *Summary:* The Commission will consider a Third Further Notice of Proposed Rulemaking concerning proposed standards to ensure bidirectional compatibility of multichannel video programming distribution systems and consumer electronics equipment.

It implies a commitment to develop and use technology to help meet the most pressing human and societal needs, while making every reasonable effort to anticipate and mitigate adverse implications or unintended consequences.''

Federal Communications Commission

Marlene H. Dortch,

Secretary.

[FR Doc. 07–3234 Filed 6–28–07; 2:56 pm]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Privacy Act of 1974; New System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Disease Control and Prevention (CDC).

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Centers for Disease Control and Prevention (CDC) is proposing to establish a new system of records (SOR), 09–20–0170, ''National Select Agent Registry (NSAR)/Select Agent Transfer and Entity Registration Information System (SATERIS), HHS/CDC/COTPER.'' The purpose of the system is to limit access to those biological agents and toxins listed in 42 CFR Part 73, 9 CFR Part 121, and 7 CFR Part 331, to those individuals who have a legitimate need to handle or use such agents or toxins, and who are not identified as restricted persons by the U.S. Attorney General. NSAR is a single web-based information management system shared by CDC and the U.S. Department of Agriculture (USDA)/Animal and Plant Health Inspection Service (APHIS) that tracks the possession, use and transfer of select agents and toxins that could pose a severe threat to public health and safety, to the health and safety of animals, and to the safety of plants or animal and plant products. We have provided background information about the new system in the **SUPPLEMENTARY INFORMATION** section below.

DATES: *Effective Date:* CDC filed a new SOR report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on June 25, 2007. CDC invites interested parties to submit comments on the proposed routine uses. To ensure that all parties have adequate time in which to comment, the new system will be effective 30 days from the publication of this notice, or 40 days from the date it was submitted to OMB and the Congress, whichever is later, unless CDC receives comments that persuade us to defer implementation.

ADDRESSES: Comments should be addressed to the CDC Privacy Act Officer at the address listed below. Comments received will be available for review at this location by appointment during regular business hours from 8 a.m. to 4:30 p.m., Monday through Friday in the CDC Roybal Facility, Building 21, Room 8125, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Betsey S. Dunaway, Privacy Act Officer, Office of the Chief Science Officer, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Building 21, Room 8125, Mailstop D–74, Atlanta, Georgia 30333, (404) 639–4642.

SUPPLEMENTARY INFORMATION: CDC proposes to establish a new system of records within its Coordinating Office for Terrorism Preparedness and Emergency Response (COTPER): 09–20–0170, ''National Select Agent Registry (NSAR)/ Select Agent Transfer and Entity Registration Information System (SATERIS), HHS/CDC/COTPER.'' An important component of the nation's overall terrorism deterrence policy, the Division of Select Agents and Toxins (DSAT) in the Coordinating Office for Terrorism Preparedness and Emergency Response (COTPER) within the CDC regulates the possession, use, and transfer of biological agents and toxins (select agents) that could pose a severe threat to public health and safety. A select agent is defined as a virus, bacteria, fungus or toxin that could pose a severe threat to public health and safety, to animal or plant health; or animal or plant products.

I. Description of the Proposed System of Records

A. Statutory and Regulatory Basis for SOR. The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 requires entities to register with the U.S. Department of Health and Human Services (HHS) if they possess, use, or transfer select agents that could pose a severe threat to public health and safety. The Agricultural Bioterrorism Protection Act of 2002 requires that facilities handling select agents that could pose a severe threat to animal or plant health; or animal or plant products register with the USDA. Within HHS, the DSAT is responsible for registering entities and personnel who either possess or are applying for approval to possess, use or transfer select agents that could pose a severe threat to public health and safety. Within the USDA, APHIS has a similar responsibility for registering entities and personnel handling agents that pose a severe threat to animal or plant health; or animal or plant products.

The Acts require safeguards and security measures that will adequately protect these agents. This includes controlling access and screening of entities and personnel through security risk assessments conducted by the U.S. Attorney General. The Acts also require the establishment of a national database of registered entities. While some entities register for select agents regulated only by HHS, others for select agents regulated only by USDA, there are a number of entities registering for select agents that can pose a severe threat to public health and safety, to animal health, or to animal products (''overlap'' select agents). Since DSAT and APHIS coordinate regulatory activities for those overlap select agents that would be regulated by both agencies, the Acts require that a single national database be established. This new Privacy Act system of records notice (SORN) describes the records and processes that enable DSAT to fulfill HHS' requirements; APHIS will be publishing a similar SORN to address how USDA will fulfill theirs.

B. Collection and Maintenance of Data in the System

CDC will only collect the minimum amount of personal data necessary to achieve the purpose of this system, which is to limit access to the select agents listed in 42 CFR Part 73, 9 CFR Part 121, and 7 CFR Part 331, to those individuals who have a legitimate need to handle or use such agents, and who are not identified as a restricted person by the U.S. Attorney General. The data elements required are: name, address, date of birth, job title, and the name of the institution that would be housing the select agent(s).

Entities handling select agents must appoint a Responsible Official within their organization who certifies that the entity meets federal requirements for handling select agents such as having security measures in place to protect the select agents they possess from theft, loss and unauthorized access, and safety measures to prevent the release of agents. DSAT's SOR includes personal information on those individuals who have access or who have applied to have access to select agents, and the list of select agents to which they have access or would have access.

II. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible disclosure of data is known as a ''routine use.'' The government will only release select agent information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' We will only collect the minimum personal data necessary to achieve the purpose of this system.

CDC has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the SOR will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CDC:

A. Determines that the use or disclosure is consistent with the reason that the data are being collected, e.g., to limit access to select agents to those individuals who have a legitimate need to handle or use select agents and who are not identified as a restricted person by the U.S. Attorney General.

B. DETERMINES THAT:

1. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

2. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

3. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

C. Requires the information recipient to:

1. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

2. Remove or destroy at the earliest time all identifiable information; and

3. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

D. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible disclosure of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

A. Records may be disclosed to contractors to handle program work overflow duties, performing many of the same functions as DSAT employees. Contractors are required to maintain Privacy Act safeguards with respect to such records. These functions include conducting regulatory oversight of individuals and entities that possess, use, or transfer select agents, including the review of registration applications, conducting inspections of registered facilities or facilities requesting registration, and maintaining this information pertaining to individuals and entities that possess, use, and/or transfer select agents. DSAT contracts out certain functions when doing so would contribute to efficient and effective operations of the agency. DSAT must be able to give a contractor the information necessary for the contractor to fulfill its duties. Safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the Statement of Work and requires the contractor to return or destroy all information at the contract's completion.

B. Records may be disclosed to health departments and other public health or cooperating medical authorities to deal more effectively with outbreaks and conditions of public health significance. When outbreaks or other conditions of public health significance that might have been caused by exposure to select agents (either accidental or otherwise) occur, CDC's sharing of information on those individuals and organizations registered to possess select agents could prove beneficial to the health department's investigation.

C. Personal information from this system may be disclosed as a routine use to assist the recipient Federal agency in making a determination concerning an individual's trustworthiness to access select agents; to any Federal or State agency where the purpose in making the disclosure is to prevent access to select agents for use in domestic or international terrorism or for any criminal purpose; or to any Federal or State agency to protect the public health and safety with regard to the possession, use, or transfer of select agents.

Based on the provisions of the Acts, the Attorney General has the authority and responsibility to conduct electronic database checks (i.e., the security risk assessments) on the Responsible Official, alternate Responsible Official, owners of non-governmental entities, and individuals requesting access to select agents. The Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), has been delegated authority for conducting these security risk assessments. Therefore, the information must be shared with the CJIS for them to conduct a security risk assessment to ensure that individuals requesting access to select agents are not identified as a restricted person based on criteria established in the U.S.A. Patriot Act. This is compatible with the overall purpose of the system—that only trustworthy individuals are granted access.

Other Federal or State agencies may require the information DSAT possesses on individuals with access to select agents and the institutions at which those agents are housed to aid in their investigations of domestic or international terrorism or for any other criminal purpose. The purpose of the system is to be certain that only individuals who have a legitimate need to handle or use such select agents have access to them; this routine use is compatible in that this disclosure is done to prevent access to select agents for terrorism or other criminal purposes. State emergency planners may need this identifiable information to fulfill their responsibilities.

The overall purpose of this SOR is to protect the public health and safety. Federal and State agency emergency responders may require DSAT's identifiable information if select agents are accidentally released or otherwise used inappropriately with the ultimate goal of protecting the public's health and safety. Records may also be shared with the Department of Transportation to ensure that the transfer of select agents is done safely and in compliance with their regulations—a use in line with CDC's purpose of safely transferring select agents for which it has responsibility.

D. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual. When a constituent requests a congressional office to facilitate obtaining information from this CDC system, it is compatible to provide such information, since this is in line with the overall purpose of the Privacy Act

which is to provide access to the subject individual of the records the government has on him or her.

E. In the event of litigation where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

Whenever CDC is involved in litigation dealing with the DSAT, and CDC policies or operations could be affected by the outcome of the litigation, CDC must be able to disclose identifiable information to the Department of Justice so that an effective defense could be presented.

IV. Safeguards

The CDC/DSAT has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel with access to the system have been trained in Privacy Act and information security requirements. Employees maintaining records are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal and HHS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the E-Government Act of 2002; the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS and CDC policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications and the HHS Information Systems Program Handbook.

V. Effects of the Proposed System of Records on Individual Rights

CDC proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CDC will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of individuals whose data are maintained in the system. CDC will collect only that information necessary to perform the system's purpose. In addition, CDC will make disclosures from the system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CDC, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: June 22, 2007.

James D. Seligman,

Chief Information Officer, Office of the Director, Centers for Disease Control and Prevention.

Privacy Act System

NO. 09–20–0170

SYSTEM NAME:

National Select Agent Registry (NSAR)/Select Agent Transfer and Entity Registration Information System (SATERIS), HHS/CDC/COTPER.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Division of Select Agents and Toxins (DSAT), Coordinating Office for Terrorism Preparedness and Emergency Response (COTPER), Bldg. 20, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Atlanta, GA 30333 and Federal Records Center, 4712 Southpark Blvd., Ellenwood, GA 30294.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The Responsible Official, alternate Responsible Official, owners of non-governmental entities, and individuals requesting access to select agents under the provisions of Part 73, of Title 42 of the Code of Federal Regulations (42 CFR part 73), Part 121 of Title 9 of the Code of Federal Regulations (9 CFR Part 121), and Part 331 of Title 7 of the Code of Federal Regulations (7 CFR part 331).

CATEGORIES OF RECORDS IN THE SYSTEM:

The DSAT maintains records which include the names of the Responsible Official, alternate Responsible Official, owners of non-governmental entities, and individuals who have access, or who have applied to have access to select agents (defined as a virus, bacteria, fungus or toxin that could pose a severe threat to public health and safety, to animal or plant health; or animal or plant products), and the list of select agents to which they have access. The Responsible Official, alternate Responsible Official, owners of non-governmental entities, and individuals requesting access to select agents are required to provide their name, address, date of birth, and job title and the name of the institution that would be housing the select agent(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Security and Bioterrorism Preparedness and Response Act of 2002 and The Agricultural Bioterrorism Protection Act of 2002 (Pub. L. 107–188).

PURPOSE(S):

Records maintained in the National Select Agent Registry (NSAR)—a joint DSAT and U.S. Department of Agriculture/Animal and Plant Health Inspection Service (APHIS) information management system—are accessed by DSAT through the Select Agent Transfer and Entity Registration Information System (SATERIS) which is an user interface for data entry, data query, and routine reporting activities. The purpose of this system of records is to limit access to those select agents listed in 42 CFR Part 73, 9 CFR Part 121, and 7 CFR Part 331 to those individuals who have a legitimate need to handle or use such select agents, and who are not identified as a restricted person by the U.S. Attorney General. The NSAR is also used to track the possession, use, and transfer of select agents and is a single Web-based system shared by DSAT and APHIS.

DSAT conducts regulatory oversight of individuals and entities that possess, use, or transfer select agents. This includes the review of registration applications, conducting inspections of registered facilities or facilities requesting registration, processing requests to import select agents, processing all reports and requests received from individuals or entities regarding a select agent, and

maintaining this information pertaining to individuals and entities that possess, use, and/or transfer select agents.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

1. Records may be disclosed to contractors to handle program work overflow duties, performing many of the same functions (listed in the Purpose section above) as DSAT employees. Contractors are required to maintain Privacy Act safeguards with respect to such records.

2. Records may be disclosed to health departments and other public health or cooperating medical authorities to deal more effectively with outbreaks and conditions of public health significance.

3. Personal information from this system may be disclosed as a routine use to assist the recipient Federal agency in making a determination concerning an individual's trustworthiness to access select agents; to any Federal or State agency where the purpose in making the disclosure is to prevent access to select agents for use in domestic or international terrorism or for any criminal purpose; or to any Federal or State agency to protect the public health and safety with regard to the possession, use, or transfer of select agents.

4. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

5. In the event of litigation where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

File folders, computer tapes and disks, CD–ROMs.

RETRIEVABILITY:

By name or DOJ identifier number.

SAFEGUARDS:

The following special safeguards are provided to protect the records from inadvertent disclosure:

1. Authorized Users: A database security package is implemented on CDC computers to control unauthorized access to the system. Attempts to gain access by unauthorized individuals are automatically recorded and reviewed on a regular basis. Individuals who have routine access to these records are limited to Select Agent Program staff (DSAT FTEs and contractors) who have responsibility for conducting regulatory oversight of individuals and entities that possess, use, or transfer select agents.

2. Physical Safeguards: Paper records are maintained in locked cabinets in locked rooms in a restricted access location that is controlled by a cardkey system, and security guard service provides personnel screening of visitors. Electronic data files are password protected and stored in a restricted access location. The computer room is protected by an automatic sprinkler system, numerous automatic sensors (e.g., water, heat, smoke, etc.) are installed, and a proper mix of portable fire extinguishers is located throughout the computer room. The system is backed up on a nightly basis with copies of the files stored off site in a secure location. Computer workstations, lockable personal computers, and automated records are located in secured areas.

3. Procedural Safeguards: Protection for computerized records includes programmed verification of valid user identification code and password prior to logging on to the system; mandatory password changes, limited log-ins, virus protection, and user rights/file attribute restrictions. Password protection imposes user name and password log-in requirements to prevent unauthorized access. Each user name is assigned limited access rights to files and directories at varying levels to control file sharing. There are routine daily backup procedures and secure off-site storage is available for backup files.

Knowledge of individual tape passwords is required to access tapes, and access to the system is limited to users obtaining prior supervisory approval. To avoid inadvertent data disclosure, a special additional procedure is performed to ensure that all Privacy Act data are removed from computer tapes and/or other magnetic media. When possible, a backup copy of data is stored at an offsite location and a log kept of all changes to each file and all persons reviewing the file. Additional safeguards may also be built into the program by the system analyst as warranted by the sensitivity of the data set.

The DSAT and contractor employees who maintain records are instructed in specific procedures to protect the security of records, and are to check with the system manager prior to making disclosure of data. When individually identified data are being used in a room, admittance at either CDC or contractor sites is restricted to specifically authorized personnel.

Appropriate Privacy Act provisions are included in contracts and the CDC Project Director, contract officers, and project officers oversee compliance with these requirements. Upon completion of the contract, all data will be either returned to CDC or destroyed, as specified by the contract.

The USDA/APHIS maintains similarly stringent safeguards that are discussed within that agency's Select Agent system of records notice.

4. Implementation Guidelines: The safeguards outlined above are in accordance with the HHS Information Security Program Policy and FIPS Pub 200, ''Minimum Security Requirements for Federal Information and Information Systems.'' Data maintained on CDC's Mainframe and the COTPER LAN are in compliance with OMB Circular A–130, Appendix III. Security is provided for information collection, processing, transmission, storage, and dissemination in general support systems and major applications.

RETENTION AND DISPOSAL:

The DSAT records and associated information are retained and dispositioned in accordance with DSAT records retention schedule, N1–442–06–1, pending approval by the National Archives and Records Administration. The DSAT records will be retained for 10 years in compliance with the records retention schedule requirements or until such time as no longer needed for litigation or other records purposes. Records will be transferred to a Federal Records Center for storage when no longer in active use. Final disposition of records stored offsite at the Federal Records Center will be accomplished by a controlled process requesting final disposition approval from the record owner prior to any destruction to ensure records are not needed for litigation or other records purposes. Hard copy records and Sensitive But Unclassified (SBU) information designated for local disposition will be placed in a locked container or designated secure storage area while awaiting destruction. All SBU data will be destroyed in a manner that precludes its reconstruction, such as shredding. Electronic information

will be deleted or overwritten using overwriting software that wipes the entire physical disk and not just the virtual disk. Overwriting is required for the destruction of all electronic SBU information.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Select Agents and Toxins, Coordinating Office for Terrorism Preparedness and Emergency Response, Bldg. 20, Rm. 4100, MS A46, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Atlanta, GA 30333.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about himself or herself by contacting the system manager at the above address. Requesters in person must provide driver's license or other positive identification. Individuals who do not appear in person must submit a notarized request on institutional letterhead to verify their identity. The knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Privacy Act subject to a $5,000 fine and/or imprisonment.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. An accounting of disclosures that have been made of the record, if any, may also be requested.

CONTESTING RECORD PROCEDURES:

Contact the system manager at the address specified above, reasonably identify the record and specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Applicants registering for possession, use, and transfer of select agents and the U.S. Attorney General.

[FR Doc. E7–12682 Filed 6–29–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a New System of Records

AGENCY: Department of Health and Human Services (HHS), Center for Medicare & Medicaid Services (CMS).

ACTION: Notice of a New System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system titled, ''Medicare Master Death Records File (MMDRF), System No. 09–70–0597.'' Under the provisions of Sections 1106 (42 U.S.C. 1306 and 205(r) (42 U.S.C. 405(r) of the Social Security Act (the Act), the Social Security Administration (SSA) will provide to CMS the SSA Death Master File including unrestricted State death data. CMS will use this death data to: (1) Ensure that no future payments are made to any physician or individually enrolled practitioner and other individuals for whom CMS has a record of death, and (2) investigate and initiate an appropriate response where a deceased physician's billing number has been found to have been used as the basis for a request for payment for services allegedly rendered after the physician's date of death. Upon independent verification of the facts with respect to specific individuals, the results will be used to update CMS databases and may also be used to support payment recovery operations and or the work of law enforcement. We have provided additional background information about the new system in the ''Supplementary Information'' section below.

The primary purpose of this system is to collect and maintain Social Security Administration death records for physicians, non-physician practitioners and individuals associated with organizational providers and suppliers to ensure payments are not made for services rendered after confirmed date of death and to prevent and/or detect any fraud, waste and abuse. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant, CMS grantee; (2) assist another Federal or State agency with information to contribute to the accuracy of CMS's proper payment of Medicare benefits, enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; (3) support litigation involving the agency; and (4) combat fraud, waste, and abuse in certain Federally-funded health benefits programs.

EFFECTIVE DATES: CMS filed a new system report with the Chair of the House Committee on Oversight and Government Reform, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on *June 25, 2007.* To ensure that all parties have adequate time in which to comment, the new SOR, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless CMS receives comments that require alterations to this notice. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.—3 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Allen Gillespie, Technical Advisor, Division of Provider/Supplier Enrollment, Program Integrity Group, Office of Financial Management, Mail Stop C3–24–01, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244–1849. He can be reached by telephone at 410–786–5996, or via e-mail at *allen.gillespie@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: CMS staff will develop a program to compare data on the monthly MMDRF with individuals in the Provider Enrollment Chain Ownership System (PECOS). A report of potential matches from the MMDRF and PECOS will be distributed monthly to the Parts A and B MACs and affiliated contractors. CMS will issue manual instructions with procedures contractors should follow to determine if the individual name on the monthly report is a match to the individual in the

PECOS database. When contractors verify there is a match there will be additional procedures for updating PECOS and, in turn, the corresponding claims systems.

I. Description of the Proposed System of Records

A. Statutory and Regulatory Basis for SOR

The statutory authority for maintenance of this system is given under the provisions of Sections 1106 (42 U.S.C. 1306) and 205(r) (42 U.S.C. 405(r)) of the Social Security Act (the Act).

B. Collection and Maintenance of Data in the System Information is collected on all providers with a Social Security number (SSN) whose death has been reported to the Social Security Administration or to CMS, and the death has not been verified. The system will comprise death records about providers who participate in the Medicare program. Examples include, but are not limited to: name, SSN, demographic information, unique provider identification number, National Provider Identifier (NPI), etc.

II. Agency Policies, Procedures, and Restrictions on Routine Uses

A. The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The Government will only release MMDRF information that can be associated with an individual as prt will only release MMDRF information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use. We will only collect the minimum personal data necessary to achieve the purpose of MMDRF.

CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected; *e.g.*, to collect and maintain Social Security Administration death records for physicians, non-physician practitioners and individuals associated with organizational providers and suppliers to ensure payments are not made for services rendered after confirmed date of death and to prevent and/or detect any fraud, waste and abuse.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy, at the earliest time, all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Routine Uses of Data

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, consultants or grantees, who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant or grantee whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant or grantee from using or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant or grantee to return or destroy all information at the completion of the contract.

2. To another Federal or State agency to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits;

b. Enable such agency to administer a Federal health benefits program, or, as necessary, to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

c. Assist Federal/state Medicaid programs within the State.

Other Federal or State agencies, in their administration of a Federal health program, may require MMDRF information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and, by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, and occasionally when another party is involved in litigation and CMS policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

4. To a CMS contractor that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct,

remedy, or otherwise combat fraud, waste, or abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual, grantee, cooperative agreement or consultant relationship with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse. CMS occasionally contracts out certain of its functions or makes grants or cooperative agreements when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, grantee, consultant or other legal agent whatever information is necessary for the agent to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the agent from using or disclosing the information for any purpose other than that described in the contract and requiring the agent to return or destroy all information.

5. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste, or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

Other agencies may require MMDRF information for the purpose of combating fraud, waste, and abuse in such Federally-funded programs.

IV. Protections

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002; the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in this system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: June 20, 2007.

Charlene Frizzera,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NO. 09–70–0597

SYSTEM NAME:

''Medicare Master Death Records File (MMDRF),'' HHS/CMS/OFM.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and at various co-locations of CMS agents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Information is collected on all providers with a Social Security number (SSN) whose death has been reported to the Social Security Administration or to CMS, and the death has not been verified. The system will comprise death records about providers who participate in the Medicare program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The collected information will include, but is not limited to: name, SSN, demographic information, unique provider identification number, National Provider Identifier (NPI), etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The statutory authority for maintenance of this system is given under the provisions of Sections 1106 (42 U.S.C. 1306) and 205(r) (42 U.S.C. 405(r)) of the Social Security Act (the Act).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this system is to collect and maintain Social Security Administration death records for physicians, non-physician practitioners and individuals associated with organizational providers and suppliers to ensure payments are not made for services rendered after confirmed date of death and to prevent and/or detect any fraud, waste and abuse. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant, CMS grantee; (2) assist another Federal or State agency with information to contribute to the accuracy of CMS's proper payment of Medicare benefits, enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; (3) support litigation involving the agency; and (4) combat fraud, waste, and abuse in certain Federally-funded health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected.

Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, consultants or grantees, who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

2. To another Federal or State agency to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits;

b. Enable such agency to administer a Federal health benefits program, or, as necessary, to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

c. Assist Federal/state Medicaid programs within the state.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and, by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

4. To a CMS contractor that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such program.

5. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on electronic media.

RETRIEVABILITY:

The collected data are retrieved by the name or other identifying information of the physician/practitioner, health care provider.

PROTECTIONS:

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

CMS will retain identifiable information maintained in the MMDRF system of records for a period of 6 years 3 months. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from DOJ.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Provider/Supplier Enrollment, Program Integrity Group, Office of Financial Management, Mail Stop C3–24–01, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244–1849.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, employee identification number, tax identification number, national provider number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), NPI, and/or SSN (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay).

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORDS SOURCE CATEGORIES

Data will be collected from beneficiary enrollment records, provider enrollment records, and the Death Master File including unrestricted State death data provided by the Social Security Administration.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

None.

[FR Doc. E7–12677 Filed 6–29–07; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System of Records

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of a Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the Privacy Act of 1974, we are proposing to modify or alter an existing SOR, ''Supplemental Medical Insurance (SMI) and Hospital Insurance (HI) Premium Accounting Collection and Enrollment (SPACE) System,'' System No. 09–70–0505, last published at 67 **Federal Register** 40933 (June 14, 2002). The third party premium collection system bills and collects Part A and/or Part B Medicare premiums paid by third party payers on behalf of beneficiaries represented by that entity. In September, 2003, the third party premium collection system known as ''SPACE'' was replaced by a redesigned system referred to as the ''Third Party System (TPS).'' The new system was designed to: (1) Integrate beneficiary third party data onto the EDB with Direct Billing and Enrollment/Entitlement data; (2) eliminate redundant and discrepant data; (3) reduce the number of exception cases requiring processing; (4) provide daily update of third party data at CMS and Social Security Administration; (5) implement several legislative provisions affecting premium collection; and (6) provide integrated online access to Medicare enrollment data. To more accurately reflect the changes proposed for this system, we will modify the name of this system to read: ''Third Party System (TPS).'' TPS will retain its current system identification number: CMS No. 09–70–0505.

We propose to modify existing routine use number 3 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charged with completing projects or activities that require CMS data to carry out that activity, are classified separate from CMS contractors and/or consultants. The modified routine use will be renumbered as routine use number 1. We will delete routine use number 5 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed. The Privacy Act allows for disclosures with the ''prior written consent'' of the data subject. We will broaden the scope of published routine uses number 7 and 8, authorizing disclosures to combat fraud and abuse in the Medicare and Medicaid programs to include combating ''waste'' which refers to specific beneficiary/recipient practices that result in unnecessary cost to all federally-funded health benefit programs.

We are modifying the language in the remaining routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization or because of the impact of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Public Law 108–173) provisions and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of this modified system is to process beneficiary premium billing accretions and deletions to third party premium payer accounts (state Medicaid agencies, Office of Personnel Management (OPM), and formal third party groups and surcharge only group payers (latter as defined in 42 Code of Federal Regulations (CFR) 408.80 through 408.92 and 408.200 through 408.210)) for the payment of Part B (SMI) and/or Part A (HI) premiums on behalf of Medicare beneficiaries, the payment of the surcharge portion of the Part B premium on behalf of Medicare beneficiaries by a State or local government entity, and for enrolling individuals for Part A or Part B coverage under state buy-in agreements. The information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant, or a CMS grantee; (2) assist another Federal or State agency, agency of a State government, an agency established by State law, or its fiscal agent; (3) support formal third party groups and surcharge only group payers pursuant to an agreement with CMS; (4) assist an individual or research organization to support research evaluation of epidemiological projects; (5) support litigation involving the agency; and (6) combat fraud, waste, and abuse in certain Federally-funded health care programs. We have provided background information about the modified system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the modified or altered routine uses, CMS invites comments on all portions of this notice. See ''Effective Dates'' section for comment period.

DATES: *Effective Dates:* CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on *June 25, 2007.* To ensure that all parties have adequate time in which to comment, the modified system, including routine uses, will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern time.

FOR FURTHER INFORMATION CONTACT: Frances Ferrante, Division of Premium Billing and Collections, Accounting Management Group, Office of Financial Management, CMS, Mail Stop N3–21–06, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. She can also be reached by telephone at 410–786–6193, or via e-mail at *Frances.Ferrante@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the Modified or Altered System of Records

A. Statutory and Regulatory Basis for SOR

Authority for maintenance of the system is given under §§ 1818, 1818A, (42 United States Code (U.S.C.) 1395i–2 and 2a), §§ 1818(e) and (g) (42 U.S.C. 1395i–2(e) and (g)), 1839(e) (42 U.S.C. 1395r), 1840(d) and (e) (42 U.S.C. 1395s(d) and (e)), and 1843 (42 U.S.C. 1395v) of Title XVIII of the Social Security Act (the Act).

B. Collection and Maintenance of Data in the System

The system contains information on Medicare beneficiaries whose Part A benefit and/or Part B Medicare premiums are paid by a state Medicaid agency, OPM, a formal third party group, or a surcharge only group payer.

Information collected includes, but is not limited to, name, social security number, health insurance claims number, date of birth, gender, amount of premium liability, date agency first became liable for Part A or Part B premiums or Part B surcharges, last month of agency premium liability, agency identification number, and an OPM annuity number.

II. Agency Policies, Procedures, and Restrictions on the Routine Use

A. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The government will only release TPS information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only collect the minimum personal data necessary to achieve the purpose of TPS. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from this system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected, *e.g.*, to process beneficiary premium billing accretions and deletions to third party premium payer accounts (state Medicaid agencies, Office of Personnel Management (OPM), and formal third party groups and surcharge only group payers (latter as defined in 42 Code of Federal Regulations (CFR) 408.80 through 408.92 and 408.200 through 408.210)) for the payment of Part B (SMI) and/or Part A (HI) premiums on behalf of Medicare beneficiaries, the payment of the surcharge portion of the Part B premium on behalf of Medicare beneficiaries by a State or local government entity, and for enrolling individuals for Part A or Part B coverage under state buy-in agreements.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data is valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants, or grantees who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing CMS functions relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant or grantee whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant or grantee from using or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant or grantee to return or destroy all information at the completion of the contract.

2. To assist another Federal and/or State agency, agency of a State government, an agency established by State law, or its fiscal agent:

a. Contribute to the accuracy of CMS' proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the State.

Other Federal or State agencies in their administration of a Federal health program may require TPS information in order to support evaluations and monitoring of Medicare premium billing information.

In addition, state Medicaid agencies may require TPS data, pursuant to agreements with HHS, for enrollment of dually eligible beneficiaries for medical insurance under § 1843 of the Act.

The Social Security Administration (SSA) requires TPS data to enable them to assist in the implementation and maintenance of the Medicare program.

The Railroad Retirement Board (RRB) requires TPS information to enable them to assist in the implementation and maintenance of the Medicare program.

OPM requires TPS information in order to perform monthly premium billing functions to identify annuitants for whom premium collections must be initiated, and to periodically reconcile third-party master records.

3. To support formal third party groups and surcharge only group payers pursuant to agreements with CMS to pay the Medicare premiums or surcharge only portion of the Part B premium on behalf of their members and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which CMS has entered into a contractual or similar agreement with a formal third-party group; *e.g.*, private groups, retirement funds, religious orders, local government agency, etc., or surcharge only group payer; *e.g.*, State or local government entity, that can pay Medicare Part A &/ or Part B premiums or the surcharge only portion of the Part B premium or as necessary to assist in a CMS function relating to the payment on behalf of their members.

4. To assist an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

TPS data will provide for the research, evaluation, and epidemiological projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

5. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof; or

b. Any employee of the agency in his or her official capacity; or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee; or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, and occasionally when another party is involved in litigation and CMS' policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

6. To assist a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, and abuse in such program.

We contemplate disclosing information under this routine use only in situations in which CMS has entered into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud, waste, and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract, and requires the contractor or consultant to return or destroy all information at the completion of the contract.

7. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste, and abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, and abuse in such programs.

Other agencies may require TPS information for the purpose of combating fraud, waste, and abuse in such Federally-funded programs.

B. Additional Provisions Affecting Routine Use Disclosures

To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, subparts A and E) 65 FR 82462 (12–28–00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (See 45 CFR 164.512(a)(1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Modified System of Records on Individual Rights

CMS proposes to modify this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures (see item IV above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in the system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: June 20, 2007.

Charlene Frizzera,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NO. 09–70–0505

SYSTEM NAME:

''Third Party System (TPS),'' HHS/CMS/OFM.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

The Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and at various contractor sites and at CMS Regional Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains information on Medicare beneficiaries whose Part A benefit and/or Part B Medicare premiums are paid by a state Medicaid agency, OPM, a formal third party group, or a surcharge only group payer.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information collected includes, but is not limited to, name, social security number, health insurance claims number, date of birth, gender, amount of premium liability, date agency first became liable for Part A or Part B premiums or Part B surcharges, last month of agency premium liability, agency identification number, and an OPM annuity number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under §§ 1818, 1818A, (42 United States Code (U.S.C.) 1395i–2 and 2a), 1818(e) and (g) (42 U.S.C. 1395i–2(e) and (g)), 1839(e) (42 U.S.C. 1395r), 1840 (d) and (e) (42 U.S.C. 1395s (d) and (e)), and 1843 (42 U.S.C. 1395v) of Title XVIII of the Social Security Act (the Act).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this modified system is to process beneficiary premium billing accretions and deletions to third party premium payer accounts (state Medicaid agencies, Office of Personnel Management (OPM), and formal third party groups and surcharge only group payers (latter as defined in 42 Code of Federal Regulations (CFR) 408.80 through 408.92 and 408.200 through 408.210)) for the payment of Part B (SMI) and/or Part A (HI) premiums on behalf of Medicare beneficiaries, the payment of the surcharge portion of the Part B premium on behalf of Medicare beneficiaries by a State or local government entity, and for enrolling individuals for Part A or Part B coverage under state buy-in agreements. The information retrieved from this system of records will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor, consultant, or a CMS grantee; (2) assist another Federal or State agency, agency of a State government, an agency established by State law, or its fiscal agent; (3) support formal third party groups and surcharge only group payers pursuant to an agreement with CMS; (4) assist an individual or research organization to support research, evaluation of epidemiological projects; (5) support litigation involving the agency; and (6) combat fraud, waste, and abuse in certain Federally-funded health care programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To support agency contractors, consultants, or grantees who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

2. To assist another Federal and/or State agency, agency of a State government, an agency established by State law, or its fiscal agent:

a. Contribute to the accuracy of CMS' proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the State.

3. To support formal third party groups and surcharge only group payers pursuant to agreements with CMS to pay the Medicare premiums or surcharge only portion of the Part B premium on behalf of their members and who need to have access to the records in order to perform the activity.

4. To assist an individual or organization for research, evaluation, or epidemiological projects related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

5. To support the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

6. To assist a CMS contractor (including, but not limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, and abuse in such program.

7. To assist another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste, and abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, and abuse in such programs.

B. Additional Provisions Affecting Routine Use Disclosures

To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR Parts 160 and 164, Subparts A and E) 65 FR 82462 (12–28–00). Disclosures of such PHI that

are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (See 45 CFR 164.512(a)(1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals could, because of the small size, use this information to deduce the identity of the beneficiary).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on direct access storage devices and other electronically retrievable media.

RETRIEVABILITY:

Information can be retrieved by name, HICN, and assigned agency identification number.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained in a secure storage area with identifiers for 6 years 3 months after final action of the case is completed. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from DOJ.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Premium Billing and Collections, Accounting Management Group, Office of Financial Management, CMS, Mail Stop N3–21–06, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, HICN, address, date of birth, and gender, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), and SSN. Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also specify the record contents being sought. (These procedures are in accordance with department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORDS PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the records and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These Procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORDS SOURCE CATEGORIES:

Information contained in this system is obtained from third party agencies, Social Security Administration's Master Beneficiary Record, and CMS' Enrollment Database.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E7–12679 Filed 6–29–07; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a New System of Records

AGENCY: Department of Health and Human Services (HHS), Center for Medicare & Medicaid Services (CMS).

ACTION: Notice of a New System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system titled, ''State Health Insurance Assistance Program (SHIP) National Performance Report (SHIP–NPR),'' System No. 09–70–0510. The demands, expectations and funding for the State Health Insurance Assistance Program (SHIP) increased under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). Under this increase CMS is now required to implement an improved performance measurement system to manage the program effectively. This includes increased access to personalized counseling services by beneficiaries and enrollment assistance provided to beneficiaries in the MMA.

The purpose of this system is to collect and maintain information on how beneficiaries use SHIP services, which includes individually identifiable information on Medicare and Medicaid beneficiaries who have contacted SHIP representatives. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant or CMS grantee; (2) assist another Federal or state agency with information to contribute to the accuracy of CMS's payment of Medicare benefits, enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; (3) support litigation involving the agency; and (4) combat fraud, waste and abuse in certain Federally-funded health benefits programs. We have provided background information about the new system in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed routine uses, CMS invites comments on all portions of this notice. See Effective Dates section for comment period.

DATES: *Effective Date:* CMS filed a new SOR report with the Chair of the House Committee on Oversight and Government Reform, the Chair of the Senate Committee on Homeland Security & Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on June 25, 2007. To ensure that all parties have adequate time in which to comment, the new system will become effective 30 days from the publication of the notice, or 40 days from the date it was submitted to OMB and the Congress, whichever is later. We may defer implementation of this system or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should send comments to: CMS Privacy Officer, Division of Privacy Compliance, Enterprise Architecture and Strategy Group, Office of Information Services, CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.—3 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Patricia Gongloff, Division of State Health Insurance Program Relations, Strategic Research & Campaign Management Group, Office of External Affairs, Mail Stop S1–13–05, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244–1849. She can be reached by telephone at 410–786–7610, or via e-mail at *Patricia.Gongloff@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: The demands, expectations and funding for the State Health Insurance Assistance Program (SHIP) increased under the MMA. Under this increase CMS is now required to implement an improved performance measurement system to manage the program effectively. This includes increased access to personalized counseling services by beneficiaries and enrollment assistance provided to beneficiaries in the MMA. The SHIP–NPR will provide maintenance support and evaluate data, and implement performance targets established by CMS. Further efforts will include strategies to eliminate the duplication in reporting of NPR data by SHIPs to CMS and other agencies providing services to beneficiaries, reduce the under-reporting of data on services provided by SHIPs, and development of a system to validate data prior to entry into the NPR database for the purpose of quality improvement of the SHIP Network.

The SHIP–NPR is part of an overall effort by CMS to monitor and assess customer service information efforts, and develop outcome measures to assess CMS' progress in improving overall communications with beneficiaries and other partners over time. As part of the tasks associated with this effort, a contractor provided assistance to CMS staff who were developing program-monitoring systems of their customer service and information projects with the objective to achieve continuous quality improvement.

I. Description of the Proposed System of Records

A. Statutory and Regulatory Basis for SOR

The statutory authority for maintenance of this system is given under § 4360 of Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), the outreach and education requirements of the Balanced Budget Act of 1997, and the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

B. Collection and Maintenance of Data in the System

The system will collect and maintain individually identifiable information on Medicare and Medicaid beneficiaries who have contacted SHIP representatives, as well as the SHIP counselors. Information collected includes, but is not limited to: Name, counseling zip code, beneficiary zip code, telephone number, data of birth, gender, race/ethnicity and date of contact.

II. Agency Policies, Procedures, and Restrictions on the Routine Use

A. The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a ''routine use.'' The Government will only release SHIP–NPR information that can be associated with an individual as provided for under ''Section III. Proposed Routine Use Disclosures of Data in the System.'' Both identifiable and non-identifiable data may be disclosed under a routine use. We will only collect the minimum personal data necessary to achieve the purpose of SHIP–NPR.

CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason that the data is being collected; e.g., to collect and maintain information on how beneficiaries use SHIP services, which includes individually identifiable information on Medicare and Medicaid beneficiaries who have contacted SHIP representatives.

2. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy, at the earliest time, all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, consultants or grantees, who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement

with a third party to assist in accomplishing CMS functions relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant or grantee whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant or grantee from using or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant or grantee to return or destroy all information at the completion of the contract.

2. To another Federal or state agency to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits;

b. Enable such agency to administer a Federal health benefits program, or, as necessary, to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

c. Assist Federal/state Medicaid programs within the state.

Other Federal or state agencies, in their administration of a Federal health program, may require SHIP–NPR information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government is a party to litigation or has an interest in such litigation, and, by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, and occasionally when another party is involved in litigation and CMS policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court or adjudicatory body involved.

4. To a CMS contractor (including, but not necessarily limited to, fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual, grantee, cooperative agreement or consultant relationship with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud, waste and abuse. CMS occasionally contracts out certain of its functions or makes grants or cooperative agreements when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, grantee, consultant or other legal agent whatever information is necessary for the agent to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the agent from using or disclosing the information for any purpose other than that described in the contract and requiring the agent to return or destroy all information.

5. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

Other agencies may require SHIP-NPR information for the purpose of combating fraud, waste and abuse in such Federally-funded programs.

B. Additional Provisions Affecting Routine Use Disclosures

To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR Parts 160 and 164, Subparts A and E) 65 Fed. Reg. 82462 (12–28–00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (See 45 CFR 164.512(a) (1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that an individual could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Proposed System of Records on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the

authorized releases in accordance with the routine uses identified in this system of records.

CMS will take precautionary measures to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights of patients whose data are maintained in this system. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act. CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of information relating to individuals.

Dated: June 21, 2007.

Charlene Frizzera,

Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NO. 09–70–0510

SYSTEM NAME:

''State Health Insurance Assistance Program (SHIP) National Performance Report (SHIP-NPR),'' HHS/CMS/OEA.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive Data.

SYSTEM LOCATION:

Centers for Medicare & Medicaid Services (CMS) Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850 and at various co-locations of CMS agents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will collect and maintain individually identifiable information on Medicare and Medicaid beneficiaries who have contacted SHIP representatives, as well as the SHIP counselors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information collected includes, but is not limited to: Name, counseling zip code, beneficiary zip code, telephone number, data of birth, gender, race/ethnicity and date of contact.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The statutory authority for maintenance of this system is given under § 4360 of Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), the outreach and education requirements of the Balanced Budget Act of 1997, and the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to collect and maintain information on how beneficiaries use SHIP services, which includes individually identifiable information on Medicare and Medicaid beneficiaries who have contacted SHIP representatives. Information retrieved from this system may be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the agency or by a contractor, consultant or CMS grantee; (2) assist another Federal or state agency with information to contribute to the accuracy of CMS's payment of Medicare benefits, enable such agency to administer a Federal health benefits program, or to enable such agency to fulfill a requirement of Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; (3) support litigation involving the agency; and (4) combat fraud, waste and abuse in certain Federally-funded health benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use.'' The proposed routine uses in this system meet the compatibility requirement of the Privacy Act. We are proposing to establish the following routine use disclosures of information maintained in the system:

1. To agency contractors, consultants or grantees, who have been engaged by the agency to assist in the performance of a service related to this collection and who need to have access to the records in order to perform the activity.

2. To another Federal or state agency to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits;

b. Enable such agency to administer a Federal health benefits program, or, as necessary, to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds; and/or

c. Assist Federal/state Medicaid programs within the state.

3. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof, or

b. Any employee of the agency in his or her official capacity, or

c. Any employee of the agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and, by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

4. To a CMS contractor (including, but not necessarily limited to, fiscal intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such program.

5. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate potential fraud, waste or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste or abuse in such programs.

B. Additional Provisions Affecting Routine Use Disclosures.

To the extent this system contains Protected Health Information (PHI) as defined by HHS regulation ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR Parts 160 and 164, Subparts A and E) 65 Fed. Reg. 82462 (12–28–00). Disclosures of such PHI that are otherwise authorized by these routine uses may only be made if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information.'' (See 45 CFR 164.512(a) (1)).

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that an individual could, because of the small size, use this information to deduce the identity of the beneficiary).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on electronic media.

RETRIEVABILITY:

The collected data are retrieved by the name or other identifying information of the participating provider or beneficiary, and may also be retrieved by a distinct identifier such as the Health Insurance Claim Number (HICN), at the individual beneficiary level.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations may apply but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A–130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

Records will be retained for a period of 6 years and 3 months. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from DOJ.

SYSTEM MANAGER AND ADDRESS:

Division of State Health Insurance Program Relations, Strategic Research & Campaign Management Group, Office of External Affairs, Mail Stop S1–13–05, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244–1849.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, employee identification number, tax identification number, national provider number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), HICN, and/or Social Security Number (SSN) (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay).

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORDS SOURCE CATEGORIES:

Data will be collected from Medicare and SHIP administrative records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. E7–12680 Filed 6–29–07; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities Under Emergency Review for the Office of Management and Budget (OMB)

The Health Resources and Services Administration (HRSA) has submitted the following request (see below) for emergency OMB review under the Paperwork Reduction Act (44 U.S.C. Chapter 35). OMB approval has been requested within 20 days of publication of this notice. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Written comments and recommendations should be sent within 14 days of publication of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence ''to the attention of the desk officer for HRSA.''

Proposed Project: Ryan White HIV/AIDS Program Core Medical Services Waiver Application Requirements (NEW)

Title XXVI of the Public Health Service (PHS) Act, as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Ryan White HIV/AIDS Program) requires that grantees expend 75 percent of Parts A, B, and C funds on core medical services, including antiretroviral drugs, for individuals with HIV/AIDS identified and eligible under the legislation, effective Fiscal Year (FY) 2007. In order for grantees under Parts A, B, and C to be exempted from the 75 percent core medical services requirement, they must request and receive a waiver from HRSA, as required in the Act. HRSA has developed a process for waiver request submission, review, and notification. The core medical services waiver uniform standard and waiver request process will apply to Ryan White HIV/AIDS Program grant awards under Parts A, B, and C of Title XXVI of the PHS Act beginning FY 2008. Core medical services waivers will be effective for a one-year period consistent with the grant award period.

Grantees must submit a waiver request with the annual grant application containing the following certifications and documentations which will be utilized by HRSA in making determinations regarding waiver requests. The waiver must include:

1. Certification from the Part B state grantee that there are no current or anticipated ADAP services waiting lists in the state for the year in which such waiver request is made. This certification must also specify that there are no waiting lists for a particular core class of antiretroviral therapeutics established by the Secretary, e.g., fusion inhibitors;

2. Certification that all core medical services listed in the statute (Part A section 2604(c)(3), Part B section

2612(b)(3), and Part C section 2651(c)(3)), regardless of whether such services are funded by the Ryan White HIV/AIDS Program, are available within 30 days for all identified and eligible individuals with HIV/AIDS in the service area;

3. Evidence that a public process was conducted to seek public input on availability of core medical services;

4. Evidence that receipt of the core medical services waiver is consistent with the grantee's Ryan White HIV/AIDS Program application (e.g., ''Description of Priority Setting and Resource Allocation Processes'' and ''Unmet Need Estimate and Assessment'' sections of the application for Parts A, ''Needs Assessment and Unmet Need'' section of the application under Part B, and ''Description of the Local HIV Service Delivery System,'' and ''Current and Projected Sources of Funding'' sections of the application under Part C).

The estimated annual burden is as follows:

Application	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Waiver Request	20	1	20	6.5	130
Total	20		20		130

Dated: June 27, 2007.

Alexandra Huttinger,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 07–3219 Filed 6–27–07; 3:32 pm]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Reimbursement Rates for Calendar Year; Correction

AGENCY: Indian Health Service, HHS.

ACTION: Notice; correction.

SUMMARY: The Indian Health Service published a document **Federal Register** on June 20, 2007, concerning rates for inpatient and outpatient medical care provided by Indian Health Service facilities for Calendar Year 2007 for Medicare and Medicaid beneficiaries of other Federal Programs. The document contained five incorrect rates.

FOR FURTHER INFORMATION CONTACT: Mr. Elmer Brewster, Special Assistant, Office of Resource Access and Partnerships, Indian Health Service, 801 Thompson Avenue, Suite 360, Rockville, MD 20852, Telephone 301–443–2419. (This is not a toll-free number.)

Corrections

In the **Federal Register** of June 20, 2007, in FR Doc. 07–3037, on page 34018, in the third column, under the heading ''Inpatient Hospital Per Diem Rate (Excludes Physician/Practitioner Services)'' ''Lower 48 States: $1725. Alaska: $2,208.'' should read ''Lower 48 States: $1726. Alaska: $2215.'' Under the heading, ''Outpatient Per Visit Rate (Excluding Medicare)'' ''Alaska: $398.'' should read ''Alaska: $405.'' Under the heading, ''Outpatient Per Visit Rate (Medicare)'' ''Alaska: $356.'' should read ''Alaska: $354.'' Under the heading, ''Medicare Part B Inpatient Ancillary Per Diem Rate'' ''Alaska: $613.'' should read ''Alaska: $625.''

Dated: June 25, 2007.

Phyllis Eddy,

Deputy Director for Management Operations, Indian Health Service.

[FR Doc. 07–3203 Filed 6–29–07; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under the Office of management and Budget's (OMB) review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project Substance Abuse Prevention and Treatment (SAPT) Block Grant Uniform Application Guidance and Instructions FY 2008–2010 and Regulations (OMB No. 0930–0080)—Revision.

Sections 1921 through 1935 of the Public Health Service Act (U.S.C. 300x–21 to 300x–35) provide for annual allotments to assist States to plan, carry out and evaluate activities to prevent and treat substance abuse and for related activities. Under the provisions of the law, States may receive allotments only after an application is submitted and approved by the Secretary, DHHS. For the Federal fiscal year (FY) 2008–2010 Substance Abuse prevention and Treatment (SAPT) Block Grant application cycles, SAMHSA will provide States with revised application guidance and instructions to implement changes made in accordance with the recommendations of OMB's Program Assessment Rating Tool (PART) analysis. In addition, SAMHSA has incorporated recommendations from the National Association of State Alcohol and Drug Abuse Directors (NASADAD) and their member States in the revisions and clarification of data reporting requirements and instructions.

During the negotiations with the States resulting in agreement on the National Outcome Measures (NOMs) for substance abuse treatment and prevention, SAMHSA pledged to the States to:

1. Reduce respondent burden;

2. work with the States to improve performance management of the SAPT Block Grant;

3. improve the availability, timeliness, and quality of data available to Federal, State, and provider administrators of block grant funded programs.

This revision of the Uniform Application and Regulation for the SAPT Block Grant takes initial steps toward implementing these commitments. Individual States may reduce their respondent burden by selecting the option of using SAMHSA pre-populated tables for Section IVa and b. The data for these tables would be drawn from SAMHSA data sets known as Drug and Alcohol Services Information System (DASIS) Treatment Episode Data Set (TEDS) and National Survey on Drug Use and Health (NSDUH) by SAMHSA and provided to the States. SAMHSA is providing the States with the option of reporting on prevention expenditures utilizing the six prevention strategies or utilizing the Institute of Medicine classification of

Universal, Selective or Indicated. SAMHSA has designed the State Prevention Framework State Incentive Grand (SPF SIG) competitive program and funded contracts in States without a SPF SIG to support data driven prevention planning by Substance Abuse State Agencies. This application has been modified to encourage the States to use the State level data collected with support from these programs in the planning in section III of this SAPT Block grant application.

The addition of on-going provider performance monitoring (page 90–7) and the narratives describing State Performance Management and Leadership (page 93) begin the process of aligning the application with the performance management criteria embodied in the OMB PART program.

In the coming 12 months, SAMHSA will continue to work with the States to assess the feasibility and usefulness of pre-populating the following sections of the application with data extracted from SAMHSA data sets to further reduce respondent burden:

Form 6	Entity Inventory	National Survey of Substance Abuse Treatment Services data set
Form 7 a & b	Treatment Utilization Matrix	DASIS/TEDS/SOMMS
Form 8	Treatment Needs Assessment	NSDUH, State, and sub-State
Forms T109T7	Treatment Performance Measures	DASIS/SOMMS
Form P109P15	Prevention Performance Measures	NSDUH

In addition, NSDUH estimates of persons (1)needing, (2) needing and seeking, and (3) needing, seeking and not receiving treatment will be examined for application to the planning requirements of PART requirements.

SAMHSA will also code all application content against PART requirements to insure that all requirements are appropriately addressed by applicants and Federal staff.

In December 2004, SAMHSA and the States agreed on the goal of having all States reporting the NOMs measures as defined at the meeting by the end of a 3-year implementation period starting in FY 2005 and concluding at the end of FY 2007. By January 2006, supportive technical assistance on information technology design and payment for data submitted became available by the State Outcomes Measurement and Management System (SOMMS) program. States who have participated in the SOMMS/NOMs subcontracts may choose to have their data pre-populated which would significantly reduce their reporting burden for this application. During the next 12 months, SAMHSA in partnership with the States and all other SAPT Block Grant stakeholders will develop standards for analyzing and responding to the results of NOMs data appropriate to each level of block grant fund administration including Federal, State, and Provider roles and responsibilities.

SAMHSA and the States also recognized that States would require technical assistance in information technology and software purchasing to implement the new NOMs data set and SAMHSA agreed to realign resources to contract for this specialized technical assistance. This technical assistance first became available in September 2006 and the first project was just completed.

Thirty-eight States are currently reporting all or some of the NOM measures and 46 States have State or SAMHSA support contracts in place to develop and operationalize the necessary data infrastructure to report all NOMs.

So long as States are progressing toward achieving this goal by currently reporting some or all NOM data and are partnering with SAMHSA to install the necessary infrastructure to report all NOMs, because of the delay securing the necessary information technology technical assistance or the extent to which hardware and software had to be purchased, SAMHSA will continue to accept data submitted as part of the uniform application as meeting the NOMs reporting requirement of the 2008 Presidents Budget.

Revisions to the previously-approved application resulting from such stakeholder input reflect the following changes: (1) In Section I, *Form 2,* ''Table of Contents,'' was revised to appropriately enumerate the specific items within each section; (2) In Section II, the *Narrative description of certain maintenance of effort and expenditure base calculations* was simplified to require submission of such information only if it represented a revision from previous years' submissions. This section was also moved to its more appropriate place in the application immediately preceding reporting on maintenance of efforts; (3) In Section II, *Form 4,* ''Substance Abuse State Agency Spending Report,'' was amended to use consistent language for services expenditure reporting and planning across Forms 4, 6, and 11. On Form 4 and Form 11, Row 1, the activity to be reported on is entitled: SAPT Block Grant funds for Substance Abuse Prevention (other than primary prevention) and Treatment Services to be consistent with the terminology used in Form 6, Column 5; (4) In Section II, *Form 6,* ''Entity Inventory,'' instructions were clarified to communicate that information on all substance abuse prevention and treatment service providers funded through the SSA was sought; (5) In Section II, *Form 7A,* ''Treatment Utilization Matrix,'' instructions were clarified to communicate that information on persons admitted and served within the specific reporting period was sought to enable the SAPT Block Grant Program to address the recommendations of the FY 2003 OMB PART analysis; (6) In Section II, *Form 7B,* ''Number Of Persons SErved (Unduplicated Count) For Alcohol And Other Drug Use In State Funded Services,'' instructions were clarified in a similar manner as Form 7A and a separate data cell was added to accommodate States' desires to report on clients admitted in a prior reporting period but also continuing to be served within the current reporting period; (7) In Section II, *Table I (Maintenance),* ''Single State Agency (SSA) Expenditures for Substance Abuse'' was amended to reflect the appropriate State fiscal year and the corresponding instructions were amended; (8) In Section II, *Table II (Maintenance),* ''Statewide Non-Federal Expenditures or Tuberculosis Services to Substance Abusers in Treatment,'' was amended to reflect the appropriate State fiscal year and the corresponding instructions were amended; (9) In Section II, *Table III (Maintenance),* ''Statewide Non-Federal Expenditures for HIV Early Intervention Services to Substance Abusers in Treatment,'' was amended to allow States to enter the appropriate State fiscal year and the corresponding instructions were amended; (10) In Section II, *Table IV (Maintenance),* ''SSA Expenditures for Women's Services,'' was amended to reflect the appropriate fiscal year and the corresponding instructions were amended; (11) In Section III, *Form 11,*

''Intended Use Plan,'' was amended to use consistent language for services expenditure reporting and planning; (12) In Section IV, subparts IV–A and IV–B, ''Voluntary Treatment Performance Measures'' and ''Voluntary Prevention Performance Measures'' all references to the term Voluntary are deleted as reporting on these measures will no longer be voluntary; (13) In Section IV–A, ''Treatment Performance Measures,'' the general instructions were amended to implement mandatory reporting on performance measure Forms T1–T7 and a narrative requirement is proposed to collection information on States internal practices to use performance measure data to manage their systems; (14) In Section IV–A, ''Treatment Performance Measures'' Forms T1–T7 data specifications replaced State detail sheet narrative requirements for Forms T1–T7 to reduce the burden of reporting and improve the uniformity of data quality information being collected; (15) The Section IV–A, ''Treatment Performance Measures'' T6 on infectious disease control efforts was deleted because it was determined to be duplicative of information requirements in Section II of the application; (16) In Section IV, subpart IV–B, ''Prevention Performance Measures'' Forms P5 and P6 were removed, P1–P15 were substituted for the previous Forms P1–P4 and the instructions were amended to address pre-population of prevention performance data.

The total annual reporting burden estimate is shown below:

	Number of respondents	Responses per respondent	Number hours per response	Total hours
Sections I–III—States and Territories	60	1	470	28,200
Section IV–A	60	1	40	2,400
Section IV–B	60	1	42.75	2,565
Recordkeeping	60	1	16	960
Total	60			34,125

Written comments and recommendations concerning the proposed information collection should be sent by August 1, 2007 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OBM's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to 202–395–6974.

Dated: June 25, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. 07–3207 Filed 6–29–07; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD08–07–013]

Gulf of Mexico Area Maritime Security Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Solicitation for membership.

SUMMARY: The Coast Guard seeks applications for membership in the Gulf of Mexico Area Maritime Security Committee (GOMAMSC). The Committee assists the Captain of the Port/Federal Maritime Security Coordinator (Commander, Eighth Coast Guard District) for the portion of the Gulf of Mexico that is within the Eighth Coast Guard District and outside of state waters in developing, reviewing, exercising, and updating the Area Maritime Security Plan.

DATES: Requests for membership should reach Commander, Eighth Coast Guard District on or before August 1, 2007.

ADDRESSES: Requests for membership should be submitted to the following address: Commander, Eighth Coast Guard District(dxc), *Attn:* Mr. Guy Tetreau, Hale Boggs Federal Building, 500 Poydras Street, Rm 1341, New Orleans, LA 70130–3310.

FOR FURTHER INFORMATION CONTACT: Mr. Guy Tetreau at (504) 671–2155.

SUPPLEMENTARY INFORMATION:

The Committee

The Gulf of Mexico Area Maritime Security Committee (GOMAMSC) is established under, and governed by, 33 CFR part 103, subpart C. The functions of the Committee include, but are not limited to, the following:

(1) Identifying critical port infrastructure and operations;

(2) Identifying risks (i.e. threats, vulnerabilities, and consequences);

(3) Determining mitigation strategies and implementation methods;

(4) Developing and describing the process to continually evaluate overall port security by considering consequences and vulnerabilities, how they may change over time, and what additional mitigation strategies can be applied;

(5) Advising and assisting the Captain of the Port in developing, reviewing, and updating the Area Maritime Security Plan under 33 CFR part 103, subpart E.

(6) Participating in the development and evaluation of the required annual exercise of the Area Maritime Security Plan.

Positions Available on the Committee

Up to seven persons may be selected for the committee Members may be selected from:

(1) The Federal, Territorial, or Tribal government;

(2) The State government and political subdivisions of the State;

(3) Local public safety, crisis management, and emergency response agencies;

(4) Law enforcement and security organizations;

(5) Maritime industry, including labor;

(6) Other port stakeholders having a special competence in maritime security; and

(7) Port stakeholders affected by security practices and policies.

In support of the Coast Guard's policy on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

Qualification of Members

Members should have at least 5 years of experience related to maritime or port security operations. Applicants may be required to pass an appropriate security background check prior to appointment to the committee.

Normal terms of office will be 5 years; however, some members may receive shorter terms to establish a reasonable rotation to avoid a major turnover every five years. Members may serve

additional terms of office and current members are encouraged to reapply.

Members are expected to register in Homeport, the Coast Guard maritime security information system for providing information (including sensitive security information) and services to the public over the internet, and regularly participate in meetings and standing/ad-hoc sub-committees/ work groups including the development and evaluation teams for the annual security exercise of the Area Maritime Security Plan. Members will not receive any salary or other compensation for their service on the GOMAMSC.

Format of Applications

Those seeking membership are not required to submit formal applications, however, because a specific number of members must have prerequisite maritime security experience, submission of resumes highlighting experience in the maritime and security industries is encouraged.

Authority

Section 102 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107–295) added section 70112 to Title 46 of the U.S. Code, and authorizes the Secretary of the Department in which the Coast Guard is operating to establish Area Maritime Security Committees for any port area of the United States. (See 33 U.S.C. 1226; 46 U.S.C.; 33 CFR 1.05–1, 6.01; Department of Homeland Security Delegation No. 0170.1). The MTSA includes a provision exempting these Area Maritime Security (AMS) Committees from the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Pub. L. 92–436).

Dated: June 12, 2007.

J.R. Whitehead,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. E7–12684 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–28579]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of open teleconference meeting.

SUMMARY: This notice announces a teleconference of the Merchant Marine Personnel Advisory Committee (MERPAC). The purpose of the teleconference is for MERPAC to discuss and prepare recommendations for the Coast Guard concerning its notice of proposed rulemaking (NPRM) on the Transportation Worker Identification Credential (TWIC) Biometric Reader Requirements.

DATES: The teleconference call will take place on Thursday, July 19th, 2007, from 10 a.m. until 1 p.m. Eastern Daylight Savings Time.

ADDRESSES: Members of the public may participate by dialing 1–866–917–8653. You will then be prompted to dial your participant number, which is 9264498#. Please ensure that you enter the # sign after the participant number. Public participation is welcomed; however, the number of teleconference lines is limited, and lines are available first-come, first-served. Members of the public may also participate by coming to Room 1303, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. We request that members of the public who plan to attend this meeting notify Mr. Mark Gould at 202–372–1409 so that he may notify building security officials. You may also gain access to this docket at *http://dms.dot.gov/search/searchFormSimple.cfm*. The task statement may be accessed as a supplement to this docket.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gould, Assistant Executive Director of MERPAC, telephone 202–372–1409, fax 202–372–1426.

SUPPLEMENTARY INFORMATION: The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register** [5 U.S.C. App. (Pub. L. 92–463)]. MERPAC is chartered under that Act. It provides advice and makes recommendations to the Assistant Commandant for Operations on issues concerning merchant marine personnel such as implementation of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, and developing standards of competency for ship's security officers.

Tentative Agenda

Thursday, July 19th, 2007.

10 a.m.–10:05 p.m.
Welcome and Opening Remarks—MERPAC Chairman Captain Andrew McGovern.
10:05 a.m.–12 p.m.
Open discussion concerning the Transportation Worker Identification Credential (TWIC) Biometric Reader Requirements.
12 p.m.–12:15 p.m.
Public comment period.
12:15 p.m.–1 p.m.
MERPAC vote on recommendations for the Coast Guard.
1 p.m.
Adjourn.

This tentative agenda is subject to change and the meeting may adjourn early if all committee business has been completed.

Public Participation

The Chairman of MERPAC is empowered to conduct the teleconference in a way that will, in his judgment, facilitate the orderly conduct of business. During its teleconference, the committee welcomes public comment. The committee will make every effort to hear the views of all interested parties, including the public. Written comments may be submitted to Mr. Mark Gould, Assistant Executive Director, MERPAC, Commandant (CG–3PSO–1), 2100 Second Street, SW., Washington DC 20593–0001.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Gould as soon as possible.

Dated: June 25, 2007.

H.L. Hime,

Acting Director of National and International Standards Assistant Commandant for Prevention.

[FR Doc. E7–12685 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–28520]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of open teleconference meeting.

SUMMARY: This notice announces a teleconference of the Towing Safety Advisory Committee (TSAC). The purpose of the teleconference is for TSAC to discuss and prepare recommendations for the Coast Guard concerning its Notice of Proposed Rulemaking (NPRM) on the Transportation Worker Identification Credential (TWIC) Biometric Reader Requirements.

DATES: The teleconference call will take place on Tuesday, July 17th, 2007, from 9 a.m. until noon Eastern Daylight Savings Time.

ADDRESSES: Committee members and members of the public may participate

by dialing 1–866–917-9053 on a touch-tone phone. You will then be prompted to enter your ''participant code number,'' which is 5344122#. Please ensure that you enter the # mark after the participant code. Public participation is welcomed; however, the number of teleconference lines is limited, and lines are available first-come, first-served. Members of the public may also participate by coming to Room 3317 U.S. Coast Guard Headquarters; 2100 Second Street, SW.; Washington, DC 20593–0001. We request that members of the public who plan to attend this meeting notify Mr. Gerald Miante at 202–372–1407 so that he may notify building security officials. You may also gain access to this docket at *http://dms.dot.gov/search/searchFormSimple.cfm.* The task statement may be accessed as a supplement to this docket.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Miante, Assistant Executive Director of TSAC, telephone 202–372–1407, fax 202–372–1426.

SUPPLEMENTARY INFORMATION: The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register** [5 U.S.C. App. (Pub. L. 92–463)]. TSAC is chartered under that Act. It provides advice and makes recommendations to the Secretary on issues regarding shallow-draft inland and coastal waterway navigation and towing safety.

Tentative Agenda

Tuesday, July 17th, 2007

9 a.m.–9:05 a.m.
Welcome and Opening Remarks —TSAC Chairman Mr. Mario Muñoz.

9:05 a.m.–11 a.m.
Open discussion concerning the Transportation Worker Identification Credential (TWIC) Biometric Reader Requirements.

11a.m.–11:15 a.m.
Public comment period.

11:15 a.m.–12 noon
TSAC vote on recommendations for the Coast Guard.

12 noon
Adjourn.

This tentative agenda is subject to change and the meeting may adjourn early if all Committee business has been completed.

Public Participation

The Chairman of TSAC is empowered to conduct the teleconference in a way that will, in his judgment, facilitate the orderly conduct of business. During its teleconference, the Committee welcomes public comment. The Committee will make every effort to hear the views of all interested parties, including the public. Written comments may be submitted to Mr. Gerald Miante, Assistant Executive Director, TSAC; Commandant (CG–3PSO–1); 2100 Second Street, SW.; Washington, DC 20593–0001.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Miante as soon as possible.

Dated: June 25, 2007.

H.L. Hime,

Acting Director of National and International Standards, Assistant Commandant for Prevention.

[FR Doc. E7–12689 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed continuing information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the adequacy of two forms FEMA uses to gather certain information about the floodplain management activities of communities that participate in the National Flood Insurance Program (NFIP). The Community Contact Report form and the Community Visit Report form are used to gather information about a community's floodplain management regulations, administrative and enforcement procedures, Flood Insurance Studies, and basic information pertaining to names, addresses, and phone numbers of individuals responsible for a community's floodplain management program.

SUPPLEMENTARY INFORMATION: The information gathered on the subject forms pertain to a community's participation in the NFIP. The NFIP was established by the National Flood Insurance Act of 1968 (the Act). Section 1315 of the Act requires the adoption of permanent land use and control measures which are consistent with the comprehensive criteria of land management and use under section 1361. 44 CFR 59.24 establishes requirements for continued eligibility to participate in the NFIP based upon implementing an adequate community based floodplain management program. The information gathered with the forms is used to evaluate the adequacy of a community's floodplain management program as it relates to continued participation in the NFIP.

Collection of Information

Title: Effectiveness of a Community's Implementation of the NFIP Community Assistance Program CAC and CAV Reports.

Type of Information Collection: Revision of Currently Approved Collection.

OMB Number: 1660–0023.

Form Numbers: Form 81–68 (Community Assistance Report); Form 81–69 (Community Contact Report).

Abstract: The data obtained from the Community Assistance Contact (CAC) and Community Assistance Visit (CAV) forms information collection effort is used to assist with the management of the NFIP. A major objective of the NFIP is to assure that participating communities are achieving the flood loss reduction objectives of the program. To achieve this objective, FEMA's Mitigation Division implemented a process to evaluate the floodplain management assistance needed by communities and how well communities are implementing their floodplain management programs. By determining the assistance needed and how well communities are performing their responsibilities, FEMA can identify, prevent, and resolve floodplain management issues before problems arise that require enforcement actions.

The two key methods FEMA uses in determining community assistance needs are through the CAC and CAV, which serve to provide a systematic means of monitoring community NFIP compliance. Through the CAC and CAV, FEMA can also determine to what extent communities are achieving the flood loss reduction objectives of the NFIP. By providing assistance to communities, the CAC and CAV also serve to enhance FEMA's goals of reducing future flood losses, thereby achieving the cost-containment objectives of the NFIP.

Affected Public: Federal, State, Local, or Tribal Government.

Estimated Total Annual Burden Hours: 168 hours.

Data collection activity/instrument	Nunber of respondents (A)	Frequency of responses (B)	Hour burden per response (C)	Annual responses (D) = (A×B)	Total annual hour burden (E) = (C×D)
FF 81–68 (CAV)	56	1	2	56	112
FF 81–69 (CAC)	56	1	1	56	56
Total	56	1		56	168

Estimated Cost: $8,400.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments must be submitted on or before August 31, 2007.

Interested persons should submit written comments to Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C Street, SW., Room 316, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Rachel Sears, Program Specialist, at 202–646–2977 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: June 27, 2007.

John A. Sharetts-Sullivan,

Chief, Records Management and Privacy Office of Management Directorate, Information Technology Services Division, Information Resources Management Branch, Federal Emergency Management Agency, Department of Homeland Security

[FR Doc. E7–12722 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revised information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the National Incident Management System (NIMS) Compliance Assistance Support Tool (NIMSCAST), a self-assessment tool for State, territorial, tribal, and local governments to evaluate and report on their jurisdiction's achievement with regards to NIMS implementation activities issued by FEMA Incident Management Systems Division (formerly known as the NIMS Integration Center).

SUPPLEMENTARY INFORMATION: Homeland Security Presidential Directive 5 (HSPD–5) Management of Domestic Incidents called for the establishment of a single, comprehensive NIMS. The NIMS is a system that improves response operations through the use of the Incident Command System (ICS) and other standard procedures and preparedness measures. It also promotes development of multi-jurisdictional, statewide and interstate regional mechanisms for coordinating incident management and obtaining assistance during large-scale or complex incidents. HSPD–5 dictated that Federal departments and agencies shall make adoption of the NIMS a requirement for the provision of Federal preparedness assistance funds. HSPD–5 also established and designated FEMA's Incident Management Systems Division as the lead Federal agency to coordinate NIMS compliance. One of the primary functions of the NIMS Integration Center is to ensure NIMS remains an accurate and effective management tool through refining and adapting compliance requirements to address ongoing preparedness needs. To accomplish this, FEMA's Incident Management Systems Division relies on input from Federal, state, local, tribal, multi-discipline and private authorities to assure continuity and accuracy of ongoing efforts.

NIMS compliance must be an ongoing effort since new personnel must be trained and plans must be revised to reflect lessons learned. States play an important role in ensuring the effective implementation of the NIMS. They must ensure that the systems and processes are in place to communicate the NIMS requirements to local jurisdictions and support them in implementing the NIMS. The long-term benefit of adopting and implementing the NIMS is that it strengthens our nation's capabilities to prevent, prepare for, respond to, and recover from any incident.

The NIMSCAST is designed to reflect the newly-released FY 2007 implementation activities and metrics and to inform FEMA's Incident Management Systems Division and the Department of Homeland Security of any given jurisdiction's compliance with the NIMS.

Collection of Information

Title: NIMS Compliance Assistance Support Tool (NIMSCAST).

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0087.

Form Numbers: None.

Abstract: The NIMSCAST is the tool utilized to (a) evaluate a State, territory, tribal, and local government's compliance with standards and requirements established in the NIMS and/or FEMA Incident Management Systems Division, (b) determine eligibility for Federal preparedness

assistance, and (c) strengthen incident management programs at the department, agency, or jurisdiction level.

Affected Public: States, local, or tribal government.

Estimated Total Annual Burden Hours: 280.

Data collection activity/instrument	No. of respondents	Frequency of responses	Hour burden per response	Annual responses	Total annual hour burden
NIMSCAST:					
States and Territories	56	1	5	56	280
Total	56	1	5	56	280

Estimated Cost: The annual cost to respondents is calculated based on 280 hours of annual burden completed by State emergency management specialists with a median wage of $22.10 per hour for a total burden of $6,188.00.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments must be submitted on or before August 1, 2007.

FOR FURTHER INFORMATION CONTACT: Marc Tagliento, FEMA Incident Management Systems Division, Compliance and Technical Assistance Branch, (202) 646–2687. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: June 20, 2007.

John A. Sharetts-Sullivan,

Chief, Records Management and Privacy Office of Management Directorate, Information Technology Services Division, Information Resources Management Branch, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–12725 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1705–DR]

Iowa; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–1705–DR), dated May 25, 2007, and related determinations.

DATES: *Effective Date:* June 22, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 25, 2007.

Audubon, Crawford and Monona Counties for Individual Assistance (already designated for Public Assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–12726 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1699–DR]

Kansas; Amendment No. 10 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kansas (FEMA–1699–DR), dated May 6, 2007, and related determinations.

DATES: *Effective Date:* June 19, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 19, 2007, the President amended the cost-sharing arrangements concerning Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act), in a letter to R. David Paulison, Administrator, Federal Emergency Management Agency, Department of Homeland Security, as follows:

I have determined that the damage in certain areas of the State of Kansas resulting from severe storms, tornadoes, and flooding during the period of May 4–18, 2007, is of sufficient severity and magnitude that special cost sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act).

Therefore, I amend my declaration of May 6, 2007, to authorize Federal funds for debris removal and emergency protective measures, including direct Federal assistance, at 100 percent Federal funding of total eligible costs for a period of up to 72 hours.

This adjustment to cost-sharing applies only to Public Assistance costs and direct Federal assistance eligible for such

adjustments under applicable law. The Stafford Act prohibits a similar adjustment for funds provided for Other Needs Assistance (Section 408) and the Hazard Mitigation Grant Program (Section 404). Those funds will continue to be reimbursed at 75 percent of total eligible costs.

This cost share is effective as of the date of the President's major disaster declaration.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–12695 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1699–DR]

Kansas; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA–1699–DR), dated May 6, 2007, and related determinations.

DATES: *Effective Date:* June 19, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 6, 2007.

Brown County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–12699 Filed 6–29–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–602, Application by Refugee for Waiver of Grounds of Excludability; OMB No. 1615–0069.

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 April 27, 2007, at 72 FR 21033 allowing for a 60-day public comment period. USCIS did not receive any comments.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 1, 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 1615–0069 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 collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the 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 respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application by Refugee for Waiver of Grounds of Excludability.

(3) A*gency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–602. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households. This form is necessary to establish eligibility for waiver of excludability based on humanitarian, family unity, or public interest.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 2,500 responses at 15 minutes (.25) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 625 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=29227b58fa16e010VgnVCM1000000ecd190a*

RCRD&vgnext channel=29227b58fa16e010VgnV CM1000000ecd190aRCRD.

If you have additional questions 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 27, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–12723 Filed 6–29–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5124–N–11]

Notice of Proposed Information Collection for Public Comment; Public and Indian Housing ENERGY STAR and Energy Audit Survey

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* August 31, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000; e-mail at *Aneita_l._Waites@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Aneita Waites, (202) 402–0713, extension 4114, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public and Indian Housing ENERGY STAR and Energy Audit Survey.

OMB Control Number:

Description of the need for the information and proposed use:

A survey is needed in order to respond to Congress and the mandate under the Energy Conservation Policy Act (42 U.S.C. 8251 *et seq.*) The information collected from the survey will be used to accurately create reports and strategies to reduce utility expenses through energy conservation measures within public housing. Thereafter, reports will be updated and sent to Congress every 2 years indicating energy strategies for energy reduction goals and how the Department of Housing and Urban Development will monitor the energy usage of public housing agencies.

Agency form number, if applicable: HUD–52465.

Members of affected public: Public Housing Agencies, State and local governments, individuals and households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

- *Total annual burden hours:* 533.
- *Indicate number of respondents:* 3,200.
- *Frequency of response:* 1/ year.
- *Annual hour burden:* 10 minutes per respondent.
- *Explanation of how burden was estimated:* In-house trial and sampling of two local PHAs. Information requested should be available as part of customary and usual business practices.

ESTIMATED BURDEN OF HOURS OF THE PROPOSED INFORMATION COLLECTION RESPONDENT BURDEN

PHA plan elements and regulation	No. of respondents		×	Frequency of response	Total responses	×	Estimated hours	=	Total annual burden hours
	PH/ HCV	HCV only							
ENERGY STAR and Energy Audit Survey	3,200	.....		1	3,200		.167		533
Totals	3,200	.....		1	3,200		.167		533

Burden hours estimates are based on a total of 3,200 PHAs.

Status of proposed information collection: New collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 22, 2007.

Bessy Kong,

Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives.

[FR Doc. E7–12694 Filed 6–29–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–53]

Notice of Submission of Proposed Information Collection to OMB; Ginnie Mae Mortgage-Backed Securities Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The information collected is needed by Ginnie Mae for the participation of issuers/customers in its Mortgage-Backed Securities programs and to monitor performance and compliance with established rules and regulations.

DATES: *Comments Due Date:* August 1, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2503–0033) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Ginnie Mae Mortgage-Backed Securities Programs.

OMB Approval Number: 2503–0033.

Form Numbers: 11701, 11702, 11700, 11704, 11707, 11709, 11709–A, 11715, 11720, 11705, 11706, 11711–A, 11711–B, 11732, 11708, 11710–A, 11710E, 1710B, 1710C, 11710–D, 11714, 11714SN, 11748–A, 11748–C, 11714, 11717–ll, 11747, 11747–11, 11712, 11712–ll, 1734, 11728, 11728–ll, 1724, 1731, 11772–ll.

Description of the Need for the Information and Its Proposed Use:

The information collected is needed by Ginnie Mae for the participation of issuers/customers in its Mortgage-Backed Securities programs and to monitor performance and compliance with established rules and regulations.

Frequency of Submission: On occasion, Quarterly, Monthly, Annually.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	230		176.5		0.362		14,720

Total Estimated Burden Hours: 14,720.

Status: Revision of a currently collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 25, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–12696 Filed 6–29–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Information Collection Submission to OMB for Reinstatement Under Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that an information collection request was submitted to the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs for review and reinstatement. The collection expired during the renewal process.

DATES: Written comments must be received by August 1, 2007.

ADDRESSES: Written comments should be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for Department of the Interior. You may submit comments by facsimile to 202–395–6566 or by e-mail to *OIRA_DOCKET@omb.eop.gov*.

Send a copy of your comments to Lynn Forcia, Chief, Division of Workforce Development, Office of Indian Energy and Economic Development, 951 Constitution Street, NW., Mail Stop 20–SIB, Washington, DC 20245.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or additional copies of the information collection instructions and the October 18, 2006 **Federal Register** notice should be directed to Lynn Forcia, Chief,

Division of Workforce Development, Assistant Secretary—Indian Affairs, Department of the Interior, 1951 Constitution Avenue, NW., MS–20–SIB, Washington, DC 20245; Telephone 202–219–5270. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The information collection for A Reporting System for the Public Law 102–477 Demonstration Project needs renewal. The 60-day notice requesting comments on OMB Control Number 1076–0135, ''Public Law 102–477 Reporting,'' was published in the **Federal Register** on October 18, 2006 (71 FR 61505). We have held meetings with both tribal and Federal partners regarding the existing Public Law 102–477 tribal report forms. We have also shared the changes mandated by the government-wide employment and training OMB requirements with Federal partners and tribal representatives.

Abstract: The information collection is needed to document satisfactory compliance with statutory, regulatory and OMB requirements of the various integrated programs. Public Law 102–477 authorizes tribal governments to integrate federally-funded employment, training and related services programs into a single, coordinated, comprehensive service delivery plan. Funding agencies include the Department of the Interior, Department of Labor, and the Department of Health and Human Services. The Bureau of Indian Affairs is statutorily required to serve as the lead agency. Section 11 of this Act requires that the Secretary of the Interior make available a single universal report format which shall be used by a tribal government to report on integrated activities and expenditures undertaken. The Bureau of Indian Affairs shares the information collected from these reports with the Department of Labor and the Department of Health and Human Services.

Method of Collection:

Current Forms: These forms have been developed incorporating comments from the Department of Health and Human Services and the Department of Labor which provide program funds to tribes for portions of Public Law 102–477. The revised forms have also incorporated many of the comments from tribal grantees and other interested parties.

The revised forms include a one page financial form which is a slightly modified SF–269–A (short form). The financial report also now adds one additional financial page at the request of the Department of Health and Human Services, Temporary Assistance for Needy Families (TANF) report. The form is accompanied by four pages of instructions. The additional form and instructions are only to be completed by those tribes receiving TANF funds under Public Law 102–477. A portion of the report is optional as requested by DHHS. Secondly, the revised forms include a revised and expanded program statistical report.

These report forms and narrative are limited but should satisfy the Department of Health and Human Services, Department of Labor and the Department of the Interior. Both the existing and revised forms reduce the burden on tribal governments by consolidating data collection for employment, training, education, child care and related service programs. The reports are due annually. These forms have been developed within a partnership between tribes and representatives of all three Federal agencies to standardize terms and definitions, eliminate duplication and reduce frequency of collection.

Action: Reinstatement.

Collection: OMB Control # 1076–0135, A Reporting System for Pub. L. 102–477 Demonstration Project.

Respondents: Tribes participating in Public Law 102–477 will report annually. Currently there are 51 grantees representing 240 tribes participating in the program.

Burden: The hourly burden for present forms is 58 hours per respondent without TANF; 58 hours × 21 grantees estimated equals 1,218 annual burden hours. If a tribe does include TANF the annual burden hours is 60 hours with an estimated 30 grantees including TANF equals 1,800 annual burden hours. The total estimated annual burden hours for the Pub. L. 102–477 initiative equals 3,018.

Public Comments and Responses: No comments were received to our 60 day notice published in the **Federal Register** October 18, 2006 (71 FR 61505):

One written comment was received on February 1, 2006 while meeting with tribes. The tribe summarized by stating, we ''can find no fault with the current reporting requirements and forms.''

Request for Comments: The Department of the Interior requests your comments on this collection concerning:

(a) The necessity of this information collection for the proper performance of functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used;

(c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

You are reminded that an agency may not request or sponsor a collection of information unless OMB has approved the collection; you are not required to answer a collection of information that is not approved, and you will not be harmed by your refusal.

The Office of Management and Budget has 60 days in which to make a decision on this request for renewal, but may decide after 30 days. Therefore, your comments should arrive by the 30 day comment date to be sure of getting full consideration.

Dated: June 20, 2007.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E7–12658 Filed 6–29–07; 8:45 am]

BILLING CODE 4310–XN–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Environmental Assessment/ Habitat Conservation Plan; Issuance of Section 10(a)(1)(B) Permit for Incidental Take of Nine Listed Species in Cochise County, AZ and Hidalgo County, NM (Malpai Borderlands)

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: Malpai Borderlands Group (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (TE–155587–0) pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended. The requested permit, which is for a period of 30 years, would authorize incidental take of the following listed endangered species: Yaqui chub (*Gila purpurea*), Yaqui topminnow (*Poeciliopsis occidentalis sonoriensis*), Huachuca water-umbel (*Lilaeopsis schaffneriana recurva*), Northern Aplomado falcon (*Falco femoralis septentrionalis*); listed threatened species: Yaqui catfish (*Ictalurus pricei)*, beautiful shiner (*Cyprinella formosa*), Chiricahua leopard frog (*Rana chiricahuensis*), Mexican spotted owl (*Strix occidentalis lucida*), New Mexico ridge-nosed rattlesnake (*Crotalus willardi obscurus)*;

candidate species: western yellow-billed cuckoo (*Coccyzus americanus*); and unlisted species: Yaqui sucker (*Catostomus bernardini*), longfin dace—Yaqui form (*Agosia chrysogaster*), Mexican stoneroller (*Campostoma ornatum*), lowland leopard frog (*Rana yavapaiensis*), northern Mexican gartersnake (*Thamnophis eques megalops*), black-tailed prairie dog (*Cynomys ludovicianus*), western burrowing owl (*Athene cunicularia hypugaea*), white-sided jackrabbit (*Lepus callotis*), and western red bat (*Lasiurus blosseveillii*). The proposed incidental take would occur as a result of grassland improvement and ranch management activities on non-Federal lands within approximately 828,000 acres of the Malpai borderlands region of Cochise County, Arizona and Hidalgo County, New Mexico. We invite public comment.

DATES: To ensure consideration, written comments must be received on or before August 31, 2007.

ADDRESSES: Persons wishing to review the application, draft Malpai Borderlands Habitat Conservation Plan (MBHCP), or other related documents may obtain a copy by written request to the Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021–4951 (602/242–0210). Electronic copies of these documents will also be available for review on the Arizona Ecological Services Office Web site, *http://www.fws.gov/southwest/es/arizona/*. The application and documents related to the application will be available for public inspection, by appointment only, during normal business hours (8 a.m. to 4:30 p.m.) at the Service's Phoenix office. Comments concerning the application, draft HCP, or other related documents should be submitted in writing to the Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Office, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021–4951. Please refer to permit number TE–XXXXXX–0 when submitting comments. All comments received, including names and addresses, will become a part of the official administrative record.

Public Availability of Comments

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.

FOR FURTHER INFORMATION CONTACT: Marty Tuegel at the U.S. Fish and Wildlife Service Tucson office, 201 N. Bonita Avenue, Suite 141, Tucson, Arizona 85745 (520/670–6150) ext. 232, or by e-mail at *Marty_Tuegel@fws.gov*.

SUPPLEMENTARY INFORMATION: The Applicant has applied to the Service for a Section 10(a)(1)(B) incidental take permit for a period of 30 years in order to gain authorization for incidental take of 19 listed, candidate, and unlisted species. The proposed incidental take could occur as a result of grassland improvement and ranch management activities on non-Federal lands within approximately 828,000 acres of the Malpai borderlands region of Cochise County, Arizona and Hidalgo County, New Mexico.

Background

The Malpai Borderlands Group is proposing grassland improvement activities and general ranch management activities on non-Federal lands within the Malpai Borderlands area of Cochise County, Arizona and Hidalgo County, New Mexico. This area encompasses approximately 828,000 acres of primarily open rangeland. The covered area would include all the private and state trust lands within the area defined by the U.S./Mexico border on the south; on the west from milepost 10 on Geronimo Trail following current ranch boundaries north to Hwy 80, then north-east along Hwy 80 to the point where the section line between Township 21 South and Township 22 South crosses the highway, then north-west along current ranch boundaries to the National Forest boundary, then north-east along the National Forest boundary to the section line between Township 19 South and Township 20 South, then east to Hwy 80, then north along Hwy 80 to its junction with Hwy 9; along Hwy 9 on the north side; and on the east side along the Continental Divide (to where it enters Diamond A Ranch) and then along the east boundary of the Diamond A Ranch to its junction with the U.S./Mexico border. The grassland improvement activities include returning fire onto the landscape as an ecological factor that maintains the grassland ecosystem, erosion control structures to reduce soil loss and downstream sedimentation, and mechanical brush control to reduce shrub invasion of upland habitats. All three of these general activity types can have short-term impacts on species and their habitats, but through these activities, a long-term benefit is anticipated for the watersheds in the covered area and for the covered species. In addition, MBHCP includes provisions for individual ranchers to elect to enroll under the conservation plan for coverage of routine ranch management activities, including construction of linear facilities (fences, pipelines, and roads), livestock management, and use and maintenance of livestock ponds/tanks. These activities are included because in some cases incidental take of some covered species may occur. However, improved ranch management also can improve the watershed and habitats of covered species. In addition to these two broad categories of covered activities, Malpai Borderlands Group proposes actions to minimize the impacts of the activities and assist in recovery of the covered species. These actions are also proposed to be covered by the associated section 10(a)(1)(B) permit.

To meet the requirements of a section 10(a)(1)(B) permit, Malpai Borderlands Group has developed and will implement the MBHCP, which provides measures to minimize and mitigate for incidental take of the 19 proposed covered species to the maximum extent practicable, and which ensures that the incidental take will not appreciably reduce the likelihood of the survival and recovery of these species in the wild.

Section 9 of the Act and its implementing regulations prohibit the ''taking'' of threatened and endangered species. However, the Service, under limited circumstances, may issue permits to take listed wildlife species incidental to, and not the purpose of, otherwise lawful activities.

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 et seq.) and its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 U.S.C. 4371 et seq.) and its implementing regulations (40 CFR 1506.6).

C. Todd Jones,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. E7–12720 Filed 6–29–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination against Federal Acknowledgment of the St. Francis / Sokoki Band of Abenakis of Vermont

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Determination.

SUMMARY: Pursuant to 25 CFR 83.10(l)(2), notice is hereby given that the Department of the Interior (Department) declines to acknowledge the group known as the St. Francis/ Sokoki Band of Abenakis of Vermont (SSA), P.O. Box 276, Swanton, Vermont 05488, c/o Ms. April Merrill, as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner does not satisfy four of the seven mandatory criteria for acknowledgment, specifically 83.7(a), 83.7(b), 83.7(c), and 83.7(e), as defined in 25 CFR part 83. Consequently, the SSA petitioner does not meet the requirements for a government-to-government relationship with the United States.

DATES: This determination is final and will become effective 90 days from publication of this notice in the **Federal Register** on October 1, 2007 pursuant to section 83.10(l)(4), unless a request for reconsideration is filed pursuant to section 83.11.

ADDRESSES: Requests for a copy of the Summary Evaluation under the Criteria should be addressed to the Office of the Assistant Secretary—Indian Affairs, Attention: Office of Federal Acknowledgment, 1951 Constitution Avenue, NW., MS: 34B–SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment, (202) 513–7650.

SUPPLEMENTARY INFORMATION: On November 9, 2005, the Department issued a proposed finding (PF) that the SSA petitioner was not an Indian tribe within the meaning of Federal law because the petitioner did not meet four of the seven mandatory criteria for Federal acknowledgment as an Indian tribe. The Department published a notice of the PF in the **Federal Register** on November 17, 2005 (70 FR 69776). Publishing notice of the PF initiated a 180-day comment period during which time the petitioner, interested and informed parties, and the general public, could submit arguments and evidence to support or rebut the PF. This initial comment period ended on May 16, 2006. The petitioner requested that the Department extend the comment period, and the Department extended it for an additional 90 days. The comment period closed on August, 14, 2006. The petitioner again requested an extension of the comment period. In reply, the Department stated that it would consider doing so if the petitioner submitted, as soon as possible, a more thorough work plan and justification for the extension. The Department noted that pending the receipt of such a request, the 60-day response period, described in the regulations, would close on October 13, 2006. On October 13, 2006, the response period closed, without the Department receiving a response from the petitioner.

During the comment period, the petitioner, several individuals associated with the petitioner, and an informed party submitted materials to the Department. During both the original comment period and the extended comment period, the petitioner did not submit critical materials that the PF requested. In particular, the petitioner did not submit any of the materials that would help the petitioner establish descent from a historical Indian tribe. Overall, given the petition's deficiencies in meeting criteria 83.7(a), (b), (c), and (e), together with the explicit requests in the PF, the petitioner's comments were few in number and did not substantively address the PF. None of the material submitted changed the conclusions of the PF.

The SSA petitioner claims descend as a group mainly from a Western Abenaki Indian tribe, most specifically, the Missisquoi Indians. During the colonial period (approximately 1600–1800), the Missisquoi Indians lived in northwestern Vermont, near the present-day town of Swanton. The available evidence indicates that by 1800 the disruption caused by colonial wars and non-Indian settlement had forced almost all the Western Abenakis in northern New England (including Vermont) to relocate to the Saint Francis River area of Quebec, Canada, and become part of the St. Francis, or Odanak, village of Canadian Western Abenaki Indians. The petitioner, however, contends that its ancestors remained behind in northwestern Vermont after 1800, or moved to Canada until it was ''safe'' to return. The petitioner also maintains that its ancestors lived ''underground,'' hiding their Indian identity to avoid drawing the attention of their non-Indian neighbors, until the 1970's. Some of the available documentation indicates that, over the course of the 19th century, a few of the group's ancestors moved from various locations in Quebec, Canada, to the United States, but not as a group.

Of the petitioner's 1,171 members with enrollment files completed to the petitioner's satisfaction, only 8 (less than 1 percent) demonstrated descent from a Missisquoi Abenaki Indian ancestor. By 1800, most of the historical Missisquoi Abenaki Indian tribe had migrated to St. Francis, or Odanak, in Quebec, Canada. The available evidence demonstrates that these eight members descend from Simon Obomsawin, who once belonged to the St. Francis, or Odanak, Indian community, and who can be traced to the historical Missisquoi Abenaki Indian tribe through lists of Indians belonging to St. Francis, or Odanak. The available evidence does not demonstrate that these eight members were associated with the SSA petitioner before the 1990's. Furthermore, the available evidence does not demonstrate that the other remaining 1,163 members, or their claimed ancestors, descend from an earlier Missisquoi Abenaki entity in Vermont or any other historical Indian tribe. Instead, the available evidence indicates that the petitioner is a collection of individuals of claimed but mostly undemonstrated Indian ancestry with little or no social or historical connection with each other before the early 1970's.

Criterion 83.7(a) requires that external observers identify the petitioner as an American Indian entity on a substantially continuous basis since 1900. The PF found that for the period from 1900 to 1975, no external observers identified either the SSA petitioner group or a group of the petitioner's ancestors as an American Indian entity on a substantially continuous basis. From 1976 afterward, however, the PF found sufficient evidence that external observers identified the petitioning group as an American Indian entity.

The Department received three sets of comments on the PF's conclusions that pertain to criterion 83.7(a). The petitioner submitted the first set of comments using a DVD video presentation entitled ''Against the Darkness'' that contained two interviews discussing Indians in Vermont in the 20th century. A second set of comments came from several individuals associated with the petitioning group. A third set of comments came from an informed party who contested the PF's analysis of a document in a Vermont Eugenics Survey ''Pedigree'' file compiled around 1927 to 1930.

None of the comments submitted during the comment period supplied new evidence that an external observer

identified the petitioner or an antecedent group before 1975 as an American Indian entity. The two interviews on the ''Against the Darkness'' video provide secondhand accounts of Indian individuals living in, or at least traveling through, Vermont in the first third of the 20th century. However, they are not first-hand observations of American Indian entity, and the evidence does not demonstrate that the observed Indians were either the petitioner or an antecedent group. The second set of documents contained material that relates to the petitioner's activities after 1975. This material does not affect the FD because the PF concluded that the petitioner met criterion 83.7(a) for the period following 1975. The informed party's comments disputing the PF's interpretation of the Vermont Eugenics Survey are plausible, especially if further corroborating evidence were available. The informed party argued, without providing additional corroborating evidence, that ''the St. Francis Indians'' identified in the survey were a family in Vermont, as opposed to an Indian group in Canada, as the PF concluded. However, the informed party's argument does not satisfy criterion 83.7(a) because the Department does not accept references to individual Indian descendents or Indian families as satisfactory evidence for criterion 83.7(a).

The FD concludes, as the PF did, that external observers identified the petitioner as an as Indian entity only after 1975. The evidence does not demonstrate substantially continuous identification of the petitioner as an American Indian entity from 1900 to the present; therefore, the petitioner does not meet the requirements of criterion 83.7(a).

Criterion 83.7(b) requires that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present. The PF found, based on the available evidence, that the petitioner did not meet criterion 83.7(b) at any point in time. The PF noted that much of the available evidence from the 19th century demonstrated that the Abenakis of northern Vermont left the state by around 1800, rather than supporting the petitioner's claims about the existence of a 19th-century community. Based on the available evidence, the PF concluded that the petitioner is a collection of individuals with little or no social connection with each other before the early 1970's. The PF also concluded that these claimed ancestors did not maintain at least a minimal distinction from the population of northwestern Vermont and the surrounding area from historical times until the present.

As comments, the petitioner submitted a video presentation entitled ''Against the Darkness,'' four essays that are principally about 20th century material culture, four Internet essays entitled ''Abenaki History,'' an unannotated map, membership lists from 1975 and 1983, and a collection of meeting minutes from the 1970's, 1980's, and 1990's. An informed party also submitted comments on two 18th-century document sets that are allegedly ''missing,'' an 1835 newspaper article from the *Green Mountain Democrat,* and the Vermont Eugenics Survey of the early 20th century.

The ''Against the Darkness'' video presentation and the four essays on material culture argued that the existence of woven baskets, a pocket watch on which the phrase ''from Abenaki tribe'' was inscribed, a century-old postcard of a ''chief'' in a canoe, and some handmade fish-spears demonstrated the existence of an Abenaki community. The PF discussed the difficulties in inferring the existence of a community from a few pieces of material culture, and the FD concludes that these objects have unknown provenances and questionable relevancy and do not demonstrate the existence of a distinct community comprised of the petitioner or its ancestors. The available evidence does not show that the Internet essays discuss the petitioner's ancestors. The petitioner submitted an unannotated black and white map that had numbers assigned to various houses; however, the materials did not explain the meaning of the numbers, or what the numbers are supposed to indicate. The map did not provide evidence of a distinct community within Swanton consisting of the claimed ancestors of the group.

The membership lists from 1975 and 1983 and the meeting minutes from the 1970's, 1980's, and 1990's provide evidence that the group first created and organized itself in the 1970's, and established its membership rules after that period. They also show the group lacked a clear understanding of its membership or knowledge of who its members were. Generally, the petitioner was able to document some activities of the petitioner's council and the Abenaki Self-Help Association, Incorporated (ASHAI), but did not document the existence of an interacting social community composed of its members.

The informed party discussed two sets of 18th-century documents that are, at present, not locatable or do not exist. The informed party speculated that, if found, these documents might help describe Abenaki community in northwestern Vermont. These speculations, however, cannot be verified and thus do not provide evidence for purposes of 83.7(b). The Department makes its decisions based on available evidence. The informed party also contested the PF's interpretation of an 1835 article from the *Green Mountain Democrat* newspaper. The PF noted several problems with using this article as evidence in support of criterion 83.7(b). However, the informed party's comments do not address those problems, and the comments do not help the petitioner satisfy the criterion. The informed party asserted that the Vermont Eugenics Survey identified a few of the petitioner's claimed ancestors as Abenaki Indians. No party, however, submitted any additional documentation during the comment period to support this claim.

Based on the available record, the FD concludes, as the PF did, that there is insufficient evidence to demonstrate that, at any point in time, a predominant portion of the petitioning group comprised a distinct community or has existed as a community from historical times until the present. Therefore, the petitioner does not meet criterion 83.7(b).

Criterion 83.7(c) requires that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. The PF found, based on the available evidence, that the petitioner did not meet criterion 83.7(c) at any point in time.

The PF concluded that there was an Abenaki entity in or around northwestern Vermont through the late 18th century but that the available evidence did not show that the petitioner's ancestors had a historical connection to these Abenaki Indians. The petitioner did not submit evidence to demonstrate what its claimed ancestors were doing as a group from 1800 to 1875 to exercise political influence or authority. For the period from 1875 to 1900, the petitioner named an ancestor who provided food and clothes to children and another who was a midwife, arguing that these two ancestors served as informal community leaders. The PF concluded, however, that these activities did not constitute an exercise of political authority, but encouraged the petitioner to investigate the activities of these individuals further. For the period from 1900 to 1975, the PF concluded the petitioner presented little evidence demonstrating informal leadership among any group of

the petitioner's claimed ancestors. For the period since 1975, the PF noted the creation of the SSA as a political organization. However, the PF concluded that there was not sufficient evidence showing widespread participation by the group's members in these political processes; instead, the evidence suggested the ''political influence is limited to the actions of a few group members pursuing an agenda with little input from the membership'' (Abenaki PF 2005, 108).

In its comments on the FD, the petitioner submitted an essay about a souvenir postcard of a ''chief'' in a canoe, a set of photocopied treaty documents, four Internet essays entitled ''Abenaki History,'' and a collection of meeting minutes from the 1970's, 1980's, and 1990's. Several individuals associated with the petitioner submitted several other pages of information, including two photographs and some Internet printouts. An informed party submitted several pages of comments together with some photocopies of primary sources.

The essay on the 100-year old souvenir postcard of a ''chief'' in a canoe does not provide evidence of political influence for the petitioner during this time, especially since the petitioner did not include a name for him or describe any actions carried out under his leadership. The treaty documents generally refer Indians in non-specific, generic terms and do not link the petitioner to any specific Abenaki Indians from northwestern Vermont. The Internet essays support the PF's conclusions that there was an Abenaki entity in or around northern Vermont before 1800 that exercised political authority. However, the available evidence does not show that the Internet essays discuss the petitioner's ancestors. The meeting minutes that the petitioner submitted show that a small number of the petitioner's members engaged in political activity and that the rest of the claimed members had little or no awareness of or participation in the council's actions. Thus, the group's leaders were not interacting bilaterally with the group's members. The submission from the individuals associated with the petitioner included a letter referring to oral tradition materials, but during an extended comment period, the individuals did not submit these materials, and their comments generally lacked supporting documentation and explanation of the political processes of the petitioner as defined under criterion 83.7(c). Comments from the informed party discussed two sets of 18th-century documents that are, at present, either not locatable or do not exist; this party speculated that, if found, these documents might help describe Abenaki leadership in northwestern Vermont. These speculations, however, cannot be verified and thus do not provide evidence for the purposes of criterion 83.7(c). The Department makes its decisions based on available evidence. In sum, the commenting parties did not submit any evidence that allowed the petitioner to satisfy the criterion.

Criterion 83.7(d) requires that the petitioning group submit a copy of the group's present governing document that includes its membership criteria. The PF found that the petitioner satisfied criterion 83.7(d) by submitting a copy of its governing document that described the group's membership criteria and current governing procedures. The Department received no comments, from either the petitioner or any other party, on the PF's conclusions under criterion 83.7(d). Therefore, based on the available evidence, the FD affirms the PF's conclusion that the petitioner meets criterion 83.7(d).

Criterion 83.7(e) requires that the petitioner's membership consist of individuals who descend from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity. To satisfy this criterion, the petitioner must (1) properly identify its current members, and (2) provide evidence that those members descend from a historical Indian tribe. The PF concluded that the petitioner did not properly identify its current members as required by the regulations because its membership list was incomplete and was not certified by the group's governing body. The PF also concluded that although the petitioner claimed descent from the historical ''Western Abenaki'' Indian tribe, the petitioner did not document descent from that historical Indian tribe or any other historical Indian tribe, except possibly for the eight members mentioned above.

On November 1, 2005, just before the November 9, 2005, issuance of the PF, the Department received a submission from the petitioner that properly certified the petitioner's 2005 membership list. The Department evaluated this list for the PF, despite its not being certified. This submission arrived too late to evaluate in the PF. Instead, the Department's FD notes that the petitioner's current membership list has been properly certified.

During the comment period, the petitioner submitted a copy of the video presentation entitled ''Against the Darkness'' which makes the argument that seven generations of Abenaki Indians have survived in northern Vermont, from the late 18th century to the present. However, ''Against the Darkness'' does not properly attribute its alleged sources, thus effectively shielding the video's evidence from independent evaluation and verification. Furthermore, because it uses aliases and approximate birth dates for its subjects, the video presents no real genealogy that the Department can evaluate.

Several individuals associated with the petitioning group submitted an undated proposed amendment to the State of Vermont's bill regarding state recognition of the ''Abenaki People.'' The proposed legislation states that, ''[a]t least 1,700 Vermonters claim to be direct descendents of the several indigenous Native American peoples, now known as Western Abenaki tribes.'' The bill states that 1,700 unnamed Vermonters claim to be direct descendents of ''several indigenous Native American peoples,'' not that 1,700 Vermonters are direct descendents of a specific Abenaki Indian tribe in northwestern Vermont. An assertion that is not supported by relevant documentation, about the ancestry of a group, by a contemporary state legislature or other source, is not a form of evidence that is acceptable to the Secretary to meet the requirements of the regulations. More specifically, the acknowledgment regulations in section 83.7(e)(1) generally expect ''evidence identifying present members or ancestors of present members as being descendents of a historical Indian tribe.'' The assertion expressed in the Vermont bill does not identify present members or name the ancestors of the ''1,700 Vermonters.'' It only asserts that at least 1,700 unnamed, unspecified Vermonters ''claim'' to descend from ''several indigenous Native American peoples.''

An informed party claimed that two ''missing'' document sets from the late 18th century might provide names of specific historical Abenaki Indians from whom the petitioner can claim descent. There is no reason to believe that the two alleged ''missing'' document sets from the late 18th century would demonstrate that the petitioner's membership descends from a historical Indian tribe. The informed party's speculations cannot be verified and thus do not provide evidence for the purposes of 83.7(e), and the Department makes its decisions based on available evidence.

The petitioner did certify its current membership list; however, neither the

petitioner nor any other party submitted new evidence that demonstrates that the group's membership descends from a historical Indian tribe. The FD affirms the PF's conclusion that the petitioner did not meet criterion 83.7(e).

Criterion 83.7(f) requires that the membership of the petitioning group be composed principally of persons who are not members of any acknowledged North American Indian tribe. A review of the available documentation for the PF and the FD shows that the SSA petitioner is composed principally of persons who are not members of any acknowledged North American Indian tribe. Therefore, the petitioner meets the requirements of criterion 83.7(f).

Criterion 83.7(g) requires that neither the petitioner nor its members be the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. The available documentation for the PF and the FD provided no evidence that the petitioning group was the subject of congressional legislation to terminate or prohibit a Federal relationship as an Indian tribe. Therefore, the petitioner meets the requirements of criterion 83.7(g).

A report summarizing the evidence, reasoning, and analyses that are the bases for the FD will be provided to the petitioner and interested parties, and is available to other parties upon written request.

After the publication of notice of the FD, the petitioner or any interested party may file a request for reconsideration with the Interior Board of Indian Appeals (IBIA) under the procedures set forth in section 83.11 of the regulations. The IBIA must receive this request no later than 90 days after the publication of the FD in the **Federal Register**. The FD will become effective as provided in the regulations 90 days from the **Federal Register** publication, unless a request for reconsideration is received within that time.

Dated: June 22, 2007.

Carl J. Artman,

Assistant Secretary—Indian Affairs.

[FR Doc. E7–12727 Filed 6–29–07; 8:45 am]

BILLING CODE 4310–G1–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Special Resource Study (SRS) for Sites Related to the Civil War Battle of Franklin, Near Franklin, Tennessee

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and National Park Service policy in Director's Order 2 (Park Planning) and Director's Order 12 (Conservation Planning, Environmental Impact Analysis, and Decision-making) the National Park Service (NPS) will prepare an EIS for the SRS for sites related to the Civil War Battle of Franklin (BoF) located in Franklin, Tennessee. The statement will assess potential environmental impacts associated with various types and levels of visitor use and resources management for sites related to the BoF.

The authority for publishing this notice is contained in 40 CFR 1506.6 which prescribes the regulations for implementing the provisions of the National Environmental Policy Act. The process by which the Secretary of the Interior will conduct SRSs is contained in 16 U.S.C. 1a–5.

New areas are typically added to the National Park System by an Act of Congress. The National Park Service is often tasked by Congress to evaluate potential new areas for compliance with the established criteria for designation. The NPS documents its findings in a SRS Report. On December 1, 2005, Congress passed the Franklin National Battlefield Study Act (Pub. L. 109–120) directing the Secretary of the Interior to conduct a SRS for certain sites in Tennessee including the cities of Brentwood, Franklin, Triune, Thompson Station, and Spring Hill, Tennessee.

The NPS is currently accepting comments from interested parties on issues, concerns, and suggestions pertinent to the BoF. Suggestions and ideas for managing the cultural and natural resources associated with the BoF are encouraged. Comments may be submitted in writing to the address listed at the end of this notice or through the NPS Planning, Environment, and Public Comment (PEPC) Web site at *http://parkplanning.nps.gov.* The NPS will publish periodic newsletters on the PEPC Web site to present scoping issues and preliminary management concepts to the public as they are developed. Public meetings to present management concepts will be conducted in the local area. Specific locations, dates, and times will be announced in local media and on the PEPC Web site. If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to: Tim Bemisderfer, Battle of Franklin SRS, NPS Southeast Regional Office, Planning and Compliance Division, 100 Alabama Street, 6th Floor 1924 Building, Atlanta, Georgia 30303. You may also comment via the Internet to *http://parkplanning.nps.gov/sero.* Please submit Internet comments as a plain text file, avoiding the use of special characters and any form of encryption. Please also include your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at 404–562–3124, extension 693.

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

DATES: Locations, dates, and times of public meetings will be published in local newspapers and may also be obtained by contracting the NPS Southeast Regional Office, Planning and Compliance Division. This information will also be published on the PEPC Web site.

ADDRESSES: Tim Bemisderfer, Battle of Franklin SRS, NPS Southeast Regional Office, Planning and Compliance Division, 100 Alabama Street, 6th Floor 1924 Building, Atlanta, Georgia 30303. Telephone: 404–562–3124 extension 693.

FOR FURTHER INFORMATION CONTACT: Tim Bemisderfer, Battle of Franklin SRS, NPS Southeast Regional Office, Planning and Compliance Division, 100 Alabama Street, 6th Floor 1924 Building, Atlanta, Georgia 30303. Telephone: 404–562–3124 extension 693.

SUPPLEMENTARY INFORMATION: The Draft and Final SRS and EIS will be made available to all known interested parties

and appropriate agencies. Full public participation by Federal, State, and local agencies as well as other concerned organizations and private citizens is invited throughout the preparation process of this document.

The responsible official for this EIS is the Regional Director for the Southeast Region, Patricia A. Hooks.

Dated: May 29, 2007.

Patricia A. Hooks,

Regional Director, Southeast Region.

[FR Doc. 07–3205 Filed 6–29–07; 8:45 am]

BILLING CODE 4312–52–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent (NOI) to Expand the Scope of the General Management Plan (GMP)/Environmental Impact Statement (EIS) Being Prepared for Fort Pulaski National Monument

SUMMARY: The National Park Service (NPS) is expanding the scope of the GMP/EIS being prepared for Fort Pulaski National Monument. As part of this planning effort, the NPS will include a wilderness study to determine if any portions of the park should be recommended for inclusion in the National Wilderness Preservation System as defined in the Wilderness Act of 1964. The study will be included as part of the GMP/EIS currently in preparation.

A NOI to prepare an EIS for the GMP was originally published in the **Federal Register** on February 24, 2005, (Volume 70, Number 36). That EIS now will be expanded to include an evaluation of the impacts associated with possible designation of wilderness at Fort Pulaski. This notice is being furnished as required by National Environmental Policy Act (NEPA) regulations 40 CFR 1501.7.

To facilitate sound planning and analysis of environmental impact, the NPS is gathering information necessary for the preparation of the GMP, the wilderness study, and the associated EIS and is obtaining suggestions and information from other agencies and the public on the scope of issues to be addressed. Comments and participation in this scoping process are invited.

DATES: Open house meeting places and times will be announced by press release to print, radio and television organizations through the Savannah area, including *The Savannah Morning News,* the major commercial broadcast network affiliates, public broadcasting stations, and on the part Web site at: *http://www.nps.gov/fopu.*

ADDRESSES: Persons wishing to comment may do so by any one of several methods. They may attend the open houses noted above. They may mail comments to Fort Pulaski National Monument, Attention: Superintendent, P.O. Box 30757, Savannah, Georgia 31410-0757. They may also comment via the Internet at *http://parkplanning.nps.gov.* Finally, they may hand-deliver comments to the Fort Pulaski National Monument headquarters in Savannah, Georgia.

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.

FOR FURTHER INFORMATION CONTACT: Fort Pulaski National Monument, P.O. Box 30757, Savannah, Georgia 31410–0757, 912–786–5787.

SUPPLEMENTARY INFORMATION: Persons who previously submitted comments on the scope of the EIS as it relates to the GMP need not resubmit those comments. The NPS already is considering that input as planning continues. However, persons who have not previously submitted comments on the scope of the EIS, or who wish to submit additional comments related to the scope of the EIS in consideration of the wilderness study are encouraged to do so.

The environmental review of the GMP, wilderness study, and EIS for Fort Pulaski National Monument will be conducted in accordance with requirements of the NEPA (42 U.S.C. 4321 *et seq.*), NEPA regulations (40 CFR 1500–1508), other appropriate Federal regulations, and NPS procedures and policies for compliance with those regulations.

Authority: The authority for publishing this notice is 40 CFR 1506.6.

The responsible official for the FEIS is Patricia A. Hooks, Regional Director, Southeast Region, National Park Service, 100 Alabama Street SW., 1924 Building, Atlanta, Georgia 30303.

Dated: April 16, 2007.

Patricia A. Hooks,

Regional Director, Southeast Region.

[FR Doc. 07–3204 Filed 6–29–07; 8:45 am]

BILLING CODE 4310–5L–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Record of Decision on the Final Environmental Impact Statement for the Dayton Aviation Heritage National Historical Park General Management Plan Amendment

AGENCY: National Park Service, Department of the Interior.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 83 Stat. 852, 853, the National Park Service (NPS) announces the availability of the Record of Decision (ROD) on the Final Environmental Impact Statement (EIS) for the Dayton Aviation Heritage National Historical Park General Management Plan Amendment, Dayton Aviation Heritage National Historical Park, Ohio. On May 16, the Regional Director, Midwest Region, approved the ROD for the project. As soon as practicable, the NPS will begin to implement the Preferred Alternative contained in the Final EIS issued on April 13.

The following course of action will occur under the Preferred Alternative. The park will continue to serve traditional visitors to national parks; however, the primary goal will be to increase regional involvement, particularly in interpretation, education, and outreach. Visitors can expect an active participatory experience that will broaden and expand the park's literary and aviation significance. There will be a new at-grade entrance to the Huffman Prairie Flying Field and a maintenance facility shared by the park and partners.

This course of action and two other alternatives were analyzed in the Draft and Final EIS. The full range of foreseeable environmental consequences was assessed and appropriate mitigating measures were identified.

The ROD includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, a finding on impairment of park resources and values, a listing of measures to minimize environmental harm, an overview of public involvement in the decisionmaking process, and a conclusion.

FOR FURTHER INFORMATION CONTACT: Superintendent Lawrence Blake, Dayton Aviation Heritage National Historical Park, 16 South Williams Street, Dayton, Ohio 45402, telephone 937–225–7705.

SUPPLEMENTARY INFORMATION: Copies of the ROD may be obtained from the contact listed above or may be viewed online at *http://parkplanning.nps.gov/.*

Dated: May 16, 2007.

Ernest Quintana,

Regional Director, Midwest Region.

[FR Doc. E7–12715 Filed 6–29–07; 8:45 am]

BILLING CODE 9312–88–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement and Environmental Impact Report; Giacomini Wetlands Restoration Project; Point Reyes National Seashore, Marin County, CA; Notice of Availability

Summary: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), and the Council on Environmental Quality Regulations (40 CFR part 1500–1508), the National Park Service, Department of the Interior, has prepared a Final Environmental Impact Statement (FEIS) identifying and evaluating the no-action alternative and four action alternatives for the restoration of the Giacomini wetlands. When approved, the plan will guide the National Park Service in restoration and public access actions for lands at the headwaters of Tomales Bay, Marin County, California. Because some of the proposed restoration project area includes state, county and private lands, the document also fulfills California Environmental Quality Act (CEQA) requirements as a Final Environmental Impact Report (EIR). The California State Lands Commission (CALC) is the CEQA lead agency for this project. Through the FEIS/EIR, the potential impacts of the five alternatives are assessed and, where appropriate, measures to avoid or reduce the intensity of potential effects are identified. Three preliminary restoration options that were considered, but rejected because they did not achieve restoration objectives or were infeasible, are also described in the FEIS/EIR.

Project Planning Background: Point Reyes National Seashore is a unit of the National Park Service (NPS) located in western Marin County, California. It was established by Congress on September 13, 1962, ''to save and preserve, for the purpose of public recreation, benefit, and inspiration, a portion of the diminishing seashore of the United States that remains undeveloped'' (Pub. L. 87–657). A large portion of Tomales Bay watershed lands were acquired by the NPS in the 1960s and 1970s for establishment of two neighboring parks—Point Reyes National Seashore (Seashore) and Golden Gate National Recreation Area (GGNRA). In 1980, the boundary for GGNRA was expanded to include the Waldo Giacomini Ranch (Giacomini Ranch) and the eastern portion of Tomales Bay. The Giacomini Ranch falls within the north district of the GGNRA, which is administered by the Seashore.

The Seashore and CALC are proposing to restore historic wetlands at Giacomini Ranch in Tomales Bay, an embayment that borders the Seashore to the east and north. The Giacomini Ranch property was once part of a large tidal marsh complex at the southern end of Tomales Bay that also encompassed portions of Olema Marsh (a 60-acre freshwater marsh that is partially owned by the NPS). The Giacomini property was diked in 1946 and has been used by the Waldo Giacomini family as a dairy since then. The property was purchased from the Giacomini family in 2000. Partial funding for the purchase came from the California Department of Transportation (CalTrans), which was under obligation to the California Coastal Commission (CCC) to mitigate for impacts resulting from the Lone Tree road repair along State Route 1 conducted in the early 1990s. The CCC eventually allowed CalTrans to fulfill mitigation obligations by making funds available to the NPS to purchase, restore, and manage a replacement wetland site.

While the NPS is obligated under its agreement with CalTrans and CCC to mitigate only a total of 3.6 acres, the Seashore believes that the potential value of the historic salt marsh is significant not only to the NPS and its resource conservation objectives, but to the Tomales Bay watershed ecosystem as a whole. Tomales Bay was recently declared impaired for sediment, nutrients, and fecal coliform by the San Francisco Regional Water Quality Control Board under § 303(d) of the Clean Water Act. Coastal wetlands act as both a food source and filtering system for estuarine and marine systems, and the loss of these wetlands in many parts of the bay has contributed to this designation. The diking of the Giacomini property resulted in the loss of hydrologic connectivity and diminished delta functionality for more than 50 percent of the coastal tidal wetlands present in Tomales Bay in the late 1800s. Restoration would reestablish hydrologic connectivity between Tomales Bay and the project area, resulting in increased wetland functionality.

The project purpose and goals reflect a broad ecosystem-level approach to restoration. The purpose of the proposed project is to restore natural hydrologic processes within a significant portion of the project area, thereby promoting restoration of ecological processes and functions. Three goals, which further support the overall purpose, were also developed, as follows:

- Restore natural, self-sustaining tidal, fluvial (streamflow), and groundwater hydrologic processes, thereby enabling reestablishment of some of the ecological processes and functions associated with wetland and riparian areas, such as water quality improvement, floodwater storage, food chain support, and wildlife habitat.
- Pursue a watershed-based approach to restoration so as to emphasize opportunities to improve ecological conditions within the entire Tomales Bay watershed, not just in the project area itself.
- To the extent possible, incorporate opportunities for the public to experience and enjoy the restoration process as long as opportunities do not conflict with the project's purpose or with NPS, CALC, or other agency legislation or policies.

For these reasons, the NPS and CALC propose to restore natural hydrologic and ecological processes on most or all of the 563-acre property. The NPS and CALC developed a range of alternatives for accomplishing this restoration project that encompass a spectrum of hydrologic and topographic changes. However, there are a series of activities that would be conducted under all five alternatives, including: Discontinuation of agricultural land management on the property, removal of general agricultural infrastructure and buildings from upland areas, and periodic maintenance of creeks to ensure that sediment deposition does not elevate flood risk to adjacent properties. In addition, the Giacomini family would remove all personal property from the project area, including worker housing trailers near Mesa Road. Water rights to Lagunitas Creek, acquired as part of the transfer of ownership, would be dedicated to in-stream flow. The NPS would also enter into a lease agreement with the CALC for leasing of subtidal lands in Lagunitas Creek within the project area. Finally, the NPS will be working with the USGS on an effort to expand the tidewater Goby population within the southern portions of Tomales Bay.

Proposed Giacomini Wetlands Restoration: Extensive Restoration of the Giacomini Ranch East Pasture, Full Restoration of the West Pasture, and

Restoration of Olema Marsh with Limited Public Access (Alternative D). This alternative has been determined to be ''environmentally preferred'', and involves complete removal of levees in both the West and East Pasture. In general, this alternative builds upon the actions proposed in *Alternative B* and *Alternative C* (see below) by fully realigning one of the leveed creeks within the Giacomini Ranch; excavating a portion of the ranch pasture into active intertidal marshplain and floodplain; increasing the amount of culvert replacement to improve hydraulic connectivity, streamflow, and passage of salmonid species; and increasing active revegetation and invasive non-native plant removal efforts. In addition, this alternative incorporates adaptive restoration of Olema Marsh (which is located south of Giacomini Ranch and White House Pool and is owned by Audubon Canyon Ranch (ACR) and the NPS); this would include a phased approach to shallow channel excavation, vegetated berm removal, and potential replacement of Levee Road and/or Bear Valley Road culverts in the future should initial restoration efforts not achieve the desired degree of success.

Public access components of *Alternative D* include an improved spur trail leading to the edge of the Dairy Mesa; an improved spur trail extension of the existing Tomales Bay Trail; an improved spur trail on the southern perimeter following the existing alignment of an informal social path; and an ADA-compliant path in White House Pool County Park. The NPS would also pursue working with Marin County (through separate environmental compliance) to consider additional public access facilities on the southern perimeter of the project area, including reevaluation of a trail along Levee Road, extension of a trail to Inverness Park, and, should other options not prove viable, a non-vehicular bridge across Lagunitas Creek.

Alternatives to Proposed Project: Under the *No Action Alternative,* levees, tidegates, and culverts in the Giacomini Ranch will remain. An 11-acre area will be restored on the northeast corner of the east pasture to satisfy mitigation requirements for aquatic habitat impacts caused by CalTrans due to road repairs on State Route 1 in Marin County in exchange for the NPS receiving monies to purchase and restore the Giacomini Ranch. The remainder of the levees in the East Pasture and West Pasture would no longer be maintained. Under the *No Action Alternative* only, there is potential for limited grazing, with consultation conducted under a separate compliance process. Olema Marsh would not be restored, and there would be no new public access facilities.

Alternative A—Limited Restoration of the Giacomini Ranch East Pasture Only with Expanded Public Access, Including Culverted Earthen Fill Trail on Eastern Perimeter. This alternative involves selective breaching of the East Pasture levee, while levees and tidegates in the West Pasture would not be removed. A limited amount of tidal channel creation, creek bank grading, and revegetation would also be performed in the East Pasture. Most of the actions under this alternative focus on removing agricultural infrastructure such as filling of ditches, ripping of compacted roads, fence removal, and removal of pumps, pipelines, and concrete spillways, as well as removal of ranch buildings. For future public access, the southern perimeter trail would include a prefabricated bridge across Lagunitas Creek, near the old summer dam location across from White House Pool County Park. The bridge design would place footings outside of the active channel, so as to not impinge on hydrologic processes. Future extension of the southern perimeter trail, in collaboration with the County of Marin, would connect White House Pool County Park with a path along Sir Francis Drake Boulevard (that would either run alongside the road or move off the road at the southern end of the unrestored West Pasture onto a low-elevation boardwalk that would join back with Sir Francis Drake Boulevard in Inverness Park). Other infrastructure constructed is a culverted berm through-trail on the eastern perimeter of the East Pasture.

Alternative B—Moderate Restoration of the Giacomini Ranch East Pasture and Limited Restoration of the West Pasture with Expanded Public Access, Including Boardwalk Trail on the Eastern Perimeter. This alternative would completely remove the East Pasture levees and create several breaches in the West Pasture levee, as well as remove the tidegate on Fish Hatchery Creek. More tidal channel creation, grading, and revegetation would occur than under *Alternative A.* There would be no activities taken at Olema Marsh. Most of the new public access facilities would continue to be limited to the eastern and southern perimeters of the East Pasture, including construction of the pedestrian access bridge across Lagunitas Creek near the old summer dam, and extension of the southern perimeter trail to Inverness Park. The culverted berm through-trail on the eastern perimeter in *Alternative A* would instead be a boardwalk. On the West Pasture north levee, a viewing area would replace the existing informal trail.

Alternative C—Full Restoration of the Giacomini Ranch East and West Pastures and Restoration of Olema Marsh, with Moderate Public Access. This alternative involves complete removal of levees in both the West and East Pasture. In general, this alternative would result in more tidal channel creation, grading, and revegetation than *Alternative B.* In addition, the project boundary is expanded to include Olema Marsh, which is located south of the Giacomini Ranch and White House Pool and is owned by ACR and the NPS. Olema Marsh and the Giacomini Ranch once formed an integrated tidal wetland complex. In *Alternative C,* there would be an adaptive approach for Olema Marsh restoration that would include phased shallow channel excavation and vegetated berm removal. Levee Road and Bear Valley Road culverts could be replaced in the future should initial restoration efforts not achieve the desired degree of success. Public access components include the southern perimeter path and proposed future trails as described under *Alternative A* and *Alternative B,* but there would be two spur trails rather than a through-trail on the eastern perimeter of the Giacomini Ranch.

Principal Differences Between the Draft and Final EIS/EIR:

Change in Preferred Alternative: The alternative preferred by the NPS and CALC has been changed to *Alternative D* from *Alternative C.* The lead agencies initially chose *Alternative C* as the Preferred Alternative as it appeared to best meet both wetland restoration goals and community public access needs. During public review of the DEIS/EIR, a large number of responses from the public, organizations, and agencies advocated selecting *Alternative D* because it was more compatible with restoration and would have less traffic, noise, pollution, and land use impacts.

Changes to Alternative D: Alternative D has been modified slightly in the FEIS/EIR in response to public feedback so as to slightly decrease the degree of excavation, to remove eucalyptus from Tomasini Creek, and to construct an ADA-compliant trail and viewing platform at the nearby White House Pool County Park. In addition, this alternative now also incorporates the option for NPS to collaborate with Marin County in a separate environmental process on possible additional public access facilities on the southern perimeter of the project area (as noted above).

Change in Impact Determinations: Because of refinement of construction scheduling and project design (identified in Chapter 2), the NPS and CALC have re-assessed some levels of impact identified, although none of these changes results in any ''Significant, Unavoidable Impacts'', such that all major impacts are mitigated to moderate or lesser intensities.

- Construction-related air quality impacts under *Alternative C* have been reduced to moderate, although *Alternative D* still would have major or substantial impacts that are mitigated to moderate levels through implementation of recommended Best Management Practices.
- *Alternative A* and *Alternative B* would have major impacts on riparian habitat due to construction of the eastern perimeter trail that could conflict with state and local policies on riparian habitat protection, but these impacts would be mitigated to minor or moderate through active and passive revegetation efforts.
- Major restoration actions in Olema Marsh identified as part of the adaptive restoration under *Alternative C* and *Alternative D* such as culvert replacement would not be implemented until the NPS can confirm these actions would not cause major impacts to municipal water supply through increasing water salinities in the portion of the Lagunitas Creek that is adjacent to municipal groundwater wells.

Summary of Public Engagement: On September 23, 2002, a Notice of Intent (NOI) to conduct public scoping to inform preparation of an EIS was published in the **Federal Register**. On September 25, 2002, a copy of the NOI and scoping information was sent to 45 landowners adjacent to the project area, and 163 persons and organizations on a public review request list maintained by the Seashore. On October 4, 2002, the NOI was sent to the Governor's Office of Planning and Research State Clearinghouse for distribution to relevant state agencies (SCH# 2002114002). Following agreement by CALC to act as the lead CEQA agency, a Notice of Preparation (NOP) for preparation of a joint EIS/EIR was prepared by CALC, and distributed to the State Clearinghouse, which circulated the NOP between May 29 and June 30, 2003. The extensive public scoping period also closed on June 30, 2003.

Oral comments were heard at a public information meeting at the October 19, 2002 Advisory Commission held at the Point Reyes Dance Palace where approximately 30 to 40 members of the public attended. In addition to the oral comments obtained, approximately 86 individuals or private organizations provided written comments regarding the proposed restoration. Regulatory scoping meetings were conducted on November 6, 2002 and November 8, 2002 during the public scoping period. The NPS and CALC received comments from seven local, state, or federal agencies. After the public scoping phase concluded on June 30, 2003, a staff report was prepared that summarized all information derived from the public scoping process.

After a series of internal post-scoping discussions in spring 2004, the NPS and CALC hosted a series of information meetings with regulatory and local and state agencies, adjacent landowners, and local technical experts in the field of wetland restoration, to present and receive feedback on preliminary restoration and public access concepts. This phase culminated in a public workshop on June 22, 2004, at the Seashore Red Barn attended by more than 110 people. Following the June public workshop, all interested individuals and organizations were encouraged to submit comments to the NPS and CALC on the restoration concepts and scope of the proposed DEIS/EIR.

Through July 23, 2004 written letters or e-mails from 58 individuals and 14 private organizations were received, as well as two petitions with a total of approximately 450 signatures. NPS staff also met with representatives of stakeholder groups from Marin County and interested agencies that requested briefings. In response to the comments received, the NPS and CALC contracted for two additional studies on public access options within the project area that evaluated potential impacts on resources and adjacent land uses, as well as technical feasibility and costs. As part of this effort, additional meetings were held with adjacent landowners and the general public in February–March, 2005.

The Seashore's Notice of Availability for the DEIS/EIR was published in the **Federal Register** on November 3, 2006. The EPA's notification of filing of the DEIS/EIR was published in the **Federal Register** on December 15, 2006, formally initiating the 60-day public comment period. A notice that the DEIS/EIR had been also filed with the State Clearinghouse was published on December 18, 2006. The Seashore mailed over 450 letters regarding availability of the DEIS/EIR for public review on December 13, 2006 (this letter also announced a public meeting scheduled for January 25, 2007, at the Seashore Red Barn, and confirmed that the public comment period would end February 14, 2007).

On December 14, 2006, a press release announcing the public meeting was distributed to the Point Reyes Light, Marin Independent Journal, and Press Democrat, as well as 28 other media outlets, including newspapers, radio stations, and television stations. Details about the public meeting were also posted on the Seashore's Web site. The Marin Independent Journal and Point Reyes Light published articles about release of the DEIS/EIR and the pending public meeting. Approximately 100 members of the public attended the January 25, 2007 meeting. The Point Reyes Light published an account of the meeting on February 1, 2007.

Altogether approximately 180 interested individuals and organizations responded to release of the DEIS/EIR; approximately 170 were from private individuals. There were no form letters. More than 99 percent of the letters submitted were from residents of Marin County. Organizations providing comments included the Environmental Action Committee of Marin; Point Reyes Lodging Association; Marin County Bicycle Coalition/Community Pathways Committee/Access 4 Bikes; California Native Plant Society; Point Reyes Village Association; Sierra Club, Marin Chapter; and Tomales Bay Association. Ten responses were received from local, state, or federal agencies—the California Coastal Commission; the California Regional Water Quality Control Board; the Gulf of the Farallones National Marine Sanctuary; the North Marin Water District; the Marin/Sonoma Mosquito and Vector Control District; the County of Marin Department of Public Works; the County of Marin Department of Parks and Open Space District; the State Department of Conservation; the State of California Department of Fish and Game; and the EPA.

More than 90 percent of the oral and written comments received during the public meeting and throughout the comment period concerned the choice of *Alternative C* as the Preferred Alternative. A large number of comments also advocated modifications to either the existing Preferred Alternative or to *Alternative D,* with most of these proposed modifications focusing on changes to the public access components on the eastern and southern perimeters of the project area. On March 2, 2007, the EPA published its Lack of Objection (LO) findings regarding the DEIS/EIR, noting that the ''EPA supports the proposed project and believes it will significantly improve the hydrologic

and ecological processes and functions in the Tomales Bay Watershed.''

All written comments received and a summary of commentary from the January 25, 2007, public meeting are available for inspection at the Seashore Administration Building, 1 Bear Valley Road, Point Reyes Station, CA. Substantive comments and responses are documented in the FEIS/EIR. Copies of the FEIS/EIR may be obtained from the Superintendent, Point Reyes National Seashore, Point Reyes, CA 94956, Attn: Giacomini Wetlands Restoration Project, or by e-mail request to: *pore_planning@nps.gov* (in the subject line, type: Giacomini Wetlands Restoration Project). The document will be sent directly to those who have requested it, and also will be posted on the Internet at the Seashore's Web site *http://www.nps.gov/pore;* and both the printed document and digital version on compact disk will be available at the park headquarters and local libraries.

Decision: As a delegated EIS/EIR, the official responsible for the final decision is the Regional Director, Pacific West Region. A Record of Decision, fully documenting the entire conservation planning and environmental decision-making process, will be prepared not sooner than 30 days following publication in the **Federal Register** of the EPA's notice of filing and availability of the Final EIS/EIR. Subsequently and prior to implementation, notice of approval of the Record of Decision will likewise be published in the **Federal Register**, as well as announced via local and regional news media. Following approval of the Giacomini Wetlands Restoration Project, the official responsible for project implementation will be the Superintendent, Point Reyes National Seashore.

Dated: April 25, 2007.

George J. Turnbull,

Acting Regional Director, Pacific West Region.

[FR Doc. E7–12714 Filed 6–29–07; 8:45 am]

BILLING CODE 4312–FW–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Pierce College District, Lakewood, WA; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (5), of the completion of an inventory of human remains in the possession of the Pierce College District, Lakewood, WA. The human remains were removed from site 45–PI–07, also known as the Purdy 1 site, at Carr Inlet, Pierce County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the number of tribes that were determined to be culturally affiliated in a Notice of Inventory Completion previously published in the **Federal Register** of November 22, 2006 (FR Doc E6–19790, pages 67634–67635) by adding the Nisqually Indian Tribe of the Nisqually Reservation, Washington.

After publication in the **Federal Register** of the Notice of Inventory Completion, Pierce College District determined that the Nisqually Indian Tribe of the Nisqually Reservation, Washington were also culturally affiliated with the Native American human remains from site 45–PI–07, also known as the Purdy 1 site, at Carr Inlet, Pierce County, WA.

In the **Federal Register** of November 22, 2006, on page 67634, paragraph number 5, is corrected by substituting the following:

Site 45–PI–07 is a shell mound measuring 5 feet high, 30 feet wide, and 120 feet long. Osteological and archeological analysis indicate that the human remains removed from site 45–PI–07 are of Native American ancestry, based on the presence of extreme degrees of dental wear, marked shoveling of the exposed permanent incisors, blunt nasal sills, rounded chins, squatting facets on the talus, and their flex-kneed burial position, and site context. Archeological materials recovered from the site indicate a wide range of use during the prehistoric and historic periods. Site 45–PI–07 is located within the area long occupied by the Shotlemamish, a Southern Lushootseed speaking group. Members of the Puyallup Tribe of the Puyallup Reservation, Washington speak the Southern Lushootseed language. Around 1870s, remaining Shotlemamish, in what is now the Purdy I area, moved to the Puyallup Reservation where there were already Shotlemamish living on the reservation. Officials of Pierce College have reasonably determined that there is also a shared group identity through marriage between the Burley Lagoon, Purdy Washington Shotlemamish and Nisqually Indian Tribe of the Nisqually Reservation, Washington. Descendants of the Shotlemamish are members of the Puyallup Tribe of the Puyallup Reservation, Washington.

Officials of the Pierce College District have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 29 individuals of Native American ancestry. Officials of the Pierce College District also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Nisqually Indian Tribe of the Nisqually Reservation, Washington and Puyallup Tribe of the Puyallup Reservation, Washington. Lastly, officials of the Pierce College District have determined that there is a preponderance of the evidence in favor of the Puyallup Tribe of the Puyallup Reservation, Washington's claim.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Chris MacKersie, District Director of Safety & Security and Assistant Director of Facilities, Pierce College District, 9401 Farwest Drive SW, Lakewood, WA 98498, telephone (253) 912–3655, before August 1, 2007. Repatriation of the human remains to the Puyallup Tribe of the Puyallup Reservation, Washington may proceed after that date if no additional claimants come forward.

Pierce College District is responsible for notifying the Nisqually Indian Tribe of the Nisqually Reservation, Washington and Puyallup Tribe of the Puyallup Reservation, Washington that this notice has been published.

Dated: June 13, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–12712 Filed 6–29–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of Colorado Museum, Boulder, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act

(NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the University of Colorado Museum, Boulder, CO. The human remains were removed from Montezuma County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by University of Colorado Museum professional staff in consultation with representatives of the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Ute Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

In 1954, human remains representing a minimum of one individual were excavated by Hod Stevenson on his property at the edge of Yellow Jacket Canyon, Montezuma County, CO. In 1959, Mr. Stevenson donated the human remains and associated funerary objects to the museum. No known individual was identified. The seven associated funerary objects are two plain–weave, diyugi–style Navajo blankets; one coil of braided rawhide; one small piece of twined hair; one basket in the shape of a dipper; one lot of juniper bark; and one lot of charcoal. A piece of rolled leather was not collected when the burial was excavated.

The human remains were found in a flexed, seated position facing east and wrapped in two plain–weave, diyugi–style Navajo blankets in an east–facing rock shelter, and appear to have been placed in a shallow pit. The burial had been covered with juniper bark and the pit had been filled with sandy sediment. In 1959, University of Colorado Museum curator, Joe Ben Wheat, visited the site and found a small charcoal pictograph of a long–legged horse and rider at the back of the rock shelter from which the burial had been removed. Based on the burial context, the human remains are Native American.

The Indian Land Areas Judicially Established 1978 Map indicates the claim to land in southwestern Colorado is based upon historic use by the Ute and Navajo tribes. The style of the drawing found in the rock shelter is similar to historic Ute pictographs (Legacy on Stone, Sally J. Cole, 1990). An analysis of the blanket fragments places their manufacture at approximately A.D. 1800. Navajo diyugi–style blankets were commonly traded to northern allies in Colorado, such as the Ute, in the late 18th century. In the last 250 years, the presence of the Ute tribes in the area of western Colorado has been historically documented by both Spanish and U.S. records. The present northern boundary of the Ute Mountain Reservation is only 12 miles to the south of the burial site. In consultations, representatives of the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado and Ute Mountain Ute Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah provided evidence in the form of histories and oral traditions that place their tribes in a very large area that encompasses the location of the burial. Representatives from both Indian tribes identified details about the burial as possibly Ute.

At the estimated time of the burial, historical accounts located the Ute bands whose descendants are now members of the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado and Ute Mountain Ute Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah in an area stretching from southwestern to south central Colorado to northwestern New Mexico. Historical accounts placed the other Ute bands whose descendants are members of the Ute Indian Tribe of the Uintah & Ouray Reservation, Utah in an area between the Gunnison River in Colorado and the Uintah Basin in Utah in A.D. 1800. Officials of the University of Colorado Museum reasonably believe the human remains are Ute based on the preponderance of the evidence including geographical, archeological, historical, oral–tradition, and expert opinion. Descendants of the Ute are members of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Ute Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah

Officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the University of Colorado Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the seven objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Colorado Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Steve Lekson, Curator of Anthropology, University of Colorado Museum, Henderson Building, Campus Box 218, Boulder, CO 80309–0218, telephone (303) 492–6671, before August 1, 2007. Repatriation of the human remains and associated funerary objects to the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may proceed after that date if no additional claimants come forward.

University of Colorado Museum is responsible for notifying the Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah that this notice has been published.

Dated: June 11, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–12711 Filed 6–29–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of Colorado Museum, Boulder, CO; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (5), of the completion of an inventory of human remains and associated funerary objects in the possession of the University of Colorado Museum, Boulder, CO. The human remains and cultural items were removed from Adams, Arapahoe, Baca, Boulder, Fremont, Huerfano, Larimer,

Logan, Morgan, Saguache, Sedgwick, and Yuma Counties, CO

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and number of tribes that were determined to be culturally affiliated in a Notice of Inventory Completion previously published in the **Federal Register** of February 1, 2006 (FR Doc E6–1273, pages 5369–5373). The minimum number of individuals is raised from 47 to 48. The Apache Tribe of Oklahoma and Mescalero Apache Tribe of the Mescalero Reservation, New Mexico have been added to the list of culturally affiliated Indian Tribes.

In the **Federal Register** of February 1, 2006, paragraph number 31 is corrected by substituting the following paragraph:

In 1951, human remains representing a minimum of two individuals were removed from an unknown area near the old toll station in Boulder Canyon, Boulder County, CO. The human remains were either transferred to the University of Colorado Museum by another University of Colorado department or anonymously donated prior to 1993. No known individuals were identified. No associated funerary objects are present.

In the **Federal Register** of February 1, 2006, paragraph numbers 56 to 58 are corrected by substituting the following paragraphs:

Officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of a minimum of 48 individuals of Native American ancestry. Officials of the University of Colorado Museum also have determined that, pursuant to 25 U.S.C. 3001(3)(A), the 79 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne–Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Tribe of Montana; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Steve Lekson, Curator of Anthropology, University of Colorado Museum, Henderson Building, Campus Box 218, Boulder, CO 80309–0218, telephone (303) 492–6671, before August 1, 2007. Repatriation of the human remains and associated funerary objects to the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne–Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Tribe of Montana; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah may proceed after that date if no additional claimants come forward.

University of Colorado Museum is responsible for notifying the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne–Arapaho Tribes of Oklahoma; Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Comanche Nation, Oklahoma; Crow Tribe of Montana; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana; Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota; Pawnee Nation of Oklahoma; Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Standing Rock Sioux Tribe of North & South Dakota; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah that this notice has been published.

Dated: June 19, 2007

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–12713 Filed 6–29–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection; Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of a currently approved collection (OMB No. 1006–0023).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces the Bureau of Reclamation (we, our, or us) has forwarded the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval: Forms to Determine Compliance by Certain Landholders, 43 CFR part 426, OMB Control Number: 1006–0023. As a result of the regulatory requirements to ensure compliance with Federal reclamation law and assessment of the appropriate water rate [43 CFR 426.6(b)(2) and 43 CFR 426.9(b)], a new ''Religious or

Charitable Organization Identification Sheet'' (Form 7–2578) has been developed for approval as part of this information collection. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comments must be received on or before August 1, 2007 to assure maximum consideration.

ADDRESSES: You may send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov*. A copy of your comments should also be directed to the Bureau of Reclamation, Attention: 84–53000, PO Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: Stephanie McPhee at: (303) 445–2897.

SUPPLEMENTARY INFORMATION:

Title: Forms to Determine Compliance by Certain Landholders, 43 CFR part 426. The former title of this information collection was ''Limited Recipient Identification Sheet, Trust Information Sheet, Public Entity Information Sheet for Acreage Limitation, 43 CFR part 426.'' Because of the addition of the proposed new form to this information collection as described below, we have changed the title of this information collection to ''Forms to Determine Compliance by Certain Landholders, 43 CFR part 426.'' This title change will allow us to capture the purpose of the forms in this information collection without listing lengthy form names.

Abstract: Identification of limited recipients—Some entities that receive Reclamation irrigation water may believe that they are under the RRA forms submittal threshold and, consequently, may not submit the appropriate RRA form(s). However, some of these entities may in fact have a different RRA forms submittal threshold than what they believe it to be due to the number of natural persons benefiting from each entity and the location of the land held by each entity. In addition, some entities that are exempt from the requirement to submit RRA forms due to the size of their landholdings (directly and indirectly owned and leased land) may in fact be receiving Reclamation irrigation water for which the full-cost rate must be paid because the start of Reclamation irrigation water deliveries occurred after October 1, 1981 [43 CFR 426.6(b)(2)]. The information obtained through completion of the Limited Recipient Identification Sheet (Form 7–2536) allows us to establish entities' compliance with Federal reclamation law. The Limited Recipient Identification Sheet is disbursed at our discretion. The proposed revisions to the Limited Recipient Identification Sheet will be included starting in the 2008 water year, and are designed to facilitate ease of completion.

Trust review—We are required to review and approve all trusts [43 CFR 426.7(b)(2)] in order to ensure trusts meet the regulatory criteria specified in 43 CFR 426.7. Land held in trust generally will be attributed to the beneficiaries of the trust rather than the trustee if the criteria are met. When we become aware of trusts with a relatively small landholding (40 acres or less), we may extend to those trusts the option to complete and submit for our review the Trust Information Sheet (Form 7–2537) instead of actual trust documents. If we find nothing on the completed Trust Information Sheet that would warrant the further investigation of a particular trust, that trustee will not be burdened with submitting trust documents to us for in-depth review. The Trust Information Sheet is disbursed at our discretion. The proposed revisions to the Trust Information Sheet will be included starting in the 2008 water year, and are designed to facilitate ease of completion.

Acreage limitation provisions applicable to public entities—Land farmed by a public entity can be considered exempt from the application of the acreage limitation provisions provided the public entity meets certain criteria pertaining to the revenue generated through the entity's farming activities (43 CFR 426.10 and the Act of July 7, 1970, Pub. L. 91–310). We are required to ascertain whether or not public entities that receive Reclamation irrigation water meet such revenue criteria regardless of how much land the public entities hold (directly or indirectly own or lease) [43 CFR 426.10(a)]. In order to minimize the burden on public entities, standard RRA forms are submitted by a public entity only when the public entity holds more than 40 acres subject to the acreage limitation provisions westwide, which makes it difficult to apply the revenue criteria as required to those public entities that hold less than 40 acres. When we become aware of such public entities, we may extend to those public entities the option to complete and submit for our review the Public Entity Information Sheet (Form 7–2565), which allows us to establish compliance with Federal reclamation law for those public entities that hold 40 acres or less and thus do not submit a standard RRA form because they are below the RRA forms submittal threshold. In addition, for those public entities that do not meet the exemption criteria, we must determine the proper rate to charge for Reclamation irrigation water deliveries. The Public Entity Information Sheet is disbursed at our discretion. The proposed revisions to the Public Entity Information Sheet will be effective starting in the 2008 water year and are designed to facilitate ease of completion.

Acreage limitation provisions applicable to religious or charitable organizations (new form)—Some religious or charitable organizations that receive Reclamation irrigation water may believe that they are under the RRA forms submittal threshold and, consequently, may not submit the appropriate RRA form(s). However, some of these organizations may in fact have a different RRA forms submittal threshold than what they believe it to be depending on whether these organizations meet all of the required criteria for full special application of the acreage limitations provisions to religious or charitable organizations [43 CFR 426.9(b)]. In addition, some organizations that (1) do not meet the criteria to be treated as a religious or charitable organization under the acreage limitation provisions, and (2) are exempt from the requirement to submit RRA forms due to the size of their landholdings (directly and indirectly owned and leased land), may in fact be receiving Reclamation irrigation water for which the full-cost rate must be paid because the start of Reclamation irrigation water deliveries occurred after October 1, 1981 [43 CFR 426.6(b)(2)]. A new ''Religious or Charitable Organization Identification Sheet'' (Form 7–2578) has been developed for approval as part of this information collection, and will allow us to establish certain religious or charitable organizations' compliance with Federal reclamation law. Reclamation anticipates a very minimal increase in burden hours resulting from the addition of this form because of the very limited type of landholders that can use this form. The Religious or Charitable Organization Identification Sheet is disbursed at our discretion and will be effective starting in the 2008 water year.

Changes to the Forms and the Instructions to Those Forms

Minor editorial changes were made to the currently approved forms and the instructions to those forms prior to the 60-day comment period initiated by the notice published in the **Federal Register** (72 FR 9964, Mar. 6, 2007). Those changes were designed to assist the respondents by increasing their understanding of the forms, clarifying the instructions for use when completing the forms, and clarifying the information that is required to be submitted with the forms. We received no public comments from the 60-day public comment period. The proposed revisions to the forms will be included starting in the 2008 water year.

Frequency: Generally, these forms will be submitted once per identified entity, trust, public entity, or religious or charitable organization. Each year, we expect new responses in accordance with the following numbers.

Respondents: Entity landholders, trusts, public entities, and religious or charitable organizations identified by Reclamation that are subject to the acreage limitation provisions of Federal reclamation law.

Estimated Total Number of Respondents: 500.

Estimated Number of Responses per Respondent: 1.0.

Estimated Total Number of Annual Responses: 500.

Estimated Total Annual Burden on Respondents: 72 hours.

Estimate of Burden for Each Form:

Form name	Estimated Number of respondents	Frequency of response	Total annual responses	Burden estimate per form (in minutes)	Total burden hours
Limited Recipient Identification Sheet	175	1.00	175	5	15
Trust Information Sheet	150	1.00	150	5	13
Public Entity Information Sheet	100	1.00	100	15	25
Religious or Charitable Identification Sheet	75	1.00	75	15	19
Total	500	1.00	500		72

Comments

Comments are invited on:

(a) whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) the accuracy of our burden estimate for the proposed collection of information;

(c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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. Reclamation will display a valid OMB control number on the RRA forms. A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** (72 FR 9964, Mar. 6, 2007). No public comments were received.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Before including your address, telephone 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.

Roseann Gonzales,

Director, Office of Program and Policy Services, Denver Office.

[FR Doc. E7–12716 Filed 6–29–07; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection; Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of a currently approved collection (OMB No. 1006–0006).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces the Bureau of Reclamation (we, our, or us) has forwarded the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval: Certification Summary Form, Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428, OMB Control Number: 1006–0006. This information collection is required under the Reclamation Reform Act of 1982 (RRA), Acreage Limitation Rules and Regulations, 43 CFR part 426, and Information Requirements for Certain Farm Operations In Excess of 960 Acres and the Eligibility of Certain Formerly Excess Land, 43 CFR part 428. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comments must be received on or before August 31, 2007 to assure maximum consideration.

ADDRESSES: You may send written comments to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov*. A copy of your comments should also be directed to the Bureau of Reclamation, Attention: 84–53000, PO Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: Stephanie McPhee at: (303) 445–2897.

SUPPLEMENTARY INFORMATION:

Title: Certification Summary Form, Reporting Summary Form for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

Abstract: These forms are to be used by district offices to summarize individual landholder (direct or indirect landowner or lessee) and farm operator

certification and reporting forms as required by the RRA, 43 CFR part 426, and 43 CFR part 428. This information allows us to establish water user compliance with Federal reclamation law.

Changes to the RRA Forms and the Instructions to Those Forms

Minor editorial changes were made to the currently approved RRA forms and the instructions to those forms prior to the 60-day comment period initiated by the notice published in the **Federal Register** (72 FR 9966, Mar. 6, 2007). Those changes were designed to assist the respondents by increasing their understanding of the forms, clarifying the instructions for use when completing the forms, and clarifying the information that is required to be submitted to the districts with the forms. We received no public comments from the 60-day public comment period. The proposed revisions to the RRA forms will be included starting in the 2008 water year.

Frequency: Annually.

Respondents: Contracting entities that are subject to the acreage limitation provisions of Federal reclamation law.

Estimated Total Number of Respondents: 225.

Estimated Number of Responses per Respondent: 1.25.

Estimated Total Number of Annual Responses: 281.

Estimated Total Annual Burden on Respondents: 11,240 hours.

Estimate of Burden for Each Form:

Form No.	Estimated No. of respondents	Frequency of response	Total Annual responses	Burden hours per response	Total burden hours
7–21SUMM–C and tabulation sheets	188	1.25	235	40	9,400
7–21SUMM–R and tabulation sheets	37	1.25	46	40	1,840
Total	225	1.25	281	.....	11,240

Comments

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) the accuracy of our burden estimate for the proposed collection of information;

(c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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. Reclamation will display a valid OMB control number on the RRA forms. A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** (72 FR 9966, Mar. 6, 2007). No public comments were received.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Before including your address, telephone 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.

Roseann Gonzales,

Director, Office of Program and Policy Services, Denver Office.

[FR Doc. E7–12717 Filed 6–29–07; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Agency Information Collection; Activities Under OMB Review; Comment Request

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of renewal of a currently approved collection (OMB No. 1006–0005).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces the Bureau of Reclamation (we, our, or us) has forwarded the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval: Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428, OMB Control Number: 1006–0005. This ICR is required under the Reclamation Reform Act of 1982 (RRA), Acreage Limitation Rules and Regulations, 43 CFR part 426, and Information Requirements for Certain Farm Operations In Excess of 960 Acres and the Eligibility of Certain Formerly Excess Land, 43 CFR part 428. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comments must be received on or before August 1, 2007 to assure maximum consideration.

ADDRESSES: You may send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the Desk Officer for the Department of the Interior at the Office of Management and Budget, Office of Information and Regulatory Affairs, via facsimile to (202) 395–6566 or e-mail to *OIRA_DOCKET@omb.eop.gov*. A copy of your comments should also be directed to the Bureau of Reclamation, Attention: 84–53000, P.O. Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION CONTACT: Stephanie McPhee at: (303) 445–2897.

SUPPLEMENTARY INFORMATION:

Title: Individual Landholder's and Farm Operator's Certification and Reporting Forms for Acreage Limitation, 43 CFR part 426 and 43 CFR part 428.

Abstract: This information collection requires certain landholders (direct or indirect landowners or lessees) and farm operators to complete forms demonstrating their compliance with the acreage limitation provisions of Federal reclamation law. These forms are submitted to districts who use the information to establish each landholder's status with respect to landownership limitations, full-cost pricing thresholds, lease requirements, and other provisions of Federal reclamation law. In addition, forms are

submitted by certain farm operators to provide information concerning the services they provide and the nature of their farm operating arrangements. All landholders whose entire westwide landholdings total 40 acres or less are exempt from the requirement to submit RRA forms. Landholders who are ''qualified recipients'' have RRA forms submittal thresholds of 80 acres or 240 acres depending on the district's RRA forms submittal threshold category where the land is held. Only farm operators who provide multiple services to more than 960 acres held in trusts or by legal entities are required to submit forms.

Changes to the RRA Forms and the Instructions to Those Forms

Minor editorial changes were made to the currently approved RRA forms and the instructions to those forms prior to the 60-day comment period initiated by the notice published in the **Federal Register** (72 FR 9965, Mar. 6, 2007). Those changes were designed to assist the respondents by increasing their understanding of the forms, clarifying the instructions for use when completing the forms, and clarifying the information that is required to be submitted to the districts with the forms. We received no public comments from the 60-day public comment period. The proposed revisions to the RRA forms will be included starting in the 2008 water year.

Frequency: Annually.

Respondents: Landholders and farm operators of certain lands in our projects, whose landholdings exceed specified RRA forms submittal thresholds.

Estimated Total Number of Respondents: 17,358.

Estimated Number of Responses per Respondent: 1.02.

Estimated Total Number of Annual Responses: 17,706.

Estimated Total Annual Burden on Respondents: 13,085 hours.

Estimate of Burden for Each Form:

Form No.	Estimated No. of respondents	Frequency of response	Total annual responses	Burden estimate per form (in minutes)	Total burden hours
Form 7–2180	4,686	1.02	4,780	60	4,780
Form 7–2180EZ	483	1.02	493	45	370
Form 7–2181	1,369	1.02	1,396	78	1,815
Form 7–2184	36	1.02	37	45	28
Form 7–2190	1,841	1.02	1,878	60	1,878
Form 7–2190EZ	109	1.02	111	45	83
Form 7–2191	879	1.02	897	78	1,166
Form 7–2194	4	1.02	4	45	3
Form 7–21PE	166	1.02	169	75	211
Form 7–21PE–IND	5	1.02	5	12	1
Form 7–21TRUST	1,002	1.02	1,022	60	1,022
Form 7–21FARMOP	196	1.02	200	78	260
Form 7–21VERIFY	6,175	1.02	6,299	12	1,260
Form 7–21FC	243	1.02	248	30	124
Form 7–21XS	164	1.02	167	30	84
Form 7–21XSINAQ	0	0	0	0	0
Form 7–21CONT–O	0	0	0	0	0
Form 7–21CONT–L	0	0	0	0	0
Form 7–21CONT–I	0	0	0	0	0
Form 7–21INFO	0	0	0	0	0
Total	17,358	1.02	17,706	.....	13,085

Comments

Comments are invited on:

(a) whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information will have practical use;

(b) the accuracy of our burden estimate for the proposed collection of information;

(c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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. Reclamation will display a valid OMB control number on the RRA forms. A **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published in the **Federal Register** (72 FR 9965, Mar. 6, 2007). No public comments were received.

OMB has up to 60 days to approve or disapprove this information collection, but may respond after 30 days; therefore, public comment should be submitted to OMB within 30 days in order to assure maximum consideration.

Before including your address, telephone 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.

Roseann Gonzales,

Director, Office of Program and Policy Services, Denver Office.

[FR Doc. E7–12718 Filed 6–29–07; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Proposed Lower Yuba River Accord, Yuba County, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Availability and Notice of Public Hearing for the Draft Environmental Impact Report/Environmental Impact Statement/(EIR/EIS).

SUMMARY: Pursuant to the National Environmental Policy Act and the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation) and the Yuba County Water Agency (YCWA) have made available for public review and comment the Draft EIR/EIS for the Proposed Lower Yuba River Accord (Yuba Accord).

Two public hearings will be held to provide interested individuals and organizations with an opportunity to comment verbally and in writing on the Draft EIR/EIS.

The purpose of the Yuba Accord is to resolve instream flow issues associated with operation of the Yuba River Development Project (Yuba Project) in a way that protects and enhances lower Yuba River fisheries and local water-supply reliability. At the same time, it would provide revenues for local flood control and water supply projects, water for the CALFED Program to use for protection and restoration of Sacramento-San Joaquin Delta (Delta) fisheries, and improvements in statewide water supply management, including supplemental water for the Central Valley Project (CVP) and the State Water Project (SWP).

DATES: Two public hearings will be held on August 1, 2007 from 2 to 3 p.m. and from 6 to 7 p.m. in Marysville, California.

Submit written comments on the Draft EIR/EIS on or before August 24, 2007 at the address provided below.

ADDRESSES: The hearings will be at the Yuba County Water Agency, 1220 F Street, Marysville, CA 95901.

Send written comments to Ms. Dianne Simodynes, HDR|Surface Water Resources, Inc., 1610 Arden Way, Suite 175, Sacramento, CA 95815–4041. Send requests for a compact disk or a bound copy of the Draft EIR/EIS to Dianne Simodynes, telephone: (916) 569–1096. The Yuba Accord Draft EIR/EIS will also be available on the web at: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=2549*.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Rust, Reclamation, Bureau of Reclamation, Division of Resources Management, 2800 Cottage Way, Sacramento, CA 95825, at (916) 978–5516, or by e-mail at *trust@mp.usbr.gov;* or Mr. Curt Aikens, YCWA, at 1220 F Street, Marysville, CA 95901, at (530) 741–6278, or by e-mail at *caikens@ycwa.com.*

SUPPLEMENTARY INFORMATION: The Yuba Accord represents an effort on the part of the Yuba River stakeholders to find a solution to the challenges of competing interests by providing water for fisheries, developing new tools to ensure local reliable water supply, crafting a revenue stream to pay for the Yuba Accord, and providing additional water for out-of-county environmental and consumptive uses. These various objectives would be met through implementation of the Yuba Accord, which includes the ''Principles of Agreement for Proposed Lower Yuba River Fisheries Agreement'' (Fisheries Agreement), the ''Principles of Agreement for Proposed Conjunctive Use Agreements'' (Conjunctive Use Agreements), and the ''Principles of Agreement for Proposed Long-term Transfer Agreement'' (Water Purchase Agreement).

The Yuba Accord agreements are:

- A Fisheries Agreement among YCWA, California Department of Fish and Game, and the collective non-governmental organizations, with the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration, National Marine Fisheries Service supporting the agreement. Under the Yuba Accord Fisheries Agreement, YCWA would revise the operation of the Yuba Project to provide higher flows in the lower Yuba River to protect and enhance fisheries and to increase downstream water supplies.
- Conjunctive Use Agreements between YCWA and water districts within Yuba County for the implementation of a comprehensive program of conjunctive use of surface water and groundwater supplies and actions to improve water use efficiencies.
- A Water Purchase Agreement among YCWA, the California Department of Water Resources (DWR), and Reclamation. Under this agreement, Reclamation and DWR would purchase water for the CALFED Environmental Water Account and for the CVP and SWP project uses.

All three of these agreements need to be in place for the Yuba Accord to be implemented.

The Draft EIR/EIS analyzes the impacts of implementing the Yuba Accord on surface water hydrology, groundwater hydrology, water supply, hydropower, flood control, water quality, fisheries, wildlife, vegetation, special-status species, recreation, visual, cultural resources, Indian Trust Assets, air quality, land use, socioeconomic, growth inducement, and environmental justice resources and conditions. Alternatives evaluated in the Draft EIR/EIS include the No Action Alternative, No Project Alternative, Proposed Project/Action Alternative (Yuba Accord Alternative), and Modified Flow Alternative. In addition, the Draft EIR/EIS addresses other past, present, and reasonably foreseeable actions in conjunction with the implementation of the Yuba Accord, thus analyzing cumulative impacts.

Copies of the Draft EIR/EIS are available for public review at the following locations:

- Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825.
- Yuba County Water Agency, 1220 F Street, Marysville, CA 95901.
- Department of Water Resources, Division of Environmental Services, 1416 Ninth Street, Sacramento, CA 95814.
- Sacramento Public Library, 828 I Street, Sacramento, CA 95814.
- Yuba County Library, 303 2nd Street, Marysville, CA 95901.

If special assistance is required at the public hearings, please contact Dianne Simodynes (e-mail: *Dianne.Simodynes@hdrinc.com*). Please notify Ms. Simodynes as far in advance of the hearings as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified.

Before including your name, 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.

Dated: June 18, 2007.

John F. Davis,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. E7–12728 Filed 6–29–07; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–744 (Second Review)]

Brake Rotors From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on brake rotors from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the

antidumping duty order on brake rotors from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is August 21, 2007. Comments on the adequacy of responses may be filed with the Commission by September 14, 2007. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* July 2, 2007.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 17, 1997, the Department of Commerce issued an antidumping duty order on imports of brake rotors from China (62 FR 18740). Following five-year reviews by Commerce and the Commission, effective August 14, 2002, Commerce issued a continuation of the antidumping duty order on imports of brake rotors from China (67 FR 52933). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination and its expedited five-year review determination, the Commission defined the Domestic Like Product as all aftermarket brake rotors, coextensive with Commerce's scope.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited five-year review determination, the Commission defined the Domestic Industry as all producers of aftermarket brake rotors. In its original determination, the Commission also determined that appropriate circumstances existed to exclude AlliedSignal from the domestic aftermarket rotor industry as a related party; however, in its expedited five-year review determination, the Commission did not find that appropriate circumstances existed to exclude any producer from the domestic industry.

(5) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 07–5–172, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 21, 2007. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 14, 2007. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 2001.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2006 (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the Domestic Like Product;

(c) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(d) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2006 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the Subject Merchandise in the Subject Country; and

(c) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the

market for the Subject Merchandise in the Subject Country after 2001, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 25, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–12668 Filed 6–29–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–581]

In the Matter of Certain Inkjet Ink Supplies and Components Thereof: Notice of a Commission Determination Not To Review an Initial Determination Granting the Joint Motion of Complainant Hewlett-Packard Company and Respondent All Media Outlet Corporation To Terminate the Investigation With Respect to That Respondent; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 9) granting the joint motion of complainant Hewlett-Packard Company (''H–P'') and respondent All Media Outlet Corporation d/b/a Inkandbeyond.com (''All Media'') to terminate the investigation with respect to All Media, and terminating the investigation in its entirety.

FOR FURTHER INFORMATION CONTACT: Michelle Walters, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 6, 2006, based on a complaint filed by H–P of California, subsequently amended, alleging violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain inkjet ink supplies and components thereof by reason of infringement of one or more of claims 1–4, 7–9, 22, 24, and 25 of U.S. Patent No. 5,825,387; claims 1–9 and 12 of U.S. Patent No. 6,793,329; claims 8–10, 14, and 15 of U.S. Patent No. 6,074,042; claims 1–6 and 19–29 of U.S. Patent No. 6,588,880; claims 1–7 and 11–18 of U.S. Patent No. 6,364,472; claims 6, 7, 9, and 10 of U.S. Patent No. 6,089,687; and claims 1–3 and 5 of U.S. Patent No. 6,264,301. The complaint named six respondents: Ninestar Technology Co. Ltd. of China, Ninestar Technology Co. Ltd. of California, Aurora Eshop, Inc. d/b/a butterflyinkjet.com of California, Iowaink, LLC d/b/a iowaink.com of Iowa, L2 Commerce Inc. d/b/a Printmicro.com of California, and All Media Outlet Corp. d/b/a Inkandbeyond.com of California.

On March 19, 2007, H–P and All Media jointly moved to terminate the investigation with respect to All Media, based on a settlement agreement. The Commission investigative attorney supported the motion.

On June 6, 2007, the ALJ issued an ID (Order No. 9) granting the joint motion to terminate the investigation with regard to All Media. The ALJ found that the joint motion complied with the requirements of Commission Rule 210.21 (19 CFR 210.21). The ALJ also concluded that, pursuant to Commission Rule 210.50(b)(2) (19 CFR 210.50(b)(2)), there is no evidence that termination of this investigation will prejudice the public interest. In addition, the ALJ noted that the termination of litigation under these circumstances as an alternative method of dispute resolution is generally in the public interest. Accordingly, the ALJ terminated the investigation as to All Media. In addition, the ALJ terminated the investigation in its entirety. No petitions for review of this ID were filed. The Commission has determined not to review the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: June 27, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–12752 Filed 6–29–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–07–012]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 10, 2007 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–873–875, 877–880, and 882 (Review) (Steel Concrete Reinforcing Bar from Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine)—briefing and vote. (The Commission is currently scheduled to transmit its determination

and Commissioners' opinions to the Secretary of Commerce on or before July 25, 2007.)

5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: June 26, 2007.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E7–12639 Filed 6–29–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 25, 2007

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number) / email: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316 / Fax: 202–395–6974 (these are not a toll-free numbers), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Prohibited Transaction Class Exemption 92–6: Sale of Individual Life Insurance or Annuity Contracts By a Plan.

OMB Number: 1210–0063.

Type of Response: Third party disclosure.

Affected Public: Private Sector: Business or other for-profit.

Estimated Number of Respondents: 9,780.

Estimated Number of Annual Responses: 9,780.

Estimated Total Burden Hours: 1,956.

Estimated Total Annualized capital/startup costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $4,499.

Description: Section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA) and section 4975(c)(2) of the Internal Revenue Code of 1986 (the Code) authorize the Secretary of Labor and the Secretary of the Treasury to grant a conditional or unconditional exemption of any fiduciary, disqualified person or class of fiduciaries, or orders of disqualified persons or transactions, from all or part of the restrictions imposed by sections 406 and 407(a) of ERISA and from the taxes imposed by sections 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code. Under section 102 of Reorganization Plan No. 4 of 1978 (Reorganization Plan No. 4), the Secretary of Labor was given the authority to grant such exemptions.

Prohibited Transaction Class Exemption 92–6 (PTE 92–6) was granted on February 5, 1992 and became effective on October 22, 1986. PTE 92–6 amends and replaces Prohibited Transaction Class Exemption 77–8 (PTE 77–8), and exempts from the prohibited transaction restrictions the sale of individual life insurance or annuity contracts held by an employee benefit plan to: (1) Plan participants insured under such contracts; (2) relatives of such participants who are the beneficiaries under the contract, (3) employers, any of whose employees are covered by the plan; (4) other employee benefit plans that have a party in interest relationship; (5) owner-employees (as defined in section 401(c)(3) of the Code), (6) shareholder-employees (as defined in section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the enactment of the Subchapter S Revision Act of 1982), or (7) trusts established by plan participants insured under such contracts or relatives of such participants who are the beneficiaries under the contract, for the cash surrender value of the contracts, provided certain conditions set forth in the class exemption are met.

In order to ensure that the class exemption is not abused, that the rights of the participants and beneficiaries are protected, and that the exemption's conditions are being complied with, the Department often requires minimal information collection pertaining to the affected transactions.

The Department has included in the class exemption a basic disclosure requirement. Pension plans are required to inform the insured participant of a proposed sale of a life insurance or annuity policy to the employer, a relative, another plan, an owner-employee, or a shareholder-employee. If the participant elects not to purchase the contract, the relative, the employer, another plan, the owner-employees, or the shareholder-employees may purchase the contract from the plan upon the receipt by the plan of written consent of the participant. The disclosure requirement of the class exemption does not apply if the contract is sold to the plan participant. The disclosure requirement incorporated within this class exemption is intended to protect the rights of plan participants and beneficiaries by putting them on notice of the plan's intention to sell insurance or annuity contracts under which they are insured, and by giving them the right of first refusal to purchase such contracts. Without this disclosure requirement, the Department, which may only grant an exemption if it can find that participants and beneficiaries are protected, would be unable to effectively enforce the terms of the class exemption and ensure user compliance.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Prohibited Transaction Class Exemption 91–55: Transactions Between Individual Retirement Accounts and Authorized Purchasers of American Eagle Coins.

OMB Number: 1210–0079.

Type of Response: Recordkeeping and Third party disclosure.

Affected Public: Private Sector: Business or other for-profit.

Estimated Number of Respondents: 3.

Estimated Number of Annual Responses: 663,431.

Estimated Total Burden Hours: 11,063.

Estimated Total Annualized capital/ startup costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $152,589.

Description: Section 408(a) of the Employee Retirement Income Security Act of 1974 (''ERISA'') and section 4975(c)(2) of the Internal Revenue Code of 1986 (the ''Code'') authorize the Secretary of Labor and the Secretary of the Treasury to grant a conditional or unconditional exemption of any fiduciary, disqualified person or class of fiduciaries, or orders of disqualified persons or transactions, from all or part of the restrictions imposed by sections 406 and 407(a) of ERISA and from the taxes imposed by sections 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code. Under section 102 of Reorganization Plan No. 4 of 1978 (Reorganization Plan No. 4), the Secretary of Labor was given the authority to grant such exemptions.

Prohibited Transaction Class Exemption 91–55 (PTE 91–55) was granted on September 23, 1991, and provides an exemption from certain of ERISA's prohibited transaction provisions (and the taxes imposed by section 4975 of the Code) for purchases and sales by ''certain individual retirement accounts,'' as defined in Code section 408 (''IRAs'') of American Eagle bullion coins (''Coins'') in principal transactions from or to broker-dealers in Coins (i.e., banks and other approved persons referenced in Code sections 408(a)(2) and 408(h)) which are ''authorized purchasers'' of Coins in bulk quantities from the United States Mint (''Mint'') which are also ''disqualified persons,'' within the meaning of Code section 4975(e)(2) with respect to IRAs. Under the class exemption, relief is provided only for purchases and sales of Coins between such disqualified persons and IRAs with respect to which the IRA depositor either self-directs the IRA investments or delegates investment discretion over assets in the IRA to a third person who is independent of and unrelated to the disqualified person or other affiliate thereof.

The class exemption also describes the circumstances under which the interest-free extension of credit in connection with such sales and purchases is permitted. In the absence of an exemption, such purchases and sales and extensions of credit would be impermissible under ERISA.

Section 406 of ERISA (and section 4975(c)(1) of the Code) prohibits various transactions between a plan and certain related parties. Those parties in interest described in section 3(14) of ERISA and disqualified persons described in section 4975(e)(2) of the Code, such as plan fiduciaries, sponsoring employers, unions, service providers and affiliates, may not engage in a transaction described in section 406 of ERISA and section 4975(c) of the Code with a plan without an exemption. Code section 4975(e)(1) states that an IRA described in section 408(a) of the Code is included within the definition of the term ''plan'' for purposes of Code section 4975. Specifically, these sections prohibit sales, leases, loans, or the provision of services between a party in interest and a plan, as well as a use of plan assets by or for the benefit of, or a transfer of plan assets to, a party in interest or a disqualified person, unless a statutory or administrative exemption applies to the transaction.

The Department of Labor has authority under Reorganization Plan No. 4, pursuant to section 408 of ERISA and section 4975(c)(2) of the Code, to grant either individual or class exemptions. In order to grant a class exemption under section 408 and section 4975(c)(2), the Department must determine that the exemption is:

(1) Administratively feasible,

(2) In the interests of the plan and its participants and beneficiaries, and

(3) Protective of the rights of participants and beneficiaries of such plan.

In order to ensure that the class exemption is not abused, that the rights of the participants and beneficiaries are protected, and that the exemption's conditions are being complied with, the Department often requires minimal information collection pertaining to the affected transactions.

Because the value of Coins can fluctuate frequently, the Department believes that the maintenance of contemporaneous records by the purchaser is essential to enable those persons directing the investments of the IRAs, as well as the Department and the IRS, to monitor compliance with the conditions of the class exemption. The recordkeeping requirement facilitates the Department's ability to make findings under section 408 of ERISA and section 4975(c) of the Code. The confirmation and disclosure requirements enable participants and beneficiaries investing in IRAs better to monitor their investments in Coins.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Prohibited Transaction Class Exemption 85–68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers.

OMB Number: 1210–0094.

Type of Response: Recordkeeping.

Affected Public: Private Sector: Business or other for-profit.

Estimated Number of Respondents: 69.

Estimated Number of Annual Responses: 325.

Estimated Total Burden Hours: 1.

Estimated Total Annualized capital/ startup costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Section 408(a) of the Employee Retirement Income Security Act of 1974 (ERISA) and section 4975(c)(2) of the Internal Revenue Code of 1986 (the Code) authorize the Secretary of Labor and the Secretary of the Treasury to grant a conditional or unconditional exemption of any fiduciary, disqualified person or class of fiduciaries, or orders of disqualified persons or transactions, from all or part of the restrictions imposed by sections 406 and 407(a) of ERISA and from the taxes imposed by sections 4975(a) and (b) of the Code, by reason of section 4975(c)(1) of the Code. Under section 102 of Reorganization Plan No. 4 of 1978 (Reorganization Plan No. 4), the Secretary of Labor was given the authority to grant such exemptions.

This class exemption which was granted on March 28, 1985 and replaced prohibited Transaction Exemption 79–9, describes the conditions under which a plan is permitted to acquire customer notes accepted by an employer of employees covered by the plan in the ordinary course of the employer's business activity and thus be exempt from the prohibited transaction restrictions. The class exemption covers sales as well as contributions of customer notes by an employer to its plan.

In order to ensure that the class exemption is not abused, that the rights of the participants and beneficiaries are protected, and that the exemption's conditions are being complied with, the Department of Labor (the Department) often requires minimal information collection pertaining to the affected transactions.

The Department has included in the class exemption a recordkeeping provision, whereby plans are required to maintain for six years from the date of the transaction the records necessary to enable interested parties including the

Department to determine whether the conditions of the exemption have been met. The class exemption also requires that those records be made available to certain persons on request. Without this recordkeeping requirement, the Department would be unable to effectively enforce the terms of the exemption and ensure user compliance.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of currently approved collection.

Title: Notice Requirements of the Health Care Continuation Coverage Provisions.

OMB Number: 1210–0123.

Type of Response: Third party disclosure.

Affected Public: Private Sector: Business or other for-profit.

Estimated Number of Respondents: 593,000.

Estimated Number of Annual Responses: 15,237,957.

Estimated Total Burden Hours: 0.

Estimated Total Annualized Capital/startup costs: $0.

Estimated Total Annual Costs (operating/maintaining systems or purchasing services): $18,387,739.

Description: The Consolidated Omnibus Budget Reconciliation Act of 1984 (COBRA) provides that under certain circumstances participants and beneficiaries of group health plans that satisfy the definition of ''qualified beneficiaries'' under COBRA may elect to continue group health coverage temporarily following events known as ''qualifying events'' that would otherwise result in loss of coverage. COBRA provides that the Secretary of Labor (the Secretary) has the authority under section 608 of the Employee Retirement Income Security Act of 1974 (ERISA) to carry out the provisions of Part 6 of title I of ERISA. The Conference Report that accompanied COBRA authorized the Secretary to issue regulations implementing the notice and disclosure requirements of COBRA.

The Department has implemented the Notice Requirements of Section 606 of ERISA (regulations) because the provision of timely and adequate notifications regarding COBRA rights and responsibilities is critical to a qualified beneficiary's ability to obtain health continuation coverage. In addition, in the Department's view, regulatory guidance was necessary to establish clearer standards for administering and processing COBRA notices.

The provision of timely and adequate notifications is critical for the effective exercise of COBRA rights. As such, plan administrators, group health plan insurers, and other service providers to the healthcare industry have indicated to the Department that additional guidance on notification and disclosure under COBRA would be welcome. Failure on the part of a plan administrator to meet notice requirements might result in a qualified beneficiary's losing out on continuation coverage, assessment of fines on a plan administrator, or other adverse consequences.

Under the regulatory guidelines, plan administrators are required to distribute notices as follows: A general notice to be distributed to all participants in group health plans subject to COBRA; an employer notice that must be completed by the employer upon the occurrence of a qualifying event; a notice and election form to be sent to a participant upon the occurrence of a qualifying event that might cause the participant to lose group health coverage; an employee notice that may be completed by a qualified beneficiary upon the occurrence of certain qualifying events such as divorce or disability; and, two other notices, one of early termination and the other a notice of unavailability.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–12704 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 22, 2007.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling Ira Mills on 202–693–4122 (this is not a toll-free number) or E-Mail: *Mills.Ira@dol.gov*, or by accessing *http://www.reginfo.gov/public/do/PRAMain.* Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for U.S. Department of Labor/Bureau of Labor Statistic (BLS), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.

Type of Review: Revision of a currently approved collection.

Title: Survey of Occupational Injuries and Illnesses.

OMB Number: 1220–0045.

Frequency: Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions; Farms; and State, Local or Tribal Government.

Type of Response: Recordkeeping and Reporting.

Number of Respondents:

Form	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden
BLS 9300	230,000	Annually	230,000	.4 hour	91,666 hours
Pre-notification Package	175,000 out of 230,000	Annually	175,000 out of 230,000	1.35 hours	235,833 hours
TOTALS	230,000		230,000		327,499 hours

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs: 0 (operating/maintaining systems or purchasing services).

Description: The goal of the Occupational Safety and Health Act, as stated in Section 2(b), is to assure, as far as possible, every working man and woman in the Nation safe and healthful working conditions. The BLS Survey of Occupational Injuries and Illnesses provides the Nation's primary indicator of the progress towards achieving this goal. The survey measures the overall rate of occurrence of work injuries and illnesses by industry. The industry classifications for which data are produced reflect the incorporation of the North American Industry Classification System (NAICS) codes beginning with reference year 2003. Until now, the Survey of Occupational Injuries and Illnesses has been restricted to producing national estimates for the private sector only. Consequently, there have been no national estimates of workplace injuries and illnesses sustained by State and Local government workers, including those in such relatively high hazard and high profile occupations as police, firefighters, paramedics and other public health workers. To address this data gap, beginning with survey year 2008, the BLS will collect data from State and Local government agencies in all States to support both State and national estimates. The BLS will collect this data within the current budget. The BLS regards the collection of these data as a significant expansion in its overall coverage of the American workplace. BLS will send a letter explaining that the survey is voluntary for State and Local government agencies in States that do not require this collection of data. The number of extra sample units needed for State and Local government data is approximately 7,000. A Non-Substantive change request will be made for this increase for survey year 2008.

For the more serious injuries and illnesses, those with days away from work, the survey provides detailed information on the injured/ill worker (age, sex, race, industry, occupation, and length of service), the time in shift, and the circumstances of the injuries and illnesses classified by standardized codes (nature of the injury/illness, part of body affected, primary and secondary sources of the injury/illness, and the event or exposure that produced the injury/illness). Race data categories reflect the Office of Management and Budget (OMB) recommended categories for non-self-reported classification. Optional information on the general job category is used to improve coding for non-descriptive job titles, such as ''Customer Service Representative.'' A check-off for before/during/after work shift was included to identify the events that occurred before or after the work shift.

In the two decades prior to the OSHA recordkeeping changes in 2002, incidence rates for cases with days away from work decreased significantly while incidence rates for cases with only restricted work activity increased significantly. Since the BLS presently collects case and demographic data only for cases with days away from work, data are not obtained about a growing class of injury and illness cases. Beginning with the 2008 survey year, BLS will test collection of case and demographic data for injury and illness cases that require only days of job transfer or restriction. If the test(s) prove successful, BLS will implement this for as many States as the budget allows beginning with survey year 2009. BLS regards the collection of these cases with only job transfer or restriction as significant in its coverage of the American workforce.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E7–12710 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 27, 2007.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained from RegInfo.gov at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll-free numbers), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title: Operations Under Water.

OMB Number: 1219–0020.

Type of Response: Reporting.

Affected Public: Private Sector: Business or other for-profit (Mines).

Number of Respondents: 30.

Estimated Number of Annual Responses: 30.

Average Response Time: 5 hours.

Estimated Annual Burden Hours: 150.

Total Annualized Capital/Startup Costs: $450.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The information collection requirements contained in 30 CFR 75.1702 and 75.1702–1 help to ensure that miners are protected from the unnecessary hazards associated with the open flame of a cigarette lighter or match.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–12729 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2007–09; Exemption Application No. D–11408]

Grant of Individual Exemption Involving the Derose Dental Offices Inc., Profit Sharing Plan, Located in Racine, WI

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This document contains an exemption issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

The DeRose Dental Offices, Inc., S.C. Profit Sharing Plan (the Plan)

Located in Racine, Wisconsin

[Prohibited Transaction Exemption 2007–09; Exemption Application No. D–11408]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act, and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the December 29, 2006 sale by the Plan of 2,174 shares of stock (the Stock) in Wisconsin Bancshares, Inc. each to Francesca DeRose and Nicolet DeRose, parties in interest with respect to the Plan, provided the following conditions are satisfied:

(a) The sales of the Stock were one-time transactions for cash;

(b) The Plan paid no commissions or other fees in connection with the sales;

(c) The terms of the transactions were at least as favorable to the Plan as those the Plan could obtain in similar transactions with an unrelated party; and

(d) The sales price of the Stock was determined by a qualified, independent appraiser.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 22, 2007 at 72 FR 13517.

DATES: *Effective Date:* This exemption is effective as of December 29, 2006.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 26th day of June, 2007.

Ivan Strasfeld,

Director of Exemption, Determinations Employee Benefits, Security Administration, Department of Labor.

[FR Doc. E7–12674 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2007–08; Exemption Application No. D–11345]

Grant of Individual Exemption To Amend and Replace Prohibited Transaction Exemption (PTE) 2000–34, Involving the Fidelity Mutual Life Insurance Company (FML), Located in Radnor, PA

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Grant of individual exemption to amend and replace PTE 2000–34.

This document contains a final exemption before the Department of Labor (the Department) that amends and replaces PTE 2000–34 (65 FR 41732, July 6, 2000), an exemption granted to FML. PTE 2000–34, relates to (1) the receipt of certain stock (Plan Stock) issued by Fidelity Insurance Group, Inc., a wholly owned subsidiary of FML, or (2) the receipt of plan credits by or on behalf of a FML mutual member (the Mutual Member), which is an employee

benefit plan (the Plan), other than the Employee Pension Plan of Fidelity Mutual Life Insurance Company, in exchange for such Mutual Member's membership interest in FML, in accordance with the terms of a plan of rehabilitation (the Third Amended Plan), approved by the Pennsylvania Commonwealth Court (the Court) and supervised by both the Court and a rehabilitator appointed by the Pennsylvania Insurance Commissioner. These transactions are described in a notice of proposed exemption (65 FR 18359, April 7, 2000), which underlies PTE 2000–34.

The final exemption incorporates by reference many of the conditions contained in PTE 2000–34. The exemption also revises and updates certain facts and representations set forth in PTE 2000–34 to include the terms of the Fourth Amended Plan of Rehabilitation (the Fourth Amended Plan) which supersedes the Third Amended Plan upon which PTE 2000–34 is based.

DATES: *Effective Date:* This exemption is effective as of the date the grant notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan, Office of Exemptions Determinations, Employee Benefits Security Administration, U.S. Department of Labor, telephone (202) 693–8552. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 22, 2007, the Department published a notice of proposed exemption in the **Federal Register** at 72 FR 13519. The document contained a notice of proposed individual exemption from the prohibited transaction restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1)(A) through (D) of the Code. The proposed exemption has been requested in an application filed on behalf of FML pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this exemption is being issued solely by the Department.

The proposed exemption gave interested persons an opportunity to comment and to request a hearing. In this regard, all interested persons were invited to submit written comments or requests for a hearing on the pending exemption on or before April 24, 2007. All comments were made part of the record.

During the comment period, the Department received 2 written comments that were submitted by electronic mail. One comment was submitted by FML and it is intended to clarify that FML is located in ''Radnor'' rather than in ''Pittsburgh,'' Pennsylvania. In response to the comment, the Department has modified the text in the heading at the beginning of the grant notice to read ''Radnor, Pennsylvania'' in order to denote FML's correct location.

The second comment was submitted by the trustee of a Plan that is a Mutual Member of FML. Specifically, the commenter wished to know whether (1) FML is nearing dissolution and its assets are close to depletion; (2) FML has any knowledge of a prospective purchaser which has expressed an interest in protecting the current policyholders if the Fourth Amended Plan is granted; and (3) the ''numbers'' cited in the proposed exemption are factual. The commenter also sought clarification on the percentage of likelihood that the Fourth Amended Plan would be implemented and whether the commenter's own Plan would be permitted to acquire ''mutual fund stock'' of an insurance company.

In response to this comment, FML explains that the sale of its assets (or possibly its conversion to a stock company and the sale of its stock) is expected to occur in the near future. FML also states that its assets are not nearing depletion. In addition, FML represents that a third party has submitted a bid to purchase its assets and that the protections of its policyholders are the protections that are built into the Fourth Amended Plan, which must be implemented and approved by the Court. Moreover, FML indicates that the numbers cited in the proposal are actual numbers. With respect to the implementation of the Fourth Amended Plan, FML has declined to specify a percentage, but states that it believes this plan ''is highly likely to be implemented.'' Finally, in response to the commenter's question about allowing the commenter's own Plan to acquire mutual fund shares, FML states it does not understand the comment and that the requested exemption has nothing to do with mutual funds.

For further information regarding the comments or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–11345) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, is made available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, after giving full consideration to the entire record, including the written comments received, the Department has decided to grant the exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E)–(F) of the Code;

(3) In accordance with section 408(a) of the Act, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) The exemption is in the interest of the plan and of its participants and beneficiaries; and

(c) The exemption is protective of the rights of participants and beneficiaries of the plans.

(4) The exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Accordingly, the following exemption is granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) the receipt of certain stock (the Investor Stock) issued by the corporation (the Stock Purchaser) which acquires Post-Conversion Fidelity Mutual Life Insurance Company (Post-Conversion FML) by stock purchase or by merger, (2) the receipt of plan credits (the Plan Credits), or (3) the receipt of cash, by or on behalf of a mutual member (the Mutual Member) of FML which is an employee benefit plan (a Plan), in exchange for such Mutual Member's membership interest (the Membership Interest) in FML, in accordance with the terms of a plan of rehabilitation of FML (the Fourth Amended Plan) approved by the Pennsylvania Commonwealth Court (the Court) and supervised by both the Court and the Pennsylvania Insurance Commissioner (the Commissioner), who is acting as the rehabilitator of FML (the Rehabilitator).

This exemption is subject to the following conditions set forth below in Section II.

Section II. General Conditions

(a) The Fourth Amended Plan is approved by the Court, implemented in accordance with procedural and substantive safeguards that are imposed under Pennsylvania law and is subject to review and/or supervision by the Commissioner (both in her own capacity and in her capacity as Rehabilitator of FML). The Court determines whether the Fourth Plan—

(1) Properly conserves and equitably administers the assets of FML, in the interests of investors, the public, and others in accordance with the legislatively-stated purpose of protecting the interests of the insured, creditors, and the public; and

(2) Equitably apportions any unavoidable loss through imposed methods for rehabilitating FML. (The Court will retain exclusive jurisdiction over the implementation, interpretation, and enforcement of the Fourth Amended Plan of Reorganization.)

(b) The Fourth Amended Plan provides for either:

(1) The transfer of FML's assets to an independent purchaser (the Asset Purchaser) in exchange for cash; or

(2) The conversion of FML from a mutual life insurance company into a stock life insurance company and either (A) the transfer of the stock of Post-Conversion FML to the independent Stock Purchaser or (B) the merger of Post-Conversion FML into the independent Stock Purchaser or an affiliate of the Stock Purchaser.

(c) Each Mutual Member has an opportunity to comment on the Fourth Amended Plan at hearings held by the Court after full written disclosure of the terms of the Plan is given to such Mutual Member by FML.

(d) Participation by all Mutual Members in the Fourth Amended Plan, if approved by the Court, is mandatory, although Mutual Members may disclaim the Investor Stock, cash, and/or Plan Credits which they would otherwise receive.

(e) The decision by a Mutual Member which is a Plan to receive or disclaim Investor Stock, cash, and/or Plan Credits allocated to such Mutual Member is made by one or more independent fiduciaries of such Plan, and not by FML or any affiliate of FML. Consequently, neither FML nor any of its affiliates will exercise discretion nor render ''investment advice'' within the meaning of 29 CFR 2510.3–21(c) with respect to an independent Plan fiduciary's decision to receive or disclaim Investor Stock, cash, and/or Plan Credits.

(f) Twenty percent (20%) of the net assets which are available for distribution to the Mutual Members is allocated among the Mutual Members based upon voting rights, and eighty percent (80%) of such net assets is allocated among the Mutual Members on the basis of the contribution of the Mutual Members' respective insurance or annuity contracts (the Contracts) to the surplus of FML. The contribution to FML's surplus is the actuarial calculation of both the historical and expected future profit contribution of the Contracts that have contributed to the surplus (i.e., the net earnings) of FML. The actuarial formulas are approved by the Court and the Commissioner.

(g) The amount and value of the Investor Stock, cash, and/or Plan Credits received by a Mutual Member reflect the aggregate consideration paid by the Stock Purchaser or Asset Purchaser, which is independent of FML.

(h) All Mutual Members that are Plans participate in the transactions on the same basis as all other Mutual Members that are not Plans, except that Mutual Members which hold Non-Trusteed Tax-Qualified Retirement Funding Contracts receive Plan Credits in exchange for their membership interests, rather than cash and/or Investor Stock.

(i) No Mutual Member pays any brokerage commissions or fees in connection with the receipt of Investor Stock, cash, and/or Plan Credits.

(j) Mutual Members are not restricted from selling or otherwise transferring any Investor Stock which they receive. If Investor Stock comprises part of the consideration paid by the Stock Purchaser, the Stock Purchaser is required to establish a commission-free purchase or sales program which will allow Mutual Members who receive a small number of shares of Investor Stock to ''round up'' such shares or sell such shares free of sales commissions.

(k) The Fourth Amended Plan does not adversely affect the rights of a contractholder of the company (the Contractholder) which is a Mutual Member. In this regard,

(1) If Post-Conversion FML is acquired by the Stock Purchaser, the obligations of FML to a Contractholder are retained by Post-Conversion FML; and

(2) If FML's assets are purchased by the Asset Purchaser, FML's obligations to a Contractholder are discharged and terminated upon their endorsement and assumption by the Asset Purchaser, thereby making the Asset Purchaser liable for the obligations under the Contract.

Section III. Definitions

For purposes of this exemption:

(a) An ''affiliate'' of FML, Post-Conversion FML, the Stock Purchaser, or the Asset Purchaser includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such entity. (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.); or

(2) Any officer, director or partner in such person.

(b) The term ''Asset Purchaser'' means the person (e.g., individual, corporation, partnership, joint venture, etc.) selected by the Rehabilitator and approved by the Court to purchase FML's assets under an assumption reinsurance agreement.

(c) The term ''FML'' means the Fidelity Mutual Life Insurance Company (In Rehabilitation) and any affiliate of FML, as defined in paragraph (a) of this Section III, as they exist before

FML is converted from a mutual life insurance company into a stock life insurance company.

(d) The term ''Investor Stock'' means the common stock of the Stock Purchaser that will be allocated to Mutual Members if Post-Conversion FML is acquired by the Stock Purchaser in exchange for consideration that includes common stock of the Stock Purchaser.

(e) The term ''Mutual Member'' means a Contractholder whose name appears on FML's records as an owner of an FML Contract on the Record Date of the Fourth Amended Plan.

(f) The term ''Non-Trusteed Tax-Qualified Retirement Funding Contracts'' means FML insurance contracts which are held in connection with retirement plans or arrangements described in section 403(a) or 408 of the Internal Revenue Code or non-trusteed retirement plans described in Section 401(a) of the Internal Revenue Code.

(g) The term ''Plan'' means an employee benefit plan.

(h) The term ''Plan Credit'' means either (1) additional paid up insurance for a traditional life policy or (2) credits to the account values for Contracts that are not traditional (such as a flexible premium policy). Under FML's Fourth Amended Plan, Plan Credits are to be allocated to Mutual Members who hold Non-Trusteed Tax-Qualified Retirement Funding Contracts, in lieu of Investor Stock and/or cash.

(i) The term ''Post-Conversion FML'' means the Fidelity Mutual Life Insurance Company (In Rehabilitation) and any affiliate of FML, as defined in paragraph (a) of this Section III, as they exist after FML is converted from a mutual life insurance company into a stock life insurance company.

(j) The term ''Stock Purchaser'' means the person (e.g., individual, corporation, partnership, joint venture, etc.) selected by the Rehabilitator and approved by the Court to purchase the stock of Post-Conversion FML, or to acquire Post-Conversion FML by merger, under a stock purchase agreement or merger agreement.

This exemption is available to FML for as long as the terms and conditions of the exemption are satisfied with respect to each Mutual Member that is a Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 2000–34, refer to the proposed exemption and the grant notice which are cited above.

Signed at Washington, DC, June 26, 2007.

Ivan L. Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E7–12673 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Exemptions and Application Numbers: D–11272, Wells Fargo & Company; D–11390, BSC Services Corp. 401(k) Profit Sharing Plan (the Plan); and D–11402 & D–11403, Owens Corning Savings Plan and Owens Corning Savings and Security (Collectively the Plans)

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No.____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: *Amoffitt.betty@dol.gov*, or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Wells Fargo & Company (WFC)

Located in San Francisco, California

[Application No. D–11272]

Proposed Exemption

The Department of Labor (the Department) is considering granting an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) and section 4975(c)(2) of the Internal Revenue Code of 1986 (the Code) and in accordance with the procedures set forth in 29 CFR Part

2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I—Transactions

If the proposed exemption is granted, the restrictions of section 406 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the purchase of certain securities (the Securities), as defined, below in Section III(h), by an asset management affiliate of WFC, as ''affiliate'' is defined, below, in Section III(c), from any person other than such asset management affiliate of WFC or any affiliate thereof, during the existence of an underwriting or selling syndicate with respect to such Securities, where a broker-dealer affiliated with WFC (the Affiliated Broker-Dealer), as defined, below, in Section III(b), is a manager or member of such syndicate and the asset management affiliate of WFC purchases such Securities, as a fiduciary:

(a) On behalf of an employee benefit plan or employee benefit plans (Client Plan(s)), as defined, below, in Section III(e); or

(b) On behalf of Client Plans, and/or In-House Plans, as defined, below, in Section III(l), which are invested in a pooled fund or in pooled funds (Pooled Fund(s)), as defined, below, in Section III(f); provided that the conditions as set forth, below, in Section II, are satisfied (An affiliated underwriter transaction (AUT)).[1]

Section II—Conditions

The proposed exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following requirements:

(a)(1) The Securities to be purchased are either—

(i) Part of an issue registered under the Securities Act of 1933 (the 1933 Act) (15 U.S.C. 77a *et seq.*). If the Securities to be purchased are part of an issue that is exempt from such registration requirement, such Securities:

(A) Are issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States,

(B) Are issued by a bank,

(C) Are exempt from such registration requirement pursuant to a federal statute other than the 1933 Act, or

(D) Are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such Securities and that has filed all reports required to be filed thereunder with the Securities and Exchange Commission (SEC) during the preceding twelve (12) months; or

(ii) Part of an issue that is an Eligible Rule 144A Offering, as defined in SEC Rule 10f–3 (17 CFR 270.10f–3(a)(4)). Where the Eligible Rule 144A Offering of the Securities is of equity securities, the offering syndicate shall obtain a legal opinion regarding the adequacy of the disclosure in the offering memorandum;

(2) The Securities to be purchased are purchased prior to the end of the first day on which any sales are made, pursuant to that offering, at a price that is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities, except that—

(i) If such Securities are offered for subscription upon exercise of rights, they may be purchased on or before the fourth day preceding the day on which the rights offering terminates; or

(ii) If such Securities are debt securities, they may be purchased at a price that is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities and may be purchased on a day subsequent to the end of the first day on which any sales are made, pursuant to that offering, provided that the interest rates, as of the date of such purchase, on comparable debt securities offered to the public subsequent to the end of the first day on which any sales are made and prior to the purchase date are less than the interest rate of the debt Securities being purchased; and

(3) The Securities to be purchased are offered pursuant to an underwriting or selling agreement under which the members of the syndicate are committed to purchase all of the Securities being offered, except if—

(i) Such Securities are purchased by others pursuant to a rights offering; or

(ii) Such Securities are offered pursuant to an over-allotment option.

(b) The issuer of the Securities to be purchased pursuant to this proposed exemption must have been in continuous operation for not less than three years, including the operation of any predecessors, unless the Securities to be purchased—

(1) Are non-convertible debt securities rated in one of the four highest rating categories by Standard & Poor's Rating Services, Moody's Investors Service, Inc., FitchRatings, Inc., Dominion Bond Rating Service Limited, Dominion Bond Rating Service, Inc., or any successors thereto (collectively, the Rating Organizations); provided that none of the Rating Organizations rates such Securities in a category lower than the fourth highest rating category; or

(2) Are debt securities issued or fully guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States; or

(3) Are debt securities which are fully guaranteed by a person (the Guarantor) that has been in continuous operation for not less than three years, including the operation of any predecessors, provided that such Guarantor has issued other securities registered under the 1933 Act; or if such Guarantor has issued other securities which are exempt from such registration requirement, such Guarantor has been in continuous operation for not less than three years, including the operation of any predecessors, and such Guarantor:

(a) Is a bank; or

(b) Is an issuer of securities which are exempt from such registration requirement, pursuant to a Federal statute other than the 1933 Act; or

(c) Is an issuer of securities that are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such securities and that has filed all reports required to be filed thereunder with the Securities and Exchange Commission (SEC) during the preceding twelve (12) months.

(c) The aggregate amount of Securities of an issue purchased, pursuant to this proposed exemption, by the asset management affiliate of WFC with: (i) the assets of all Client Plans; and (ii) the assets, calculated on a pro-rata basis, of all Client Plans and In-House Plans investing in Pooled Funds managed by the asset management affiliate of WFC; and (iii) the assets of plans to which the asset management affiliate of WFC renders investment advice within the meaning of 29 CFR 2510.3–21(c) does not exceed:

[1] For purposes of this proposed exemption an In-House Plan may engage in AUT's only through investment in a Pooled Fund.

(1) 10 percent (10%) of the total amount of the Securities being offered in an issue, if such Securities are equity securities;

(2) 35 percent (35%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in one of the four highest rating categories by at least one of the Rating Organizations; provided that none of the Rating Organizations rates such Securities in a category lower than the fourth highest rating category; or

(3) 25 percent (25%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in the fifth or sixth highest rating categories by at least one of the Rating Organizations; provided that none of the Rating Organizations rates such Securities in a category lower than the sixth highest rating category; and

(4) The assets of any single Client Plan (and the assets of any Client Plans and any In-House Plans investing in Pooled Funds) may not be used to purchase any Securities being offered, if such Securities are debt securities rated lower than the sixth highest rating category by any of the Rating Organizations;

(5) Notwithstanding the percentage of Securities of an issue permitted to be acquired, as set forth in Section II(c)(1), (2), and (3), above, of this proposed exemption, the amount of Securities in any issue (whether equity or debt securities) purchased, pursuant to this proposed exemption, by the asset management affiliate of WFC on behalf of any single Client Plan, either individually or through investment, calculated on a pro-rata basis, in a Pooled Fund may not exceed three percent (3%) of the total amount of such Securities being offered in such issue, and;

(6) If purchased in an Eligible Rule 144A Offering, the total amount of the Securities being offered for purposes of determining the percentages, described, above, in Section II(c)(1)–(3) and (5), is the total of:

(i) The principal amount of the offering of such class of Securities sold by underwriters or members of the selling syndicate to ''qualified institutional buyers'' (QIBs), as defined in SEC Rule 144A (17 CFR 230.144A(a)(1)); plus

(ii) The principal amount of the offering of such class of Securities in any concurrent public offering.

(d) The aggregate amount to be paid by any single Client Plan in purchasing any Securities which are the subject of this proposed exemption, including any amounts paid by any Client Plan or In-House Plan in purchasing such Securities through a Pooled Fund, calculated on a *pro-rata* basis, does not exceed three percent (3%) of the fair market value of the net assets of such Client Plan or In-House Plan, as of the last day of the most recent fiscal quarter of such Client Plan or In-House Plan prior to such transaction.

(e) The covered transactions are not part of an agreement, arrangement, or understanding designed to benefit the asset management affiliate of WFC or an affiliate.

(f) The Affiliated Broker-Dealer does not receive, either directly, indirectly, or through designation, any selling concession, or other compensation or consideration that is based upon the amount of Securities purchased by any single Client Plan, or that is based on the amount of Securities purchased by Client Plans or In-House Plans through Pooled Funds, pursuant to this proposed exemption. In this regard, the Affiliated Broker-Dealer may not receive, either directly or indirectly, any compensation or consideration that is attributable to the fixed designations generated by purchases of the Securities by the asset management affiliate of WFC on behalf of any single Client Plan or any Client Plan or In-House Plan in Pooled Funds.

(g)(1) The amount the Affiliated Broker-Dealer receives in management, underwriting, or other compensation or consideration is not increased through an agreement, arrangement, or understanding for the purpose of compensating the Affiliated Broker-Dealer for foregoing any selling concessions for those Securities sold pursuant to this proposed exemption. Except as described above, nothing in this Section II(g)(1) shall be construed as precluding the Affiliated Broker-Dealer from receiving management fees for serving as manager of the underwriting or selling syndicate, underwriting fees for assuming the responsibilities of an underwriter in the underwriting or selling syndicate, or other compensation or consideration that is not based upon the amount of Securities purchased by the asset management affiliate of WFC on behalf of any single Client Plan, or on behalf of any Client Plan or In-House Plan participating in Pooled Funds, pursuant to this proposed exemption; and

(2) The Affiliated Broker-Dealer shall provide to the asset management affiliate of WFC a written certification, signed by an officer of the Affiliated Broker-Dealer, stating the amount that the Affiliated Broker-Dealer received in compensation or consideration during the past quarter, in connection with any offerings covered by this proposed exemption, was not adjusted in a manner inconsistent with Section II(e), (f), or (g) of this proposed exemption.

(h) The covered transactions are performed under a written authorization executed in advance by an independent fiduciary of each single Client Plan (the Independent Fiduciary), as defined, below, in Section III(g).

(i) Prior to the execution by an Independent Fiduciary of a single Client Plan of the written authorization described, above, in Section II(h), the following information and materials (which may be provided electronically) must be provided by the asset management affiliate of WFC to such Independent Fiduciary:

(1) A copy of the Notice of Proposed Exemption (the Notice) and a copy of the final exemption as published in the **Federal Register**; and

(2) Any other reasonably available information regarding the covered transactions that such Independent Fiduciary requests the asset management affiliate of WFC to provide.

(j) Subsequent to the initial authorization by an Independent Fiduciary of a single Client Plan permitting the asset management affiliate of WFC to engage in the covered transactions on behalf of such single Client Plan, the asset management affiliate of WFC will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary requests the asset management affiliate of WFC to provide.

(k)(1) In the case of an existing employee benefit plan investor (or existing In-House Plan investor, as the case may be) in a Pooled Fund, such Pooled Fund may not engage in any covered transactions pursuant to this proposed exemption, unless the asset management affiliate of WFC provides the written information, as described, below, and within the time period described, below, in this Section II(k)(2), to the Independent Fiduciary of each such plan participating in such Pooled Fund (and to the fiduciary of each such In-House Plan participating in such Pooled Fund).

(2) The following information and materials (which may be provided electronically) shall be provided by the asset management affiliate of WFC not less than 45 days prior to such asset management affiliate of WFC engaging in the covered transactions on behalf of a Pooled Fund, pursuant to this proposed exemption:

(i) A notice of the intent of such Pooled Fund to purchase Securities pursuant to this proposed exemption, a copy of this Notice, and a copy of the final exemption, as published in the **Federal Register**;

(ii) Any other reasonably available information regarding the covered transactions that the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund requests the asset management affiliate of WFC to provide; and

(iii) A termination form expressly providing an election for the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund to terminate such plan's (or In-House Plan's) investment in such Pooled Fund without penalty to such plan (or In-House Plan). Such form shall include instructions specifying how to use the form. Specifically, the instructions will explain that such plan (or such In-House Plan) has an opportunity to withdraw its assets from a Pooled Fund for a period of no more than 30 days after such plan's (or such In-House Plan's) receipt of the initial notice of intent, described, above, in Section II(k)(2)(i), and that the failure of the Independent Fiduciary of such plan (or fiduciary of such In-House Plan) to return the termination form to the asset management affiliate of WFC in the case of a plan (or In-House Plan) participating in a Pooled Fund by the specified date shall be deemed to be an approval by such plan (or such In-House Plan) of its participation in the covered transactions as an investor in such Pooled Fund.

Further, the instructions will identify WFC, the asset management affiliate of WFC, and the Affiliated Broker-Dealer and will provide the address of the asset management affiliate of WFC. The instructions will state that this proposed exemption may be unavailable, unless the fiduciary of each plan participating in the covered transactions as an investor in a Pooled Fund is, in fact, independent of WFC, the asset management affiliate of WFC, and the Affiliated Broker-Dealer. The instructions will also state that the fiduciary of each such plan must advise the asset management affiliate of WFC, in writing, if it is not an ''Independent Fiduciary,'' as that term is defined, below, in Section III(g).

For purposes of this Section II(k), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this proposed exemption for each plan be independent of the asset management affiliate of WFC shall not apply in the case of an In-House Plan.

(l)(1) In the case of each plan (and in the case of each In-House Plan) whose assets are proposed to be invested in a Pooled Fund after such Pooled Fund has satisfied the conditions set forth in this proposed exemption to engage in the covered transactions, the investment by such plan (or by such In-House Plan) in the Pooled Fund is subject to the prior written authorization of an Independent Fiduciary representing such plan (or the prior written authorization by the fiduciary of such In-House Plan, as the case may be), following the receipt by such Independent Fiduciary of such plan (or by the fiduciary of such In-House Plan, as the case may be) of the written information described, above, in Section II(k)(2)(i) and (ii).

(2) For purposes of this Section II(l), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this proposed exemption for each plan proposing to invest in a Pooled Fund be independent of WFC and its affiliates shall not apply in the case of an In-House Plan.

(m) Subsequent to the initial authorization by an Independent Fiduciary of a plan (or by a fiduciary of an In-House Plan) to invest in a Pooled Fund that engages in the covered transactions, the asset management affiliate of WFC will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary of such plan (or the fiduciary of such In-House Plan, as the case may be) requests the asset management affiliate of WFC to provide.

(n) At least once every three months, and not later than 45 days following the period to which such information relates, the asset management affiliate of WFC shall furnish:

(1) In the case of each single Client Plan that engages in the covered transactions, the information described, below, in this Section II(n)(3)–(7), to the Independent Fiduciary of each such single Client Plan.

(2) In the case of each Pooled Fund in which a Client Plan (or in which an In-House Plan) invests, the information described, below, in this Section II(n)(3)–(6) and (8), to the Independent Fiduciary of each such Client Plan (and to the fiduciary of each such In-House Plan) invested in such Pooled Fund.

(3) A quarterly report (the Quarterly Report) (which may be provided electronically) which discloses all the Securities purchased pursuant to this proposed exemption during the period to which such report relates on behalf of the Client Plan, In-House Plan, or Pooled Fund to which such report relates, and which discloses the terms of each of the transactions described in such report, including:

(i) The type of Securities (including the rating of any Securities which are debt securities) involved in each transaction;

(ii) The price at which the Securities were purchased in each transaction;

(iii) The first day on which any sale was made during the offering of the Securities;

(iv) The size of the issue of the Securities involved in each transaction;

(v) The number of Securities purchased by the asset management affiliate of WFC for the Client Plan, In-House Plan, or Pooled Fund to which the transaction relates;

(vi) The identity of the underwriter from whom the Securities were purchased for each transaction;

(vii) The underwriting spread in each transaction (*i.e.*, the difference, between the price at which the underwriter purchases the Securities from the issuer and the price at which the Securities are sold to the public);

(viii) The price at which any of the Securities purchased during the period to which such report relates were sold; and

(ix) The market value at the end of the period to which such report relates of the Securities purchased during such period and not sold;

(4) The Quarterly Report contains:

(i) a representation that the asset management affiliate of WFC has received a written certification signed by an officer of the Affiliated Broker-Dealer, as described, above, in Section II(g)(2), affirming that, as to each AUT covered by this proposed exemption during the past quarter, the Affiliated Broker-Dealer acted in compliance with Section II(e), (f), and (g) of this proposed exemption, and

(ii) a representation that copies of such certifications will be provided upon request;

(5) A disclosure in the Quarterly Report that states that any other reasonably available information regarding a covered transaction that an Independent Fiduciary (or fiduciary of an In-House Plan) requests will be provided, including, but not limited to:

(i) The date on which the Securities were purchased on behalf of the Client Plan (or the In-House Plan) to which the disclosure relates (including Securities purchased by Pooled Funds in which such Client Plan (or such In-House Plan) invests;

(ii) The percentage of the offering purchased on behalf of all Client Plans (and the *pro-rata* percentage purchased on behalf of Client Plans and In-House Plans investing in Pooled Funds); and

(iii) The identity of all members of the underwriting syndicate;

(6) The Quarterly Report discloses any instance during the past quarter where the asset management affiliate of WFC was precluded for any period of time from selling Securities purchased under this proposed exemption in that quarter because of its status as an affiliate of an Affiliated Broker-Dealer and the reason for this restriction;

(7) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each single Client Plan that engages in the covered transactions that the authorization to engage in such covered transactions may be terminated, without penalty to such single Client Plan, within five (5) days after the date that the Independent Fiduciary of such single Client Plan informs the person identified in such notification that the authorization to engage in the covered transactions is terminated; and

(8) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each Client Plan (and to the fiduciary of each In-House Plan) that engages in the covered transactions through a Pooled Fund that the investment in such Pooled Fund may be terminated, without penalty to such Client Plan (or such In-House Plan), within such time as may be necessary to effect the withdrawal in an orderly manner that is equitable to all withdrawing plans and to the non-withdrawing plans, after the date that that the Independent Fiduciary of such Client Plan (or the fiduciary of such In-House Plan, as the case may be) informs the person identified in such notification that the investment in such Pooled Fund is terminated.

(o) For purposes of engaging in covered transactions, each Client Plan (and each In-House Plan) shall have total net assets with a value of at least $50 million (the $50 Million Net Asset Requirement). For purposes of engaging in covered transactions involving an Eligible Rule 144A Offering,[2] each Client Plan (and each In-House Plan) shall have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be) (the $100 Million Net Asset Requirement).

For purposes of a Pooled Fund engaging in covered transactions, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets with a value of at least $50 million. Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets with a value of at least $50 million, the $50 Million Net Asset Requirement will be met, if 50 percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which has total net assets with a value of at least $50 million. For purposes of a Pooled Fund engaging in covered transactions involving an Eligible Rule 144A Offering, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be). Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or In-House Plan, as the case may be), the $100 Million Net Asset Requirement will be met if 50 percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be), and the Pooled Fund itself qualifies as a QIB, as determined pursuant to SEC Rule 144A (17 CFR 230.144A(a)(F)).

For purposes of the net asset requirements described, above, in this Section II(o), where a group of Client Plans is maintained by a single employer or controlled group of employers, as defined in section 407(d)(7) of the Act, the $50 Million Net Asset Requirement (or in the case of an Eligible Rule 144A Offering, the $100 Million Net Asset Requirement) may be met by aggregating the assets of such Client Plans, if the assets of such Client Plans are pooled for investment purposes in a single master trust.

(p) The asset management affiliate of WFC qualifies as a ''qualified professional asset manager'' (QPAM), as that term is defined under Part V(a) of PTE 84–14. Notwithstanding the fact that the asset management affiliate of WFC satisfies the requirements, as set forth in Part V(a) of PTE 84–14, such asset management affiliate of WFC must also have total client assets under its management and control in excess of $5 billion, as of the last day of its most recent fiscal year and shareholders' or partners' equity in excess of $1 million. Furthermore, the requirement that the asset management affiliate of WFC must have total client assets under its management and control in excess of $5 billion, as of the last day of its most recent fiscal year and shareholders' or partners' equity in excess of $1 million, as set forth in this Section II(p), applies whether such asset management affiliate of WFC, qualifies as a QPAM, pursuant to Part V(a)(1), (a)(2), (a)(3) or (a)(4) of PTE 84–14.

(q) No more than 20 percent of the assets of a Pooled Fund at the time of a covered transaction, are comprised of assets of In-House Plans for which WFC, the asset management affiliate of WFC, the Affiliated Broker-Dealer, or an affiliate exercises investment discretion.

(r) The asset management affiliate of WFC, and the Affiliated Broker-Dealer, as applicable, maintain, or cause to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the persons, described, below, in Section II(s), to determine whether the conditions of this proposed exemption have been met, except that—

(1) No party in interest with respect to a plan which engages in the covered transactions, other than WFC, the asset management affiliate of WFC, and the Affiliated Broker-Dealer, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by Section II(s); and

(2) A prohibited transaction shall not be considered to have occurred solely because, due to circumstances beyond the control of the asset management affiliate of WFC, or the Affiliated Broker-Dealer, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(s)(1) Except as provided, below, in Section II(s)(2), and notwithstanding any provisions of subsections (a)(2) and

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[2] SEC Rule 10f–3(a)(4), 17 C.F.R. § 270.10f–3(a)(4), states that the term ''Eligible Rule 144A Offering'' means an offering of securities that meets the following conditions:

(i) The securities are offered or sold in transactions exempt from registration under section 4(2) of the Securities Act of 1933 [15 U.S.C. 77d(d)], rule 144A thereunder [§ 230.144A of this chapter], or rules 501–508 thereunder [§§ 230.501–230–508 of this chapter];

(ii) The securities are sold to persons that the seller and any person acting on behalf of the seller reasonably believe to include qualified institutional buyers, as defined in § 230.144A(a)(1) of this chapter; and

(iii) The seller and any person acting on behalf of the seller reasonably believe that the securities are eligible for resale to other qualified institutional buyers pursuant to § 230.144A of this chapter.

(b) of section 504 of the Act, the records referred to, above, in Section II(r) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the SEC; or

(ii) Any fiduciary of any plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(iii) Any employer of participants and beneficiaries and any employee organization whose members are covered by a plan that engages in the covered transactions, or any authorized employee or representative of these entities; or

(iv) Any participant or beneficiary of a plan that engages in the covered transactions, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described, above, in Section II(s)(1)(ii)–(iv) shall be authorized to examine trade secrets of the asset management affiliate of WFC, or the Affiliated Broker-Dealer, or commercial or financial information which is privileged or confidential; and

(3) Should the asset management affiliate of WFC, or the Affiliated Broker-Dealer refuse to disclose information on the basis that such information is exempt from disclosure, pursuant to Section II(s)(2), above, the asset management affiliate of WFC shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Section III—Definitions

(a) The term, ''the Applicant,'' means WFC.

(b) The term, ''Affiliated Broker-Dealer,'' means any broker-dealer affiliate, as ''affiliate'' is defined, below, in Section III(c), of the Applicant, as ''Applicant'' is defined, above, in Section III(a), that meets the requirements of this proposed exemption. Such Affiliated Broker-Dealer may participate in an underwriting or selling syndicate as a manager or member. The term, ''manager,'' means any member of an underwriting or selling syndicate who, either alone or together with other members of the syndicate, is authorized to act on behalf of the members of the syndicate in connection with the sale and distribution of the Securities, as defined, below, in Section III(h), being offered or who receives compensation from the members of the syndicate for its services as a manager of the syndicate.

(c) The term ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such person;

(2) Any officer, director, partner, employee, or relative, as defined in section 3(15) of the Act, of such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(d) The term, ''control,'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) The term, ''Client Plan(s),'' means an employee benefit plan(s) that is subject to the Act and/or the Code, and for which plan(s) an asset management affiliate of WFC exercises discretionary authority or discretionary control respecting management or disposition of some or all of the assets of such plan(s), but excludes In-House Plans, as defined, below, in Section III(l).

(f) The term, ''Pooled Fund(s),'' means a common or collective trust fund(s) or a pooled investment fund(s):

(1) In which employee benefit plan(s) subject to the Act and/or Code invest,

(2) Which is maintained by an asset management affiliate of WFC, (as the term, ''affiliate'' is defined, above, in Section III(c)), and

(3) For which such asset management affiliate of WFC exercises discretionary authority or discretionary control respecting the management or disposition of the assets of such fund(s).

(g)(1) The term, ''Independent Fiduciary,'' means a fiduciary of a plan who is unrelated to, and independent of WFC, the asset management affiliate of WFC, and the Affiliated Broker-Dealer. For purposes of this proposed exemption, a fiduciary of a plan will be deemed to be unrelated to, and independent of WFC, the asset management affiliate of WFC, and the Affiliated Broker-Dealer, if such fiduciary represents that neither such fiduciary, nor any individual responsible for the decision to authorize or terminate authorization for the transactions described, above, in Section I of this proposed exemption, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of WFC, the asset management affiliate of WFC, or the Affiliated Broker-Dealer, and represents that such fiduciary shall advise the asset management affiliate of WFC within a reasonable period of time after any change in such facts occur.

(2) Notwithstanding anything to the contrary in this Section III(g), a fiduciary of a plan is not independent:

(i) If such fiduciary directly or indirectly controls, is controlled by, or is under common control with WFC, the asset management affiliate of WFC, or the Affiliated Broker-Dealer;

(ii) If such fiduciary directly or indirectly receives any compensation or other consideration from WFC, the asset management affiliate of WFC, or the Affiliated Broker-Dealer for his or her own personal account in connection with any transaction described in this proposed exemption;

(iii) If any officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the asset management affiliate of WFC responsible for the transactions described, above, in Section I of this proposed exemption, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the sponsor of the plan or of the fiduciary responsible for the decision to authorize or terminate authorization for the transactions described, above, in Section I. However, if such individual is a director of the sponsor of the plan or of the responsible fiduciary, and if he or she abstains from participation in: (A) The choice of the plan's investment manager/adviser; and (B) the decision to authorize or terminate authorization for transactions described, above, in Section I, then Section III(g)(2)(iii) shall not apply.

(3) The term, ''officer,'' means a president, any vice president in charge of a principal business unit, division, or function (such as sales, administration, or finance), or any other officer who performs a policy-making function for WFC or any affiliate thereof.

(h) The term, ''Securities,'' shall have the same meaning as defined in section 2(36) of the Investment Company Act of 1940 (the 1940 Act), as amended (15 U.S.C. 80a–2(36) (1996)). For purposes of this proposed exemption, mortgage-backed or other asset-backed securities rated by one of the Rating Organizations, as defined, below, in Section III(k), will be treated as debt securities.

(i) The term, ''Eligible Rule 144A Offering,'' shall have the same meaning as defined in SEC Rule 10f–3(a)(4) (17 CFR 270.10f–3(a)(4)) under the 1940 Act).

(j) The term, ''qualified institutional buyer,'' or the term, ''QIB,'' shall have the same meaning as defined in SEC

Rule 144A (17 CFR 230.144A(a)(1)) under the 1933 Act.

(k) The term, ''Rating Organizations,'' means Standard & Poor's Rating Services, Moody's Investors Service, Inc., FitchRatings, Inc., Dominion Bond Rating Service Limited, and Dominion Bond Rating Service, Inc., or any successors thereto.

(l) The term, ''In-House Plan(s),'' means an employee benefit plan(s) that is subject to the Act and/or the Code, and that is sponsored by the Applicant, as defined, above, in Section III(a) for its own employees.

Summary of Facts and Representations

The Applicant

1. WFC (*i.e.*, the Applicant) is a diversified financial services company organized under the laws of Delaware and registered as a bank holding company and financial holding company under the Bank Holding Company Act of 1956. The Applicant engages in banking and a variety of related financial services businesses. Retail, commercial and corporate banking services are provided through banking stores in a number of states. Other financial services are provided by subsidiaries engaged in various businesses, such as wholesale banking, mortgage banking, consumer finance, equipment leasing, agricultural finance, commercial finance, securities brokerage and investment banking, insurance agency services, computer and data processing services, trust services, mortgage-backed securities servicing and venture capital investment. Subsidiaries of the Applicant manage institutional portfolios for mutual funds, corporations, pension plans, endowments, foundations, health care organizations, public agencies, sovereign organizations, insurance companies and Taft-Hartley plans. These affiliates act as fiduciaries to employee benefit plans, providing trustee, recordkeeping, consulting and investment management services. The Applicant and its affiliates' activities are subject to oversight and regulation by the Securities and Exchange Commission (the SEC), the Federal Reserve Board and the Office of the Comptroller of the Currency.

Requested Exemption

2. The Applicant requests a prohibited transaction exemption that would permit the purchase of certain securities by an asset management affiliate of WFC (the Asset Manager), acting on behalf of Client Plans subject to the Act or Code, and acting on behalf of Client Plans and In-House Plans which are invested in certain Pooled Funds for which an Asset Manager acts as a fiduciary, from any person other than such Asset Manager or any affiliate thereof, during the existence of an underwriting or selling syndicate with respect to such Securities, where an Affiliated Broker-Dealer is a manager or member of such syndicate. Further, the Affiliated Broker-Dealer will receive no selling concessions in connection with the Securities sold to such plans.

3. The Applicant represents that if the Affiliated Broker-Dealer is a member of an underwriting or selling syndicate, the Asset Manager may purchase underwritten securities for Client Plans in accordance with Part III of Prohibited Transaction Exemption (PTE) 75–1, (40 FR 50845, October 31, 1975). Part III provides limited relief from the Act's prohibited transaction provisions for plan fiduciaries that purchase securities from an underwriting or selling syndicate of which the fiduciary or an affiliate is a member. However, such relief is not available if the Affiliated Broker-Dealer manages the underwriting or selling syndicate.

4. In addition, regardless of whether a fiduciary or its affiliate is a manager or merely a member of an underwriting or selling syndicate, PTE 75–1 does not provide relief for the purchase of unregistered securities. This includes securities purchased by an underwriter for resale to a ''qualified institutional buyer'' (QIB) pursuant to the SEC's Rule 144A under the Securities Act of 1933 (the 1933 Act). Rule 144A is commonly utilized in connection with sales of securities issued by foreign corporations to U.S. investors that are QIBs. Notwithstanding the unregistered nature of such shares, it is represented that syndicates selling securities under Rule 144A (Rule 144A Securities) are the functional equivalent of those selling registered securities.

5. The Applicant represents that the Affiliated Broker-Dealer regularly serves as manager of underwriting or selling syndicates for registered securities, and as a manager or a member of underwriting or selling syndicates for Rule 144A Securities. Accordingly, the Asset Manager is currently unable to purchase on behalf of the Client Plans Rule 144A Securities sold in such offerings, resulting in such Client Plans being unable to participate in significant investment opportunities. In addition, since 1975, there has been a significant amount of consolidation in the financial services industry in the United States. As a result, there are more situations in which a plan fiduciary may be affiliated with the manager of an underwriting syndicate. Further, many plans have expanded investment portfolios in recent years to include securities issued by foreign corporations. As a result, the exemption provided in PTE 75–1, Part III, is often unavailable for purchase of domestic and foreign securities that may otherwise constitute appropriate plan investments.

Client Plan Investments in Offered Securities

6. The Applicant represents that the Asset Manager makes its investment decisions on behalf of, or renders investment advice to, Client Plans pursuant to the governing document of the particular Client Plan or Pooled Fund and the investment guidelines and objectives set forth in the management or advisory agreement. Because the Client Plans are covered by Title I of the Act, such investment decisions are subject to the fiduciary responsibility provisions of the Act.

7. The Applicant states, therefore, that the decision to invest in a particular offering is made on the basis of price, value and a Client Plan's investment criteria, not on whether the securities are currently being sold through an underwriting or selling syndicate. The Applicant further states that, because the Asset Manager's compensation for its services is generally based upon assets under management, the Asset Manager has little incentive to purchase securities in an offering in which the Affiliated Broker Dealer is an underwriter unless such a purchase is in the interests of Client Plans. If the assets under management do not perform well, the Asset Manager will receive less compensation and could lose clients, costs which far outweigh any gains from the purchase of underwritten securities.[3]

8. The Applicant states that the Asset Manager generally purchases securities in large blocks because the same investments will be made across several accounts. If there is a new offering of an equity or fixed income security that the Asset Manager wishes to purchase, it may be able to purchase the security through the offering syndicate at a lower price than it would pay in the open market, without transaction costs and with reduced market impact if it is buying a relatively large quantity. This is because a large purchase in the open market can cause an increase in the market price and, consequently, in the

[3] In fact, under the terms of the proposed exemption set forth herein, the Affiliated Broker-Dealer may receive no compensation or other consideration, direct or indirect, in connection with any transaction that would be permitted under the proposed exemption.

cost of the securities. Purchasing from an offering syndicate can thus reduce the costs to the Client Plans.

9. However, absent an exemption, if the Affiliated Broker-Dealer is a manager of a syndicate that is underwriting a securities offering, the Asset Manager will be foreclosed from purchasing any securities on behalf of its Client Plans from that underwriting syndicate. This will force the Asset Manager to purchase the same securities in the secondary market. In such a circumstance, the Client Plans may incur greater costs both because the market price is often higher than the offering price, and because of transaction and market impact costs. In turn, this will cause the Asset Manager to forego other investment opportunities because the purchase price of the underwritten security in the secondary market exceeds the price that the Asset Manager would have paid to the selling syndicate.

Underwriting of Securities Offerings

10. The Applicant represents that the Affiliated Broker-Dealer currently manages and participates in firm commitment underwriting syndicates for registered offerings of both equity and debt securities. While equity and debt underwritings may operate differently with regard to the actual sales process, the basic structures are the same. In a firm commitment underwriting, the underwriting syndicate acquires the securities from the issuer and then sells the securities to investors.

11. The Applicant represents that while, as a legal matter, a selling syndicate assumes the risk that the underwritten securities might not be fully sold, as a practical matter, this risk is reduced, in marketed deals, through ''building a book'' (*i.e.*, taking indications of interest from potential purchasers) prior to pricing the securities. Accordingly, there is no incentive for the underwriters to use their discretionary accounts (or the discretionary accounts of their affiliates) to buy up the securities as a way to avoid underwriting liabilities.

12. Each selling syndicate has a lead manager, who is the principal contact between the syndicate and the issuer and who is responsible for organizing and coordinating the syndicate. The syndicate may also have co-managers, who generally assist the lead manager in working with the issuer to prepare the registration statement to be filed with the SEC and in distributing the underwritten securities. While equity syndicates typically include additional members that are not managers, more recently, membership in many debt syndicates has been limited to lead and co-managers.

13. If more than one underwriter is involved in a selling syndicate, the lead manager, who has been selected by the issuer of the underwritten securities, contacts other underwriters, and the underwriters enter into an ''Agreement Among Underwriters.'' Most lead managers have a standing form of agreement. This document is then supplemented for the particular deal by sending an ''invitation telex'' or ''terms telex'' that sets forth particular terms to the other underwriters.

14. The arrangement between the syndicate and the issuer of the underwritten securities is embodied in an underwriting agreement, which is signed on behalf of the underwriters by one or more of the managers. In a firm commitment underwriting, the underwriting agreement provides, subject to certain closing conditions, that the underwriters are obligated to purchase the underwritten securities from the issuer in accordance with their respective commitments. This obligation is met by using the proceeds received from the buyers of the securities in the offering, although there is a risk that the underwriters will have to pay for a portion of the securities in the event that not all of the securities are sold.

15. The Applicant represents that, generally, the risk that the securities will not be sold is small because the underwriting agreement is not executed until after the underwriters have obtained sufficient indications of interest to purchase the securities from a sufficient number of investors to assure that all the securities being offered will be acquired by investors. Once the underwriting agreement is executed, the underwriters immediately begin contacting the investors to confirm the sales, first orally and then by written confirmation, and sales are finalized within hours and sometimes minutes. In registered transactions, the underwriters are particularly anxious to complete the sales as soon as possible because until they ''break syndicate,'' they cannot enter the market. In many cases, the underwriters will act as market-makers for the security. A market-maker holds itself out as willing to buy or sell the security for its own account on a regular basis.

16. The Applicant represents that the process of ''building a book'' or soliciting indications of interest occurs as follows: In a registered equity offering, after a registration statement is filed with the SEC and, while it is under review by the SEC staff, representatives of the issuer of the securities and the selling syndicate managers conduct meetings with potential investors, who learn about the company and the underwritten securities. Potential investors also receive a preliminary prospectus. The underwriters cannot make any firm sales until the registration statement is declared effective by the SEC. Prior to the effective date, while the investors cannot become legally obligated to make a purchase, they indicate whether they have an interest in buying, and the managers compile a ''book'' of investors who are willing to ''circle'' a particular portion of the issue. These indications of interest are sometimes referred to as a ''soft circle'' because investors cannot be legally bound to buy the securities until the registration statement is effective. However, the Applicant represents that investors generally follow through on their indications of interest, and would be expected to do so, barring any sudden adverse developments (in which case it is likely that the offering would be withdrawn or the price range modified and the process restarted), because, if the investors that gave an indication of interest do not follow through, the underwriters may be reluctant to include them in future offerings.

17. Assuming that the marketing efforts have produced sufficient indications of interest, the Applicant represents that the issuer of the securities and the selling syndicate managers together will set the price of the securities and ask the SEC to declare the registration effective. After the registration statement becomes effective and the underwriting agreement is executed, the underwriters contact those investors that have indicated an interest in purchasing securities in the offering to execute the sales. The Applicant represents that offerings are often oversubscribed, and many have an over-allotment option that the underwriters can exercise to acquire additional shares from the issuer. Where an offering is oversubscribed, the underwriters decide how to allocate the securities among the potential purchasers. However, pursuant to the National Association of Securities Dealers Rule 2790, new issue securities (as defined under such rule) may not be sold directly to: officers, directors, general partners or associated persons of any broker-dealer (other than limited business broker-dealers); any person who has the authority to buy or sell securities for: a bank, saving and loan institution, insurance and investment companies, investment advisors and collective investment

accounts; and certain of the family members of such persons (collectively, ''restricted persons''). Restricted persons may still participate, to a limited extent, in allocations of ''new issues'' through pooled investment vehicles in which they invest and may receive directly new issue allocations in certain other limited circumstances.

18. The Applicant represents that debt offerings may be ''negotiated'' offerings, ''competitive bid'' offerings, or ''bought deals.'' ''Negotiated'' offerings, which often involve non-investment grade securities, are conducted in the same manner as an equity offering with regard to when the underwriting agreement is executed and how the securities are offered. ''Competitive bid'' offerings, in which the issuer determines the price for the securities through competitive bidding rather than negotiating the price with the underwriting syndicate, are performed under ''shelf'' registration statements pursuant to the SEC's Rule 415 under the 1933 Act (17 CFR 230.415).[4]

19. In a competitive bid offering, prospective lead underwriters will bid against one another to purchase debt securities, based upon their determinations of the degree of investor interest in the securities. Depending on the level of investor interest and the size of the offering, a bidding lead underwriter may bring in co-managers to assist in the sales process. Most of the securities are frequently sold within hours, or sometimes even less than an hour, after the securities are made available for purchase.

20. Because of market forces and the requirements of Rule 415, the competitive bid process is generally available only to issuers of investment-grade securities who have been subject to the reporting requirements of the 1934 Act for at least one (1) year.

21. Occasionally, in highly-rated debt issues, underwriters ''buy'' the entire deal off of a ''shelf registration'' before obtaining indications of interest. These ''bought'' deals involve issuers whose securities enjoy a deep and liquid secondary market, such that an underwriter has confidence without pre-marketing that it can identify purchasers for the bonds.

Structure of Diversified Financial Services Firms

22. The Applicant represents that there are internal policies in place that restrict contact and the flow of information between investment management personnel and non-investment management personnel in the same or affiliated financial service firms. These policies are designed to protect against ''insider trading,'' *i.e.*, trading on information not available to the general public that may affect the market price of the securities. Diversified financial services firms must be concerned about insider trading problems because one part of the firm—*e.g.*, the mergers and acquisitions group—could come into possession of non-public information regarding an upcoming transaction involving a particular issuer, while another part of the firm—*e.g.*, the investment management group—could be trading in the securities of that issuer for its clients.

23. The Applicant represents that the business separation policies and procedures of WFC and its affiliates are also structured to restrict the flow of any information to or from the Asset Manager that could limit its flexibility in managing client assets, and of information obtained or developed by the Asset Manager that could be used by other parts of the organization, to the detriment of the Asset Manager's clients.

24. The Applicant represents that major clients of the Affiliated Broker-Dealer include investment management firms that are competitors of the Asset Manager. Similarly, the Asset Manager deals on a regular basis with broker-dealers that compete with the Affiliated Broker-Dealer. If special consideration were shown to an affiliate, such conduct would likely have an adverse effect on the relationships of the Affiliated Broker-Dealer and of the Asset Manager with firms that compete with such affiliate. Therefore, a goal of the Applicant's business separation policy is to avoid any possible perception of improper flows of information between the Affiliated Broker-Dealer and the Asset Manager, in order to prevent any adverse impact on client and business relationships.

Underwriting Compensation

25. The Applicant represents that the underwriters are compensated through the ''spread,'' or difference, between the price at which the underwriters purchase the securities from the issuer and the price at which the securities are sold to the public. The spread is divided into three components.

26. The first component includes the management fee, which generally represents an agreed upon percentage of the overall spread and is allocated among the lead manager and co-managers. Where there is more than one managing underwriter, the way the management fee will be allocated among the managers is generally agreed upon between the managers and the issuer prior to soliciting indications of interest. Thus, the allocation of the management fee is not reflective of the amount of securities that a particular manager sells in an offering.

27. The second component is the underwriting fee, which represents compensation to the underwriters (including the non-managers, if any) for the risks they assume in connection with the offering and for the use of their capital. This component of the spread is also used to cover the expenses of the underwriting that are not otherwise reimbursed by the issuer of the securities.

28. The first and second components of the ''spread'' are received without regard to how the underwritten securities are allocated for sales purposes or to whom the securities are sold. The third component of the spread is the selling concession, which generally constitutes 60 percent or more of the spread. The selling concession compensates the underwriters for their actual selling efforts. The allocation of selling concessions among the underwriters generally follows the allocation of the securities for sales purposes. However, a buyer of the underwritten securities may designate other broker-dealers (who may be other underwriters, as well as broker-dealers outside the syndicate) to receive the selling concessions arising from the securities they purchase.

29. Securities are allocated for sales purposes into two categories. The first and larger category is the ''institutional pot,'' which is the pot of securities from which sales are made to institutional investors. Selling concessions for securities sold from the institutional pot are generally designated by the purchaser to go to particular underwriters or other broker-dealers. If securities are sold from the institutional pot, the selling syndicate managers sometimes receive a portion of the selling concessions, referred to as a ''fixed designation,''[5] attributable to securities sold in this category, without regard to who sold the securities or to whom they were sold. For securities covered by this proposed exemption, however, the Affiliated Broker-Dealer may not receive, either directly or indirectly, any compensation or consideration that is attributable to the fixed designation generated by

[4] Rule 415 permits an issuer to sell debt as well as equity securities under an effective registration statement previously filed with the SEC by filing a post-effective amendment or supplemental prospectus.

[5] A fixed designation is sometimes referred to as an ''auto pot split.''

purchases of securities by the Asset Manager on behalf of its Client Plans.

30. The second category of allocated securities is ''retail,'' which are the securities retained by the underwriters for sale to their retail customers. The underwriters receive the selling concessions from their respective retail retention allocations. Securities may be shifted between the two categories based upon whether either category is oversold or undersold during the course of the offering.

31. The Applicant asserts that the Affiliated Broker-Dealer's inability to receive any selling concessions, or any compensation attributable to the fixed designations generated by purchases of securities by the Asset Manager's Client Plans, removes the primary economic incentive for the Asset Manager to make purchases that are not in the interests of its Client Plans from offerings for which the Affiliated Broker-Dealer is an underwriter. The reason is that the Affiliated Broker-Dealer will not receive any additional fees as a result of such purchases by the Asset Manager.

Rule 144A Securities

32. The Applicant represents that a number of the offerings of Rule 144A Securities in which the Affiliated Broker-Dealer participates represent good investment opportunities for the Asset Manager's Client Plans. Particularly with respect to foreign securities, a Rule 144A offering may provide the least expensive and most accessible means for obtaining these securities. However, PTE 75–1, Part III, does not cover Rule 144A Securities. Therefore, absent an exemption, the Asset Manager is foreclosed from purchasing such securities for its Client Plans in offerings in which the Affiliated Broker-Dealer participates.

33. The Applicant states that Rule 144A acts as a ''safe harbor'' exemption from the registration provisions of the 1933 Act for sales of certain types of securities to QIBs. QIBs include several types of institutional entities, such as employee benefit plans and commingled trust funds holding assets of such plans, which own and invest on a discretionary basis at least $100 million in securities of unaffiliated issuers.

34. Any securities may be sold pursuant to Rule 144A except for those of the same class or similar to a class that is publicly traded in the United States, or certain types of investment company securities. This limitation is designed to prevent side-by-side public and private markets developing for the same class of securities as is the reason that Rule 144A transactions are generally limited to debt securities.

35. Buyers of Rule 144A Securities must be able to obtain, upon request, basic information concerning the business of the issuer and the issuer's financial statements, much of the same information as would be furnished if the offering were registered. This condition does not apply, however, to an issuer filing reports with the SEC under the 1934 Act, for which reports are publicly available. The condition also does not apply to a ''foreign private issuer'' for whom reports are furnished to the SEC under Rule 12g3–2(b) of the 1934 Act (17 CFR 240.12g3–2(b)), or to issuers who are foreign governments or political subdivisions thereof and are eligible to use Schedule B under the 1933 Act (which describes the information and documents required to be contained in a registration statement filed by such issuers).

36. Sales under Rule 144A, like sales in a registered offering, remain subject to the protections of the anti-fraud rules of federal and state securities laws. These rules include Section 10(b) of the 1934 Act and Rule 10b–5 thereunder (17 CFR 240.10b–5) and Section 17(a) of the 1933 Act (15 U.S.C. 77a). Through these and other provisions, the SEC may use its full range of enforcement powers to exercise its regulatory authority over the market for Rule 144A Securities, in the event that it detects improper practices.

37. The Applicant represents that this potential liability for fraud provides a considerable incentive to the issuer of the securities and the members of the selling syndicate to insure that the information contained in a Rule 144A offering memorandum is complete and accurate in all material respects. Among other things, the lead manager typically obtains an opinion from a law firm, commonly referred to as a ''10b–5'' opinion, stating that the law firm has no reason to believe that the offering memorandum contains any untrue statement of material fact or omits to state a material fact necessary in order to make sure the statements made, in light of the circumstances under which they were made, are not misleading.

38. The Applicant represents that Rule 144A offerings generally are structured in the same manner as underwritten registered offerings. The major difference is that a Rule 144A offering uses an offering memorandum rather than a prospectus that is filed with the SEC. The marketing process is the same in most respects, except that the selling efforts are limited to contacting QIBs and there are no general solicitations for buyers (*e.g.*, no general advertising). In addition, the Affiliated Broker-Dealer's role in these offerings is typically that of a lead or co-manager. Generally, there are no non-manager members in a Rule 144A selling syndicate. However, the Applicant requests that the proposed exemption extend to authorization for situations where the Affiliated Broker-Dealer acts only as a syndicate member, not as a manager.

Summary

39. In summary, the Applicant represents that the proposed transactions will satisfy the statutory criteria for an exemption set forth in section 408(a) of the Act because:

(a) The Client Plans will gain access to desirable investment opportunities;

(b) In each offering, the Asset Manager will purchase the securities for its Client Plans from an underwriter or broker-dealer other than the Affiliated Broker-Dealer;

(c) Conditions similar to those of PTE 75–1, Part III, will restrict the types of securities that may be purchased, the types of underwriting or selling syndicates and issuers involved, and the price and timing of the purchases;

(d) The amount of securities that the Asset Manager may purchase on behalf of Client Plans will be subject to percentage limitations;

(e) The Affiliated Broker-Dealer will not be permitted to receive, either directly, indirectly or through designation, any selling concessions with respect to the securities sold to the Asset Manager for the account of a Client Plan;

(f) Prior to any purchase of securities, the Asset Manager will make the required disclosures to an Independent Fiduciary of each Client Plan and obtain written authorization to engage in the covered transactions;

(g) The Asset Manager will provide regular reporting to an Independent Fiduciary of each Client Plan with respect to all securities purchased pursuant to the exemption, if granted;

(h) Each Client Plan will be subject to net asset requirements, with certain exceptions for Pooled Funds; and

(i) the Asset Manager must have total assets under management in excess of $5 billion and shareholders' or partners' equity in excess of $1 million, in addition to qualifying as a QPAM, pursuant to Part V(a) of PTE 84–14.

Notice to Intersted Persons: The Applicant represents that because those potentially interested Plans proposing to engage in the covered transactions cannot all be identified, the only practical means of notifying Independent Plan Fiduciaries or Plan Participants of such affected Plans is by publication of the proposed exemption in the **Federal Register**. Therefore, any

comments from interested persons must be received by the Department no later than 30 days from the publication of this notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

Owens Corning Savings Plan and Owens Corning Savings and Security Plan (collectively, the Plans)

Located in Toledo, Ohio

[Exemption Application Numbers D–11402 and D–11403, respectively]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570 Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1), 406(b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective October 31, 2006, to: (1) The acquisition by the Plans of certain warrants (the Warrants) issued by Owens Corning (the Applicant), a party in interest with respect to the Plans, where such Warrants have been issued in exchange for the common stock (the Old Common Stock) of the Applicant incident to a bankruptcy reorganization; (2) The holding of the Warrants by each of the Plans pending the exercise or other disposition of said Warrants; and (3) The exercise of the Warrants by participants in the Plans to permit acquisition of shares of the Applicant's new common stock (the New Common Stock), provided that the following conditions were satisfied:

(a) The Plans had no ability to affect the provisions of the Sixth Amended Joint Plan of Reorganization for Owens Corning and Its Affiliated Debtors and Debtors-in-Possession (the Reorganization Plan) approved by the United States Bankruptcy Court for the District of Delaware (the Bankruptcy Court) on September 26, 2006 pursuant to Chapter 11 of Title 11 of the United States Code (the Bankruptcy Code);

(b) The acquisition and holding of the Warrants by the Plans occurred in connection with the Reorganization Plan, in which all holders of the Applicant's stock of the same class have been and will be treated similarly;

(c) The Warrants were acquired automatically and without any action on the part of the Plans;

(d) The Plans did not pay any fees or commissions in connection with the acquisition or holding of the Warrants;

(e) The Plans will not pay any fees or commissions in connection with the exercise of the Warrants; and

(f) All decisions regarding the exercise or other disposition of the Warrants have been and will be made by the individual participants of the Plans in whose accounts the Warrants were allocated, in accordance with the respective provisions of the Plans pertaining to the individually-directed investment of such accounts.

Summary of Facts and Representations

1. The Applicant, a leading manufacturer of building materials systems and composite solutions, is a Delaware corporation with business headquarters in Toledo, Ohio. The Applicant sponsors the Plans, each of which is a defined contribution plan established and maintained pursuant to the requirements of section 401(a) of the Code. In addition, each of the Plans provides for participant-directed individual accounts in accordance with the provisions of section 404(c) of the Act and the corresponding regulations located at 29 CFR 2550.404c–1. The Owens Corning Savings and Security Plan held $158,009,167.04 in assets as of September 27, 2006, and included 3,160 participants as of October 19, 2006. The Owens Corning Savings Plan held $452,290,359.36 in assets as of September 27, 2006, and included 1,130 participants as of October 19, 2006.

2. On October 5, 2000, the Applicant (including seventeen of its United States subsidiaries) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code. The Applicant filed for relief under Chapter 11 to address the substantial and growing demands on the Applicant's cash flow resulting from asbestos-related litigation. On September 26, 2006, the Bankruptcy Court approved a Reorganization Plan for the Company. Holders of the Old Common Stock (including the Plans) were permitted to vote on the Reorganization Plan, and individual participants in the Plans were similarly allowed to direct the voting of the Old Common Stock allocated to their accounts. The Reorganization Plan became effective on October 31, 2006, at which time the Old Common Stock was delisted from the New York Stock Exchange and all outstanding shares of the Old Common Stock were cancelled. On October 31, 2006, the Applicant issued the Warrants to stockholders (including the Plans) in full satisfaction of the Old Common Stock interests previously held by the stockholders. The Applicant represents that the Warrants do not constitute qualifying employer securities as defined in section 407(d)(5) of the Act. Each Warrant permits the holder to purchase a share of the New Common Stock issued by the Applicant at the price of $45.25 per share (the Strike Price). The Applicant represents that Warrants which are not exercised by their respective holders shall expire seven (7) years after their date of issuance.

3. The Applicant represents that, prior to September 29, 2000, participants in each of the Plans could elect to have all or a portion of their accounts invested in the Owens Corning Stock Fund (the Stock Fund), which consisted primarily of Old Common Stock. Matching contributions by the Applicant under each of the Plans that were made before September 29, 2000 were invested in the Stock Fund; in addition, 50 percent of the Applicant's profit-sharing contributions to the Plans made prior to that date were invested in the Stock Fund. The Stock Fund was closed to new investments as of September 29, 2000; after that date, participants in the Plans were no longer permitted to invest new contributions or to transfer their existing Plan balances into the Stock Fund.[6] However, participants in each of the Plans retained the right to transfer all or a portion of the amounts they had invested in the Stock Fund to any other investment fund available under the respective Plans. This transfer right ceased to apply as of October 31, 2006, when shares of the Old Common Stock were extinguished.

4. The Applicant represents that the Warrants are, by their terms, transferable. A market for the Warrants currently exists; the Applicant represents that, as of February 27, 2007, each participant in the Plans have been able to direct (and some have directed) the trustee of their respective Plans to sell the Warrants allocated to their accounts through the Plans' broker, Fidelity Brokerage Services LLC (Fidelity). Fidelity is not affiliated with the Applicant. Current trading of the Warrants occurs on the Over-the-Counter (OTC) market, and bid and ask prices for the Warrants on the OTC market are listed on a centralized,

[6] The Department expresses no opinion herein as to whether, on or before September 29, 2000, the fiduciaries of the Plans were in compliance with the general fiduciary responsibility provisions of Part 4 of Title I of the Act in connection with monitoring the investment options available to participants in the Plans, including the option to invest participant contributions in the Stock Fund.

electronic quotation service known as the Pink Sheets.[7] As of May 4, 2007, the Warrants were selling on the OTC market at $5.10–$5.15.[8] The Applicant represents that commissions and Securities and Exchange Commission (SEC) fees associated with the sale of the Warrants have been and will be paid by participants; the commissions are paid to Fidelity for execution of the trades. The Applicant further represents that the commission rate charged by Fidelity for real time trades of such securities is generally 2.9 cents per unit. In addition, as required by law, Fidelity has deducted the so-called ''SEC Fee'', currently in the amount of 0.00153%, from the cash proceeds of all the executed trades and submitted it to the SEC.

5. If the Department approves this exemption application, the Applicant represents that participants currently holding the Warrants will be permitted to exercise them to purchase shares of the New Common Stock, but not if the current market price of the New Common Stock remains below the Strike Price.[9] If a participant in one of the Plans determines to exercise the Warrants allocated to his or her account, funds will be transferred from the participant's other investment options under the Plan to purchase the New Common Stock.[10] At this particular time, the Applicant represents that there is no option that would permit a participant to invest in the New Common Stock.

6. In summary, the Applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because: (a) The Plans had no ability to affect the provisions of the Reorganization Plan approved by the Bankruptcy Court on September 26, 2006 pursuant to Chapter 11 of the Bankruptcy Code; (b) the acquisition and holding of the Warrants by the Plans occurred in connection with the Reorganization Plan, in which all holders of the Applicant's stock of the same class have been and will be treated similarly; (c) the Warrants were acquired automatically and without any action on the part of the Plans; (d) the Plans did not pay any fees or commissions in connection with the acquisition or holding of the Warrants; (e) the Plans will not pay any fees or commissions in connection with the exercise of the Warrants; and (f) all decisions regarding the exercise or other disposition of the Warrants have been and will be made by the individual participants of the Plans in whose accounts the Warrants were allocated, in accordance with the respective provisions of the Plans pertaining to the individually-directed investment of such accounts.

Notice to Interested Persons: Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the Applicant and the Department within 15 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due forty-five (45) days after publication of the notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Judge of the Department, telephone (202) 693–8339. (This is not a toll-free number).

BSC Services Corp. 401(k) Profit Sharing Plan (the Plan)

Located in Philadelphia, PA

[Application No. D–11390]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[11]

Section I. Covered Transactions

If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective April 27, 2006, to (1) The acquisition by the Plan of certain stock rights (the Rights) pursuant to a stock rights offering (the Offering) from First Bank of Delaware (the Bank), a party in interest and the parent company of BSC Services Corp. (BSC or the Applicant), which is the Plan sponsor as well as a party in interest with respect to the Plan; (2) the holding of the Rights by the Plan during the subscription period of the Offering; and (3) the disposition or exercise of the Rights by the Plan.

Section II. Conditions

This proposed exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following conditions:

(a) The Rights were acquired by the Plan pursuant to Plan provisions for the individually-directed investment of participant accounts.

(b) The Plan's receipt of the Rights occurred in connection with the Rights Offering made available to all shareholders of the Bank's common stock (the Bank Stock).

(c) All decisions regarding the holding and disposition of the Rights by the Plan were made in accordance with Plan provisions for the individually-directed investment of participant accounts by the individual participants whose accounts in the Plan received Rights in the Offering, and if no instructions were received, the Rights expired.

(d) The Plan's acquisition of the Rights resulted from an independent act of the Bank as a corporate entity, and all holders of the Rights, including the Plan, were treated in the same manner with respect to the acquisition, holding and disposition of such Rights.

(e) The Plan received the same proportionate number of the Rights as other owners of Bank Stock.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of April 27, 2006.

Summary of Facts and Representations

1. The Bank, which is located at 1000 Rocky Run Parkway, Wilmington, Delaware, is a full-service, State-chartered commercial bank that offers a variety of credit and depository banking services. The Bank's commercial loan services are primarily offered to individuals and business in the Delaware area. The Bank also makes short-term consumer loans through third-party servicers in various states and via the Internet, and it offers tax refund anticipation loans in numerous states. Moreover, the Bank offers credit and debit cards to customers nationally. The majority of loan balances from these national products are sold on a non-recourse basis.

The Bank's deposits are insured by the Federal Deposit Insurance Corporation (the FDIC). As a state

[7] The symbol for the Warrants, known as the Class A12–A in the Reorganization Plan, is OCWAZ.

[8] Based on the Applicant's representations, to the extent the Warrants are publicly traded on a national exchange to unrelated third parties, no exemptive relief is being provided by the Department.

[9] The New Common Stock currently trades on the New York Stock Exchange under the symbol OC. As of the close of trading on May 10, 2007, the share price of the New Common Stock stood at $31.69.

[10] The Applicant acknowledges that the appropriate fiduciaries of the Plans shall be responsible for monitoring the investment options available to participants in the Plans, and taking such action as they deem appropriate under the circumstances. For example, such action may include preventing participants from exercising the Warrants if the current market price for the New Common Stock is below the Strike Price, or causing the Plans to sell the Warrants in the event that it becomes clear that they would otherwise expire unexercised by participants.

[11] For purposes of this proposed exemption, references to provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

chartered bank which is not a member of the Federal Reserve System, the Bank is subject to examination and comprehensive regulation by the Delaware State Banking Commissioner as well as by the FDIC.

As of December 31, 2006, the Bank had total assets of $123,913,000, total stockholders' equity of approximately $25,853,000, total deposits of approximately $92,636,000 and net loans receivable of approximately $67,697,000. The Bank's net income for the year ended December 31, 2005 was $3,434,000. The Bank Stock is listed for quotation on the OTC Bulletin Board under the symbol FBOD (OBB). It is represented that the Bank Stock is both an ''employer security'' [12] and a ''qualifying employer security.'' [13]

The Bank was spun off as an independent company from Republic First Bancorp., Inc. (RFB) through a distribution of the Bank's common stock on January 31, 2005. Prior to the spin-off, the Bank was a subsidiary of RFB, which was then a two-bank holding company. RFB's other subsidiary was, and still is, Republic First Bank (the PA Bank), a Pennsylvania chartered bank.

2. The Applicant is a wholly owned subsidiary of the Bank. The Applicant is the employer of employees who work for the Bank. The Applicant provides operations, accounting, compliance and human resource staffing to the Bank and the PA Bank at 1608 Walnut Street, Philadelphia, Pennsylvania.

3. FBD Capital Markets Group, Inc. (FBD Capital) is also a wholly owned subsidiary of the Bank. FBD Capital was recently formed to offer short-term, high-yield mezzanine financing primarily in Delaware. FBD Capital operates out of the same facility as the Applicant.

4. The Plan, which was formerly known as the ''Republic First Bank 401(k) Profit Sharing Plan,'' was established on September 1, 1991 by RFB. The Plan is a defined contribution plan that previously covered full-time employees of the Bank and the PA Bank. Effective January 1, 2005, the Applicant became the new Plan sponsor as part of an anticipated spin-off of the Bank, which occurred on February 1, 2005. The Plan was also adopted by the Applicant, the Bank, the PA Bank and RFB. As of May 23, 2007, the Plan had 229 participants and total assets of approximately $8.1 million.

In addition, the Plan is a participant-directed individual account plan intended to satisfy the requirements of section 404(c) of the Act. The Plan offers participants 67 funds and a personal brokerage account (the Personal Brokerage Account) in which participants can invest all or a portion of their account balances in Bank Stock. As of April 27, 2006, the Plan was the record holder of 58,161 shares of Bank Stock valued at $154,127 (or $2.65 per share) on such date, which were allocated to the Personal Brokerage Accounts of all of the Plan participants. At that time, the Bank Stock accounted for approximately 3.3 percent of the $4.6 million in total Plan assets and it represented approximately 0.007 percent of the 7,943,720 shares of total outstanding Bank Stock.

5. The Plan's trustees (the Trustees) are Harry Madonna, Chairman of the Board for the Bank, and Paul Frenkiel, Chief Financial Officer of the Bank. The Trustees also are members of the Plan Administrative Committee, which is the fiduciary responsible for Plan matters.

Further, the custodian (the Custodian) of the Plan is John Hancock Life Insurance Company, which is part of Manulife Financial. The Custodian is located at 200 Bloor Street, East Toronto, Ontario, Canada. The Custodian holds legal title to the Plan's assets and it executes investment directions in accordance with participants' written or electronic instructions. In offering a Personal Brokerage Account to each Plan participant, the Custodian partners with TRUSOURCE Trust Outsourcing Partners (Trusource) of Costa Mesa, California. TruSource administers each Personal Brokerage Account and partners with AmeriTrade, the designated broker (the Broker) for such accounts.

6. In an Offering Circular dated May 1, 2006 (the Offering Circular), the Bank announced a special Rights Offering. The Rights Offering would be an independent act of the Bank as a corporate entity under which all shareholders of Bank Stock, including the Plan, were to be treated in a like manner. The Rights Offering would allow the Bank to raise equity capital for the operation of FBD Capital. The Rights Offering would also afford its existing shareholders a preferential opportunity to subscribe for up to 3.4 million in new shares of Bank Stock and to maintain their proportionate ownership interests.

7. Holders of record of Bank Stock at 5 p.m. Eastern Daylight Saving Time on April 27, 2006 (the Record Date) each were entitled to receive a number of Rights determined by dividing (a) the number of shares of the Bank Stock owned by the shareholder by (b) 2.33639, except that, if the number so calculated included a fraction, the number of Rights the shareholder would receive was rounded down to the nearest whole number. Each Right consisted of a ''Basic Subscription Right'' and an ''Over-Subscription Right.'' The Basic Subscription Right entitled the holder to purchase one share of Bank Stock at a purchase price of $2.25 per share, which was determined by the Bank's Board of Directors. If the shareholder exercised all of his or her Basic Subscription Rights, the shareholder was entitled to exercise his/her Over-Subscription Right to purchase, for $2.25 per share, one additional share of Bank Stock for every share of Bank Stock to which the shareholder had subscribed. The Rights were not transferable.[14]

8. On May 8, 2006, all Plan participants (there were 210 at that time) were mailed: (a) A copy of the Offering Circular for the Bank; and (b) a letter from the Broker describing the procedures for participant directions with respect to the Rights Offering. Participants were required to call the toll-free number listed in the letter to direct the Broker either to exercise the Rights allocable to their Personal Brokerage Accounts or to opt out of the Rights Offering.

9. Plan participants were required to contact the Broker prior to 5 p.m. on June 19, 2006 (the Expiration Time). The Broker was responsible for exercising the Rights at the direction of each participant. In order for a participant's Rights to be exercised, RFB, the Subscription Agent, had to receive an election form from the Broker, together with payment for the shares which were to be purchased by the Expiration Time. Rights not exercised prior to the Expiration Time

[12] Under section 407(d)(1) of the Act, the term ''employer security'' means a security issued by an employer of employees covered by a plan, or by an affiliate of such employer.

[13] Under section 407(d)(5) of the Act, the term ''qualifying employer security'' means an employer security which is stock, a marketable obligation, or an interest in a publicly traded partnership.

[14] Among other things, a fiduciary of a plan is prohibited from allowing the plan to acquire any employer security which is not a ''qualifying employer security.'' Although the Rights constituted an ''employer security'' under section 407(d)(1) of the Act, inasmuch as they were issued by the Applicant, which is an employer of employees covered under the Plan, they did not represent a ''qualifying employer security'' under section 407(d)(5) of the Act. This is because the Rights were not stock, a marketable obligation or an interest in a publicly-traded partnership. Therefore, the Applicant has requested a retroactive administrative exemption from the Department with respect to the acquisition of the Rights by the Plan and the subsequent holding and exercise of the Rights by the Plan participants. If granted, the exemption would be effective as of April 27, 2006, the Record Date.

would, by their terms, terminate and have no value.

10. Thus, the Plan acquired the Rights pursuant to the Plan provisions for the individually-directed investment of participants' accounts. All decisions regarding the holding and disposition of the Rights by the Plan were made in accordance with these Plan provisions. The Plan participants were issued, and the Broker received from the Plan participants, a total of 24,893 Rights, of which 8,822 were exercised. This represented approximately 0.3 percent of the 3.4 million Rights that were issued and exercised for $2.25 per share. As noted above, those Rights not exercised expired. Of the total Rights issued and exercised, 2,347,272 Shares represented Basic Subscription Rights and 1,052,728 Shares were attributed to Over-Subscription Rights. The Rights were not listed for trading on any stock exchange or on the OTC Bulletin Board. The total number of shares of Bank Stock outstanding at the Expiration Time, as adjusted to give effect to the shares issued pursuant to the Rights Offering, was 11,343,720 shares.

The Bank compensated the Subscription Agent for fees generated in connection with the Rights Offering. Thus, no fees paid to the Subscription Agent were attributable to Plan assets. Although all shareholders of record were responsible for paying any other fees associated with the exercise of the Rights, the Subscription Agent waived all such fees.

11. For each Plan participant who directed the Broker to exercise Rights attributable to his or her Personal Brokerage Account, the funds which were needed to pay the $2.25 per share exercise price were obtained by either selling specific investments at the participant's direction or by using cash equivalents in such participant's account, again at the participant's direction. Moreover, a participant who, under the terms of the Plan, was eligible to elect to receive a taxable distribution from his or her Plan account, was permitted, under the terms of the Offering Circular, to direct the Broker to cause such participant to be substituted for the record holder of the Bank Stock held in the Plan and to exercise the Rights attributable to the Bank Stock the participant beneficially owned. This was only permissible to the extent the terms of the Plan permitted a distribution to a participant and would be treated as a taxable distribution of a portion of the participant's Plan account.

12. In summary, the Applicant represents that the transactions satisfied the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Rights were acquired by the Plan pursuant to Plan provisions for the individually-directed investment of participant accounts.

(b) The Plan's receipt of the Rights occurred in connection with the Rights Offering that was made available to all shareholders of Bank Stock.

(c) All decisions regarding the holding and disposition of the Rights by the Plan were made in accordance with Plan provisions for the individually-directed investment of participant accounts by the individual participants whose accounts in the Plan received Rights in the Offering, and if no instructions were received, the Rights expired.

(d) The Plan's acquisition of the Rights resulted from an independent act of the Bank as a corporate entity, and all holders of the Rights, including the Plan, were treated in the same manner with respect to the acquisition, holding and disposition of such Rights.

(e) The Plan received the same proportionate number of the Rights as other owners of Bank Stock.

Notice to Interested Persons: Notice of proposed exemption will be provided to all interested persons by first class mail within 30 days of publication of the notice of pendency in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2), which will inform interested persons of their right to comment on the proposed exemption. Comments are due within 60 days of the date of publication of the proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Anna M. Vaughan of the Department, telephone number (202) 693–8565. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 26th day of June, 2007.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E7–12672 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Proposed Information Collection Request of the ETA–5130 Benefit Appeals Report; Comment Request

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A); 3506 (b)(1)(2)(3)]. This program helps to ensure that requested data can be provided in the

desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice or by accessing: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm.*

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before August 31, 2007.

ADDRESSES: Send comments to Stephanie Garcia, Office of Workforce Security, Employment and Training Administration, U.S. Department of Labor, Room S–4516, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 693–3207 (this is not a toll-free number) or by e-mail: *garcia.stephanie@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The ETA–5130, Benefit Appeals Report, contains information on the number of unemployment insurance appeals and the resultant decisions classified by program, appeals level, cases filed and disposed of (workflow), and decisions by level, appellant, and issue. The data on this report are used by the Department of Labor to monitor the benefit appeals process in the State Workforce Agencies (SWAs) and to develop any needed plans for remedial action. The data are also needed for workload forecasts and to determine administrative funding. If this information were not available, developing problems might not be discovered early enough to allow for timely solutions and avoidance of time consuming and costly corrective action.

II. Review Focus

Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension collection of the ETA–5130 Benefit Appeals Report. Comments are requested to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above in the **ADDRESSES** section of this notice.

III. Current Actions

Type of Review: Extension.
Agency: Employment and Training Administration.
Title: Benefit Appeals Report.
OMB Number: 1205–0172.
Agency Number: ETA–5130.
Recordkeeping: 3-year record retention.
Affected Public: State Governments.
Cite/Reference/Form/etc: Social Security Act, Section 303(a)(6).
Total Respondents: 53.
Frequency: Monthly.
Total Responses: 648 (636 responses for ETA 5130 Regular report and estimated 12 responses for ETA 5130 Extended Benefits report).
Average Time per Response: 1 hour.
Estimated Total Burden Hours: 648 hours (636 hours for the ETA 5130 Regular report + estimated 12 hours for ETA 5130 Extended Benefits).
Total Burden Cost (capital/startup): $0.
Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 19, 2007.

Cheryl Atkinson,

Administrator, Office of Workforce Security.

[FR Doc. E7–12719 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: Specialty Protein Producers, LLC/Norfolk, Nebraska.

Principal Product: The loan, guarantee, or grant application is for a new business venture to purchase and install equipment to manufacture organic soy protein isolates, organic soy coffee creamer, and organic soy fiber. The NAICS industry code for this enterprise is: 311222 Soybean Processing.

DATES: All interested parties may submit comments in writing no later than July 16, 2007. Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210; or e-mail Dais.Anthony@dol.gov; or transmit via fax 202–693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed at Washington, DC, this 26th of June, 2007.

Gay M. Gilbert,

Administrator, Office of Workforce Investment, Employment and Training Administration.

[FR Doc. E7–12739 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request; Submitted for Public Comment and Recommendations; Qualification/Certification Program Request for MSHA; Individual Identification Number (MIIN)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or containing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before August 31, 2007.

ADDRESSES: Send comments to, Debbie Ferraro, Management Services Division, 1100 Wilson Boulevard, Room 2171, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on computer disk, or via e-mail to *Ferraro.Debbie@DOL.GOV.* Ms. Ferraro can be reached at (202) 693–9821 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

MSHA currently uses qualification and certification information on miners who have satisfactorily completed required training and examinations to issue cards indicating the licensure of that miner. MSHA inspectors, during inspections, review these cards to determine compliance with regulations. In addition, miners, when applying for a job, use these cards as a part of their resumes. Mine operators needing people with specific certifications, qualifications and approvals hire and assign work relying on the information provided on the cards.

The information is also used to determine mine operators' compliance with approved training plans and to monitor safety-training programs and during investigations including accident and legal proceedings to revoke the qualifications/certifications and approvals of individuals based on a fraudulent reporting of training or performance. Upon request, MSHA furnishes information on specific miners to mine operators and representatives of miners.

The information also is used to verify whether individuals who complete and sign dust data cards that accompany dust samples collected fulfill the sampling requirements of 30 CFR part 70, 71 or 90. It also enables the Agency to track underground miners who show early evidence of the development of pneumoconiosis and have exercised their option to work in a low dust environment under 30 CFR part 90 to determine if they have been adequately sampled by mine operators and are in compliance with federal dust standards.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection requirement related to conversion of Social Security Numbers to MSHA Individual Identification Numbers. MSHA is particularly interested in comments that:

* Evaluate whether the proposed collection of information is necessary for the proper performance of MSHA's functions, including whether the information has practical utility;

* Evaluate the accuracy of MSHA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and

* Address the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (e.g., permitting electronic submissions of responses)to minimize the burden of the collection of information on those who are to respond.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **ADDRESSES** section of this notice or viewed on the internet by accessing the MSHA home page *(http://www.msha.gov./)* and selecting ''Rules and Regs'', then selecting ''Fed Reg Docs.''

III. Current Actions

The Mine Safety and Health Administration (MSHA) issues certifications, qualifications and approvals (licenses) to the nation's miners to conduct specific work within the mines. Currently, Social Security Numbers (SSNs) are utilized for tracking purposes within MSHA's data processing systems, in the absence of other reliable identification systems. In an effort to reduce use of SSNs both by MSHA and third parties, MSHA is changing the process to one in which miners requiring a license or benefit from MSHA will register for an ''MSHA Individual Identification Number'' (MIIN). This unique number will be used in place of individual SSNs for all licensing requirements within MSHA. This new process will allow MSHA to discontinue the past practice of individuals supplying their personally identifiable information to instructors, states or other entities, which in turn supply that information to MSHA. Miners needing a license or benefit from MSHA will need to register only one time to obtain their MIINs from MSHA.

Type of Review: New Collection.

Agency: Mine Safety and Health Administration.

Title: Qualification/Certification Program Request for MSHA Individual Identification Number (MIIN).

OMB Number: 1219–0NEW.

Recordkeeping: 3 years.

Frequency: On Occasion.

Affected Public: Business or other for profit.

Total Respondents: 40,000 first year; 10,000 thereafter.

Total Responses: 40,000 first year; 10,000 thereafter.

Estimated Total Burden Hours: 3,332 first year; 2,083 second year; 833 thereafter.

Total Burden Cost (capital/startup): $10,881 first year.

Total Burden Cost (operating/maintaining): $7,293 second year; $2,900 thereafter.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 26th day of June, 2007.

David L. Meyer,

Director, Office of Administration and Management.

[FR Doc. E7–12671 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: Comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before August 1, 2007.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *E-Mail: Standards-Petitions@dol.gov.*
2. *Telefax:* 1–202–693–9441.
3. *Hand-Delivery or Regular Mail:* Submit comments to the Mine Safety and Health Administration (MSHA), Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Edward Sexauer, Chief, Regulatory Development Division at 202–693–9444 (Voice), *sexauer.edward@dol.gov* (E-mail), or 202–693–9441 (Telefax), or contact Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M–2007–027–C.

Petitioner: Chestnut Coal Company, RD 3, Box 142B, Sunbury, Pennsylvania 17801.

Mine: No. 12 Slope Mine, (MSHA I.D. No. 36–09493), located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 49.2(b) (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of two mine rescue teams of three members with one alternate for either team instead of two teams of five members and one alternate for each team. The petitioner states that: (1) The underground anthracite mine is small and cannot accommodate more than three or four miners in the working places; (2) to use five or more rescue team members in the confined working places of the mine would result in a diminution of safety to the miners and the members of the mine rescue team; (3) the risk of disaster is considerably reduced because the electric power does not reach beyond the bottom of the slope and coal is hauled by hand trammed cars or battery electric motor; (4) rescue and recovery operations at other mines have utilized only one team; and (5) the Pennsylvania Deep Mine Safety and other surrounding mines will provide assistance in an emergency. The petitioner asserts that the proposed alternative method will in no way provide less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M–2007–028–C.

Petitioner: Chestnut Coal Company, RD 3, Box 142B, Sunbury, Pennsylvania 17801.

Mine: No. 12 Slope Mine, (MSHA I.D. No. 36–09493), located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 49.6(a)(1) & (5) (Equipment and maintenance requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of eight self-contained breathing apparatus and eight permissible cap lamps and charging rack instead of using twelve self-contained oxygen breathing apparatus and twelve permissible cap lamps and charging rack at each mine rescue station for its seven member rescue team. The petitioner asserts that the proposed alternative method would not alter, change, or reduce the ability, effectiveness or safety of the underground mine personnel.

Docket Number: M–2007–029–C.

Petitioner: Chestnut Coal Company, RD 3, Box 142B, Sunbury, Pennsylvania 17801.

Mine: No. 12 Slope Mine, (MSHA I.D. No. 36–09493), located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.335 (Construction of seals).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of construction of seals. The petitioner proposes to use wooden material of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing the inaccessible abandoned workings, through the use of homemade ladders. The petitioner states that to transport concrete blocks or equivalent materials manually on ladders on pitching veins will expose miners to greater hazards of falling, being struck by falling materials, or resulting in strains or sprains because of the weight of the materials. The petitioner cites low-level explosibility of anthracite coal dust and minimal potential for either an accumulation of methane in previously mined pitching veins or an ignition source in the gob area, as justification for the proposed 10 psi design. The petitioner states that the mine has not experienced measurable liberations of methane to date. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–030–C.

Petitioner: Chestnut Coal Company, RD 3, Box 142B, Sunbury, Pennsylvania 17801.

Mine: No. 12 Slope Mine, (MSHA I.D. No. 36–09493), located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.360 (Preshift examination at fixed intervals).

Modification Request: The petitioner proposes to: (1) Conduct an examination and evaluation from the slope gunboat during the pre-shift examination after an air quantity reading is taken just in by the intake portal, including a visual examination of each seal for physical damage; (2) take an additional air reading and gas test for methane and oxygen deficiency at the intake air split location(s) just off the slope in the gangway portion of the working section; and (3) have the examiner place the date, time and his/her initials at locations where air readings and gas tests are taken prior to anyone entering the mine and properly record the results. The petitioner states that: (1) The slope will be traveled and physically examined in its entire length on a monthly basis regardless of conditions found at the section evaluation point; (2) the dates, times, and examiner's initials will be placed at sufficient locations throughout, and results of the examination will be recorded on the surface; and (3) any hazards detected will be corrected prior to transporting personnel in the slope. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–031–C.

Petitioner: Chestnut Coal Company, RD 3, Box 142B, Sunbury, Pennsylvania 17801.

Mine: No. 12 Slope Mine, (MSHA I.D. No. 36–09493), located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1100–2(a)(2) (Quantity and location of firefighting equipment).

Modification Request: The petitioner requests a modification of the existing standard 30 CFR 75.1100–2(a)(2), which requires that each working section of underground coal mines producing less than 300 tons of coal per shift be provided with specified firefighting equipment and supplies. The petitioner proposes to use portable fire extinguishers only, to replace existing requirements where rock dust, water cars, and other water storage equipped with three 10 quart pails are not practical. The petitioner states that equipping its small anthracite mine with two portable fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face will provide equivalent fire protection. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–032–C.

Petitioner: Chestnut Coal Company, RD 3, Box 142B, Sunbury, Pennsylvania 17801.

Mine: No. 12 Slope Mine, (MSHA I.D. No. 36–09493), located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1200(d) & (i) (Mine map).

Modification Request: The petitioner requests a modification of the existing standard which requires, in part, an accurate and up-to-date mine map with contour lines of all elevations and mines above or below. The petitioner proposes to use cross-sections instead of contour lines through the intake slope at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope. In addition, the petitioner proposes to limit the required mapping of the mine workings above and below to those present within 100 feet of the vein being mined, except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. The petitioner states that contours provide no useful information due to the steep pitch encountered in mining anthracite coal veins, and their presence would make portions of the map illegible. The petitioner further states that use of cross-sections in lieu of contour lines has been practiced since the late 1800's and provides critical information about the spacing between veins and the proximity to other mine workings, which fluctuate considerably. Additionally, the petitioner states that the mine workings above and below are usually inactive and abandoned, therefore, are not subject to changes during the life of the mine. The petitioner states that all mapping for mines above and below are researched by its contract engineer for the presence of interconnecting rock tunnels between veins in relation to the mine and a hazard analysis is done when mapping indicates the presence of known potentially flooded workings. Petitioner asserts that when evidence indicates that prior mining was conducted on a vein above or below and research exhausts the availability of mine mapping, the vein will be considered to be mined and flooded and appropriate precautions will be taken under 30 CFR 75.388, when possible. Where potential hazards exist and mine drilling capabilities limit penetration, petitioner will drill surface boreholes to intercept the mine workings and will analyze the results prior to mining in the affected area. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–033–C.

Petitioner: Chestnut Coal Company, RD 3, Box 142B, Sunbury, Pennsylvania 17801.

Mine: No. 12 Slope Mine, (MSHA I.D. No. 36–09493), located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1202 and 75.1202–1(a) (Temporary notations, revisions, and supplements).

Modification Request: The petitioner requests a modification of the existing standards to permit the required interval of survey to be established annually from the initial survey in lieu every 6 months. The petitioner proposes to update the mine map by hand notations on a daily basis, conduct subsequent surveys prior to commencing retreat mining, and when either a drilling program under 30 CFR 75.388 or plan for mining into accessible areas under 30 CFR 75.389 is required. The petitioner states that: (1) Low production and slow rate of advance in anthracite mining make surveying on 6 month intervals impractical and, in most cases, annual development is frequently limited to less than 500 feet of gangway advance with associated up-pitch development; (2) the majority of small anthracite mines are using non-mechanized, hand-loading mining methods; (3) development above the active gangway is designed to mine into the level above at designated intervals thereby maintaining sufficient control between both surveyed gangways; and (4) the available engineering/surveyor resources are very limited in anthracite coal fields which makes surveying on an annual basis difficult to achieve with 4 individual contractors currently available. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standards.

Docket Number: M–2007–034–C.

Petitioner: Chestnut Coal Company, RD 3, Box 142B, Sunbury, Pennsylvania 17801.

Mine: No. 12 Slope Mine, (MSHA I.D. No. 36–09493), located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400 (Hoisting equipment; general).

Modification Request: The petitioner proposes to use the slope (gunboat) to transport persons in shafts and slopes using an increased rope strength/safety factor and secondary safety rope connection instead of using safety catches or other no less effective

devices. The petitioner states that no such catch or device is available for the conditions present. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–035–C.

Petitioner: Black Beauty Coal Company, Vermilion Grove Road, 4500 N. 1500 E. Road, Ridgefarm, Illinois 61870.

Mine: Riola Mine Complex—Vermilion Grover Plant, MSHA I.D. No. 11–03060, located in Vermilion County, Illinois.

Regulation Affected: 30 CFR 75.1909(b)(6) (Non-permissible diesel-powered equipment; design and performance requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of the Getman Roadbuilder, Model RDG–1504S, serial number 6940, without front brakes as it was originally designed. The existing standard requires that service brakes on self-propelled non-permissible diesel-powered equipment act on each wheel and are designed such that a failure on one component will not result in a complete loss of braking capability. The petitioner states that: (1) The Roadbuilder has six wheels with dual brake systems on the four rear wheels, and is designed to prevent loss of braking due to a single component failure; (2) seventy-four percent of the machines total weight is over the four rear wheels; (3) brakes on the rear of the Roadbuilder are sufficient to safely stop the machine; (4) training will be provided for grader operators to lower the moldboard for additional stopping capability in emergency situations; (5) operators will be trained to recognize the appropriate speeds to use on different roadway conditions; and (6) operators will be trained to limit the maximum speed to ten miles per hour. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–036–C.

Petitioner: KMMC, LLC, (dba) Vision Mining, P.O. Box 99, Sebree, Kentucky 42455.

Mine: Vision No. 9 Mine, (MSHA I.D. No. 15–17044), located in Webster County, Kentucky.

Regulation Affected: 30 CFR 75.1101–1(b) (Deluge water spray systems).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of deluge-type water spray systems installed at belt conveyor drives in lieu of using blow off dust covers. The petitioner proposes to have a person who is trained in the testing procedure specific to the deluge-type water spray fire suppression systems conduct examinations and tests on a weekly basis as follows: (1) Conduct a visual examination of each deluge-type water spray fire suppression system; (2) conduct a functional test of each deluge-type water spray fire suppression system and observe its performance; and (3) record the results of the examination and test in a book maintained on the surface which would be retained and made available to the authorized representative of the Secretary. The petitioner states that if any malfunction or clogged nozzle is detected as a result of the weekly examination or functional test, corrections will be made immediately. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners as would be provided by the mandatory safety standard.

Dated: June 25, 2007.

Jack Powasnik,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. E7–12755 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0054]

Material Hoists, Personnel Hoists, and Elevators; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its proposal to extend OMB approval of the information collection requirements specified in the Material Hoists, Personnel Hoists, and Elevators Standard (29 CFR 1926.552). The Standard is designed to protect employees who operate and work around personnel hoists.

DATES: Comments must be submitted (postmarked, sent, or received) by August 31, 2007.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2007–0054, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the ICR (OSHA–2007–0054). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Stewart Burkhammer at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Stewart Burkhammer, Directorate of Construction, OSHA, U.S. Department of Labor, Room N–3468, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2020.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed

and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The following section describes who uses the information collection requirements contained in the Material Hoists, Personnel Hoists, and Elevators Standard.

Posting Requirements

Paragraph (a)(2) requires that the rated load capacities, recommended operating speeds, and special hazard warnings or instructions be posted on cars and platforms.

Paragraph (b)(1)(i) requires that operating rules for material hoists be established and posted at the operator's station of the hoist. These rules shall include signal system and allowable line speed for various loads.

Paragraph (c)(10) requires that cars be provided with a capacity and data plate secured in a conspicuous place on the car or crosshead.

These posting requirements are used by the operator and crew of the material and personnel hoists to determine how to use the specific machine and how much it will be able to lift as assembled in one or a number of particular configurations. If not properly used, the machine would be subject to failures, endangering the employees in the immediate vicinity.

Test and Inspection and Certification Records

Paragraph (c)(15) requires that a test and inspection of all functions and safety devices be made following assembly and erection of hoists. The test and inspection are to be conducted under the supervision of a competent person. A similar inspection and test is required following major alteration of an existing installation. All hoists shall be inspected and tested at three-month intervals. A certification record (the most recent) of the test and inspection is required to be kept on file, including the date the test and inspection was completed, the identification of the equipment and the signature of the person who performed the test and inspection. This certification ensures that the equipment has been tested and is in safe operating condition.

Disclosure of Test and Inspection Certification Records

The most recent certification record will be disclosed to a CSHO during an OSHA inspection. Disclosing the certification record to the CSHO demonstrates the employer's compliance with this provision.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Material Hoists, Personnel Hoists, and Elevators Standard (29 CFR 1926.552). The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of currently approved information collection requirements.

Title: Material Hoists, Personnel Hoists, and Elevators (29 CFR 1926.552).

OMB Number: 1218–0231.

Affected Public: Business or other for-profit.

Number of Respondents: 26,547.

Frequency: On occasion; weekly; monthly; quarterly.

Average Time per Response: Varies from 2 minutes (.03 hour) for a supervisor to disclose test and inspection certification records to 30 minutes (.50 hour) for a construction worker to obtain and post information for hoists.

Estimated Total Burden Hours: 30,282.

Estimated Cost (Operation and Maintenance): $-0-.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2007–0054). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on June 25, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E7–12705 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0052]

Portable Fire Extinguishers (Annual Maintenance Certification Record); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its proposal to extend OMB approval of the information collection requirements specified in the Standard on Portable Fire Extinguishers (Annual Maintenance Certification Record) (29 CFR 1910.157(e)(3)).

Paragraph (e)(3) of the Standard requires employers to: Inspect portable fire extinguishers annually for normal operation; record the maintenance date; retain the maintenance record for one year after the last entry or for the life of the shell, whichever is less; and make the record available to an OSHA compliance officer upon request. The annual maintenance inspection ensures that portable fire extinguishers are in safe operating condition in case of a fire, while the maintenance record provides evidence to employees and Agency compliance officers that employers performed the required inspections.

DATES: Comments must be submitted (postmarked, sent, or received) by August 31, 2007.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2007–0052, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the ICR (OSHA–2007–0052). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to http://www.regulations.gov or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Section 1910.157(e)(3) specifies that employers must subject each portable fire extinguisher to an annual maintenance inspection and record the date of the inspection. In addition, this provision requires employers to retain the inspection record for one year after the last entry or for the life of the shell, whichever is less, and to make the record available to OSHA on request. This recordkeeping requirement assures employees and Agency compliance officers that portable fire extinguishers located in the workplace will operate normally in case of fire; in addition, this requirement provides evidence of the required extinguisher inspections to OSHA compliance officers during a workplace inspection.

II. Special Issues for Comment OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Portable Fire Extinguishers (Annual Maintenance Certification Record) (29 CFR 1910.157(e)(3)). The Agency is requesting to increase its current burden hour estimate associated with this Standard from 67,500 hours to 69,019 hours for a total increase of 1,519 hours. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Portable Fire Extinguishers (Annual Maintenance Certification Record) (29 CFR 1910.157(e)(3)).

OMB Number: 1218–0238.

Affected Public: Business or other for-profit.

Number of Respondents: 138,038.

Frequency: Annually.

Average Time per Response: 30 minutes (.50 hour) to perform and record the required maintenance inspection.

Estimated Total Burden Hours: 69,019.

Estimated Cost (Operation and Maintenance): $19,878,208.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2007–0052). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.*, copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on June 25, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E7–12708 Filed 6–29–07; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL SCIENCE FOUNDATION

National Science Board—Committee on Strategy and Budget; Sunshine Act Meetings; Notice

The National Science Board's Committee on Strategy and Budget, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5 and 1863(k)), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a meeting for the transaction of National Science Board business and other matters specified, as follows:

Date and Time: Monday, July 23, 2007, 2 p.m.

Subject Matter: Discussion of the FY 2009 National Science Foundation Budget.

Status: Closed.

This meeting will be held by teleconference originating from the National Science Foundation, Room 1295, 4201 Wilson Blvd., Arlington, VA 22230. Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb*) for information or schedule updates, or contact: Annette M. Dreher, National Science Board Office, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–7000.

Russell Moy,

Attorney Advisor.

[FR Doc. E7–12746 Filed 6–29–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Commonwealth of Pennsylvania: Draft NRC Staff Assessment of a Proposed Agreement Between the Nuclear Regulatory Commission and the Commonwealth of Pennsylvania

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a proposed Agreement with the Commonwealth of Pennsylvania.

SUMMARY: By letter dated November 9, 2006, Governor Edward G. Rendell of Pennsylvania requested that the U. S. Nuclear Regulatory Commission (NRC or Commission) enter into an Agreement with the Commonwealth as authorized by Section 274 of the Atomic Energy Act of 1954, as amended (Act).

Under the proposed Agreement, the Commission would give up, and Pennsylvania would take over, portions of the Commission's regulatory authority exercised within the Commonwealth. As required by the Act, the NRC is publishing the proposed Agreement for public comment. The NRC is also publishing the summary of an assessment by the NRC staff of the Pennsylvania regulatory program. Comments are requested on the proposed Agreement, especially its effect on public health and safety. Comments are also requested on the draft NRC staff assessment, the adequacy of the Pennsylvania program, and the Commonwealth's program staff, as discussed in this notice.

The proposed Agreement would release (exempt) persons who possess or use certain radioactive materials in Pennsylvania from portions of the Commission's regulatory authority. The Act requires that the NRC publish those exemptions. Notice is hereby given that the pertinent exemptions have been previously published in the **Federal**

Register and are codified in the Commission's regulations as 10 CFR Part 150.

DATES: The comment period expires July 18, 2007. Comments received after this date will be considered if it is practical to do so, but the Commission cannot assure consideration of comments received after the expiration date.

ADDRESSES: Written comments may be submitted to Mr. Michael T. Lesar, Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, Washington, DC 20555–0001. Comments may be submitted electronically at *nrcrep@nrc.gov.*

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at (800) 397–4209, or (301) 415–4737, or by e-mail to *pdr@nrc.gov.*

Copies of comments received by NRC may be examined at the NRC Public Document Room, 11555 Rockville Pike, Public File Area O–1–F21, Rockville, Maryland. Copies of the request for an Agreement by the Governor of Pennsylvania including all information and documentation submitted in support of the request, and copies of the full text of the NRC Draft Staff Assessment are also available for public inspection in the NRC's Public Document Room-ADAMS Accession Numbers: ML070240128, ML063400549, ML070240055, ML063330295, ML070290041, ML070290046, ML070260116, ML070260179, ML070260026, ML070260119, ML070250054, ML063400559, ML070790604, ML070790609, ML070790612, ML070790616, ML070790620, and ML070890378.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew N. Mauer, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone (301) 415–3962 or e-mail to *anm@nrc.gov.*

SUPPLEMENTARY INFORMATION: Since Section 274 of the Atomic Energy Act of 1954, as amended (Act) was added in 1959, the Commission has entered into Agreements with 34 States. The Agreement States currently regulate approximately 17,600 Agreement material licenses, while the NRC regulates approximately 4,400 licenses. Under the proposed Agreement, approximately 690 NRC licenses will transfer to Pennsylvania. The NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of Section 274.

Section 274e requires that the terms of the proposed Agreement be published in the **Federal Register** for public comment once each week for four consecutive weeks. This notice is being published in fulfillment of the requirement.

I. Background

(a) Section 274b of the Act provides the mechanism for a State to assume regulatory authority, from the NRC, over certain radioactive materials [1] and activities that involve use of the materials.

In a letter dated November 9, 2006, Governor Rendell certified that the Commonwealth of Pennsylvania has a program for the control of radiation hazards that is adequate to protect public health and safety within Pennsylvania for the materials and activities specified in the proposed Agreement, and that the Commonwealth desires to assume regulatory responsibility for these materials and activities. Included with the letter was the text of the proposed Agreement, which is shown in Appendix A to this notice.

The radioactive materials and activities (which together are usually referred to as the ''categories of materials'') that the Commonwealth of Pennsylvania requests authority over are:

(1) The possession and use of byproduct materials as defined in Section 11e.(1) of the Act;

(2) The possession and use of byproduct materials as defined in Section 11e.(3) of the Act;

(3) The possession and use of byproduct materials as defined in Section 11e.(4) of the Act;

(4) The possession and use of source materials;

(5) The possession and use of special nuclear materials in quantities not sufficient to form a critical mass; and

(6) The regulation of the land disposal of: byproduct materials as defined in Section 11e.(1), 11e.(3), or 11e.(4) of the Act; source; or special nuclear waste materials received from other persons.

(b) The proposed Agreement contains articles that:

- Specify the materials and activities over which authority is transferred;
- Specify the activities over which the Commission will retain regulatory authority;
- Continue the authority of the Commission to safeguard nuclear materials and restricted data;
- Commit the Commonwealth of Pennsylvania and NRC to exchange information as necessary to maintain coordinated and compatible programs;
- Provide for the reciprocal recognition of licenses;
- Provide for the suspension or termination of the Agreement; and
- Specify the effective date of the proposed Agreement.

The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the Agreement, with the effective date, will be published after the Agreement is approved by the Commission, and signed by the NRC Chairman and the Governor of Pennsylvania.

(c) The regulatory program is authorized by law under the Radiation Protection Act (35 P.S. 7110.101–7110.703). Section 7110.201 provides the authority for the Governor to enter into an Agreement with the Commission. Pennsylvania law contains provisions for the orderly transfer of regulatory authority over affected licensees from the NRC to the Commonwealth. After the effective date of the Agreement, licenses issued by NRC would continue in effect as Pennsylvania licenses until the licenses expire or are replaced by State-issued licenses. NRC licenses transferred to Pennsylvania which contain requirements for decommissioning and express an intent to terminate the license when decommissioning has been completed under a Commission-approved decommissioning plan will continue as Pennsylvania licenses and will be terminated by Pennsylvania when the Commission-approved decommissioning plan has been completed.

Pennsylvania currently regulates the users of naturally-occurring and accelerator-produced radioactive materials. The Energy Policy Act of 2005 (EPAct) expanded the Commission's regulatory authority over byproduct materials as defined in

[1] The radioactive materials, sometimes referred to as ''Agreement materials,'' are: (a) byproduct materials as defined in Section 11e.(1) of the Act; (b) byproduct materials as defined in Section 11e.(3) of the Act; (c) byproduct materials as defined in Section 11e.(4) of the Act; (d) source materials as defined in Section 11z. of the Act; and (e) special nuclear materials as defined in Section 11aa. of the Act, restricted to quantities not sufficient to form a critical mass.

Sections 11e.(3) and 11e.(4) of the Act, to include certain naturally-occurring and accelerator-produced radioactive materials. On August 31, 2005, the Commission issued a time-limited waiver (70 FR 51581) of the EPAct requirements. Under the proposed Agreement, Pennsylvania would assume regulatory authority for these radioactive materials. Therefore, if the proposed Agreement is approved, the Commission would terminate the time-limited waiver in Pennsylvania coincident with the effective date of the Agreement. Also, a notification of waiver termination would be provided in the **Federal Register** for the final Agreement.

(d) The NRC draft staff assessment finds that the Commonwealth of Pennsylvania Bureau of Radiation Protection of the Pennsylvania Department of Environmental Protection is adequate to protect public health and safety, and is compatible with the NRC program for the regulation of Agreement materials.

II. Summary of the NRC Staff Assessment of the Pennsylvania Program for the Control of Agreement Materials

The NRC staff has examined the Pennsylvania request for an Agreement with respect to the ability of the radiation control program to regulate Agreement materials. The examination was based on the Commission's policy statement ''Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement,'' (46 FR 7540; January 23, 1981, as amended by policy statements published at 46 FR 36969; July 16, 1981 and at 48 FR 33376; July 21, 1983), and the Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA–700, ''Processing an Agreement.''

(a) Organization and Personnel. The Agreement materials program will be located within the existing Bureau of Radiation Protection (BRP) of the Pennsylvania Department of Environmental Protection (PADEP). The Bureau will be responsible for all regulatory activities related to the proposed Agreement.

The educational requirements for the BRP staff members are specified in the Commonwealth of Pennsylvania personnel position descriptions, and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members hold at least bachelor's degrees in physical or life sciences, or have a combination of education and experience at least equivalent to a bachelor's degree. Several staff members hold advanced degrees, and all have had additional training plus working experience in radiation protection. Supervisory level staff each have at least seven years working experience in radiation protection.

The BRP performed and the NRC staff reviewed an analysis of the expected workload under the proposed Agreement. Based on the NRC staff review of the BRP's staff analysis, the BRP has an adequate number of staff to regulate radioactive materials under the terms of the Agreement. The BRP will employ a staff with at least the equivalent of 17.2 full-time professional/technical and administrative employees for the Agreement materials program.

Pennsylvania has indicated that the BRP has an adequate number of trained and qualified staff in place. Pennsylvania has developed qualification procedures for license reviewers and inspectors which are similar to the NRC's procedures. The technical staff are working with NRC license reviewers in the NRC Region I Office and accompanying NRC staff on inspections of NRC licensees in Pennsylvania. Pennsylvania is also actively further supplementing their experience through direct meetings, discussions, and facility walk-downs with NRC licensees in Pennsylvania, and through self-study, in-house training, and formal training.

In the course of the NRC staff's continued interactions with Pennsylvania, the NRC staff will confirm the assurances that Pennsylvania provided concerning having an adequate number of trained and qualified staff in place, based on Pennsylvania's staff needs analysis and qualification procedures. Specifically, the NRC staff will verify how BRP staff fit into the qualification process, which staff are qualified in certain areas, and the basis for the determinations.

(b) Legislation and Regulations. In conjunction with the rulemaking authority vested in the Environmental Quality Board by Section 302 of the Pennsylvania Radiation Protection Act 1984–147, PADEP has the requisite authority to promulgate regulations for protection against radiation. The law provides PADEP the authority to issue licenses, issue orders, conduct inspections, and to enforce compliance with regulations, license conditions, and orders. Licensees are required to provide access to inspectors.

The NRC staff verified that Pennsylvania adopted the relevant NRC regulations in 10 CFR parts 19, 20, 30, 31, 32, 33, 34, 35, 36, 39, 40, 70, 71, and 150 into Pennsylvania Code Title 25, Environmental Protection by reference. The NRC staff also verified that Pennsylvania adopted the relevant NRC regulations in 10 CFR part 61 into Pennsylvania Code Title 25, Environmental Protection. The NRC staff also approved an order to implement Increased Controls requirements for risk-significant radioactive materials for certain Pennsylvania licensees under the proposed Agreement. As a result of the renumbering of 10 CFR part 71 in 2004, Pennsylvania is proceeding with necessary revisions to their regulations to ensure compatibility, that will be effective by October 1, 2007. Therefore, on the proposed effective date of the Agreement, Pennsylvania will have adopted an adequate and compatible set of radiation protection regulations which apply to byproduct, source, and special nuclear materials in quantities not sufficient to form a critical mass. The NRC staff also verified that Pennsylvania will not attempt to enforce regulatory matters reserved to the Commission.

(c) Storage and Disposal. Pennsylvania has also adopted by reference the NRC requirements for the storage of radioactive material and for the land disposal of radioactive material as waste. The waste disposal requirements cover both the disposal of waste generated by the licensee and the disposal of waste generated by and received from other persons.

(d) Transportation of Radioactive Material. Pennsylvania has adopted the NRC regulations in 10 CFR Part 71 by reference. Part 71 contains the requirements licensees must follow when preparing packages containing radioactive material for transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting radioactive materials. Pennsylvania will not attempt to enforce portions of the regulations related to activities, such as approving packaging designs, which are reserved to NRC.

(e) Recordkeeping and Incident Reporting. Pennsylvania has adopted by reference the Sections of the NRC regulations which specify requirements for licensees to keep records, and to report incidents or accidents involving materials.

(f) Evaluation of License Applications. Pennsylvania has adopted by reference the NRC regulations that specify the requirements a person must meet to get a license to possess or use radioactive materials. Pennsylvania has also developed a licensing procedures

manual, along with the accompanying regulatory guides, which are adapted from similar NRC documents and contain guidance for the program staff when evaluating license applications.

(g) Inspections and Enforcement. Pennsylvania has adopted a schedule providing for the inspection of licensees as frequently as, or more frequently than, the inspection schedule used by the NRC. The program has adopted procedures for the conduct of inspections, reporting of inspection findings, and reporting inspection results to the licensees. Pennsylvania has also adopted procedures for the enforcement of regulatory requirements, and is authorized by law to enforce the State rules using a variety of sanctions, including the imposition and collection of civil penalties, and the issuance of orders to suspend, modify or revoke licenses, or to impound materials.

(h) Regulatory Administration. Pennsylvania is bound by requirements specified in Commonwealth law for rulemaking, issuing licenses, and taking enforcement actions. The program has also adopted administrative procedures to assure fair and impartial treatment of license applicants. Pennsylvania law prescribes standards of ethical conduct for Commonwealth employees.

(i) Cooperation with Other Agencies. Pennsylvania law deems the holder of an NRC license on the effective date of the proposed Agreement to possess a like license issued by Pennsylvania. The law provides that these former NRC licenses will expire either 90 days after receipt from the radiation control program of a notice of expiration of such license or on the date of expiration specified in the NRC license, whichever is later. In the case of NRC licenses that are terminated under restricted conditions required by 10 CFR 20.1403 prior to the effective date of the proposed Agreement, Pennsylvania deems the termination to be final despite any other provisions of Commonwealth law or rule. For NRC licenses that, on the effective date of the proposed Agreement, contain a license condition indicating intent to terminate the license upon completion of a Commission approved decommissioning plan, the transferred license will be terminated by Pennsylvania under the plan so long as the licensee conforms to the approved plan.

Pennsylvania also provides for ''timely renewal.'' This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. NRC licenses transferred while in timely renewal are included under the continuation provision. The Pennsylvania Code provides exemptions from the Commonwealth's requirements for licensing of sources of radiation for NRC and U.S. Department of Energy contractors or subcontractors. The proposed Agreement commits Pennsylvania to uormulation of standards and regulatory programs for the protection against hazards of radiation, and to assure that Pennsylvania's program will continue to be compatible with the Commission's program for the regulation of Agreement materials. The proposed Agreement stipulates the desirability of reciprocal recognition of licenses, and commits the Commission and Pennsylvania to use their best efforts to accord such reciprocity.

III. Staff Conclusion

Section 274d of the Act provides that the Commission shall enter into an agreement under Section 274b with any State if:

(a) The Governor of the State certifies that the State has a program for the control of radiation hazards adequate to protect public health and safety with respect to the agreement materials within the State, and that the State desires to assume regulatory responsibility for the agreement materials; and

(b) The Commission finds that the State program is in accordance with the requirements of Section 274o, and in all other respects compatible with the Commission's program for the regulation of materials, and that the State program is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

The NRC staff has reviewed the proposed Agreement, the certification by the Commonwealth of Pennsylvania in the application for an Agreement submitted by Governor Rendell on November 9, 2006, and the supporting information provided by the staff of the Bureau of Radiation Protection of the Pennsylvania Department of Environmental Protection, and concludes that, except as discussed above in Section II. ''Summary of the NRC Staff Assessment of the Pennsylvania Program for the Control of Agreement Materials,'' (a) ''Organization and Personnel,'' of this document, the Commonwealth of Pennsylvania satisfies the criteria in the Commission's policy statement ''*Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement,*'' and therefore, meets the requirements of Section 274 of the Act. The proposed Pennsylvania program to regulate Agreement materials, as comprised of statutes, regulations, and procedures, is compatible with the program of the Commission and is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

With respect to discussion above in Section II. ''Summary of the NRC Staff Assessment of the Pennsylvania Program for the Control of Agreement Materials,'' (a) ''Organization and Personnel,'' once the NRC staff confirms the assurances provided by Pennsylvania concerning staff training and qualifications, the staff will be able to conclude that area is satisfied.

Dated at Rockville, Maryland, this 25th day of June, 2007.

For the Nuclear Regulatory Commission.

Janet R. Schlueter,

Director, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs.

Appendix A—An Agreement Between the United States Nuclear Regulatory Commission and the Commonwealth of Pennsylvania For the Discountinuance of Certain Commission Regularoty Authority and Responsibility Within the Commonwealth Pursuant To Section 274 of the Atomic Energy Act of 1954, As Amended

WHEREAS, The United States Nuclear Regulatory Commission (the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.* (the Act), to enter into agreements with the Governor of any State/Commonwealth providing for discontinuance of the regulatory authority of the Commission within the Commonwealth under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in Sections 11e.(1), (3), and (4) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and,

WHEREAS, The Governor of the Commonwealth of Pennsylvania is authorized under the Pennsylvania Radiation Protection Act, Act of July 10, 1984, Pub.L. 688, No. 147, as amended, 35 P.S. section 7110.101 *et seq.*, to enter into this Agreement with the Commission; and,

WHEREAS, The Governor of the Commonwealth of Pennsylvania certified on November 8, 2006, that the Commonwealth of Pennsylvania (the Commonwealth) has a program for the control of radiation hazards adequate to protect public health and safety with respect to the materials within the Commonwealth covered by this Agreement, and that the Commonwealth desires to assume regulatory responsibility for such materials; and,

WHEREAS, The Commission found on [date] that the program of the Commonwealth for the regulation of the materials covered by this Agreement is compatible with the

Commission's program for the regulation of such materials and is adequate to protect public health and safety; and,

WHEREAS, The Commonwealth and the Commission recognize the desirability and importance of cooperation between the Commission and the Commonwealth in the formulation of standards for protection against hazards of radiation and in assuring that Commonwealth and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

WHEREAS, The Commission and the Commonwealth recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

WHEREAS, This Agreement is entered into pursuant to the provisions of the Act; NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of the Commonwealth acting on behalf of the Commonwealth as follows:

ARTICLE I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the Commonwealth under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

1. Byproduct materials as defined in Section 11e.(1) of the Act;

2. Byproduct materials as defined in Section 11e.(3) of the Act;

3. Byproduct materials as defined in Section 11e.(4) of the Act;

4. Source materials;

5. Special nuclear materials in quantities not sufficient to form a critical mass.

6. The regulation of the land disposal of all byproduct, source, and special nuclear waste materials covered by this Agreement;

ARTICLE II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to:

1. The regulation of the construction and operation of any production or utilization facility or any uranium enrichment facility;

2. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

3. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear materials waste as defined in the regulations or orders of the Commission;

4. The regulation of the disposal of such other byproduct, source, or special nuclear materials waste as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be disposed without a license from the Commission;

5. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission.

ARTICLE III

With the exception of those activities identified in Article II.A.1 through 4, this Agreement may be amended, upon application by the Commonwealth and approval by the Commission, to include one or more of the additional activities specified in Article II, whereby the Commonwealth may then exert regulatory authority and responsibility with respect to those activities.

ARTICLE IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ARTICLE V

This Agreement shall not affect the authority of the Commission under SubSection 161b or 161i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

ARTICLE VI

The Commission will cooperate with the Commonwealth and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that Commission and Commonwealth programs for protection against hazards of radiation will be coordinated and compatible. The Commonwealth agrees to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the Commonwealth and the Commission for protection against hazards of radiation and to assure that the Commonwealth's program will continue to be compatible with the program of the Commission for the regulation of materials covered by this Agreement.

The Commonwealth and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The Commonwealth and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

ARTICLE VII

The Commission and the Commonwealth agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any other Agreement State. Accordingly, the Commission and the Commonwealth agree to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ARTICLE VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the Commonwealth, or upon request of the Governor of the Commonwealth, may terminate or suspend all or part of this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) Such termination or suspension is required to protect public health and safety, or (2) the Commonwealth has not complied with one or more of the requirements of Section 274 of the Act. The Commission may also, pursuant to Section 274j of the Act, temporarily suspend all or part of this agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the Commonwealth has failed to take necessary steps. The Commission shall periodically review actions taken by the Commonwealth under this Agreement to ensure compliance with Section 274 of the Act which requires a Commonwealth program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

ARTICLE IX

This Agreement shall become effective on [date], and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at [City, State] this [date] day of [month], [year].

For the United States Nuclear Regulatory Commision.

Dale E. Klein, Chairman,

For the Commonwealth of Pennsylvania.

Edward G. Rendell, Governor.

[FR Doc. 07–3195 Filed 6–29–07; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Board of Directors Meeting

July 12, 2007.

TIME AND DATE: Thursday, July 12, 2007, 10 a.m. (Open Portion) 10:15 a.m. (Closed Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Meeting Open to the Public from 10 a.m. to 10:15 a.m. Closed portion will commence at 10:15 a.m. (approx.)

MATTERS TO BE CONSIDERED:

1. President's Report.

2. Approval of April 26, 2007 Minutes (Open Portion).

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 10:15 a.m.)

1. Report from Audit Committee.
2. Finance and Insurance Project—The Democratic Republic of Congo.
3. Finance Project—Costa Rica.
4. Approval of April 26, 2007 Minutes (Closed Portion).
7. Pending Major Projects.
8. Reports.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: June 28, 2007.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 07–3229 Filed 6–28–07; 12:15 pm]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 6a–3, SEC File No. 270–0015, OMB Control No. 3235–0021.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Section 6 of the Securities Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*) sets out a framework for the registration and regulation of national securities exchanges. Under Commission Rule 6a–3 (17 CFR 240.6a–3), one of the rules that implements Section 6, a national securities exchange (or an exchange exempted from registration based on limited trading volume) must provide certain supplemental information to the Commission, including any material (including notices, circulars, bulletins, lists, and periodicals) issued or made generally available to members of, or participants or subscribers to, the exchange. Rule 6a–3 also requires the exchanges to file monthly reports that set forth the volume and aggregate dollar amount of securities sold on the exchange each month. The information required to be filed with the Commission pursuant to Rule 6a–3 is designed to enable the Commission to carry out its statutorily mandated oversight functions and to ensure that registered and exempt exchanges continue to be in compliance with the Act.

The respondents to the collection of information are national securities exchanges and exchanges that are exempt from registration based on limited trading volume.

The Commission estimates that each respondent makes approximately 25 such filings on an annual basis at an average cost of approximately $21 per response. Currently, 12 respondents (ten national securities exchanges and two exempt exchanges) are subject to the collection of information requirements of Rule 6a–3. The Commission estimates that the total burden for all respondents is 150 hours (25 filings/respondent per year × 0.5 hours/filing × 12 respondents) and $6300 ($21/response × 25 responses/respondent per year × 12 respondents) per year.

Compliance with Rule 6a–3 is mandatory for registered and exempt exchanges. Information received in response to Rule 6a–3 shall not be kept confidential; the information collected is public information. As set forth in Rule 17a–1 under the Act,[1] a national securities exchange is required to retain records of the collection of information for at least five years.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted within 30 days of this notice.

Dated: June 22, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12661 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

[1] 17 CFR 240.17a–1.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form 1, Rules 6a–1 and 6a–2; SEC File No. 270–0017; OMB Control No. 3235–0017.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

The Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the ''Act'') sets forth a regulatory scheme for national securities exchanges. Rule 6a–1 (17 CFR 240.6a–1) under the Act generally requires an applicant for initial registration as a national securities exchange to file an application with the Commission on Form 1. An exchange that seeks an exemption from registration based on limited trading volume also must apply for such exemption on Form 1. Rule 6a–2 (17 CFR 240.6a–2) under the Act requires registered and exempt exchanges: (1) to amend the Form 1 if there are any material changes to the information provided in the initial Form 1; and (2) to submit periodic updates of certain information provided in the initial Form 1, whether such information has changed or not. The information required pursuant to Rules 6a–1 and 6a–2 is necessary to enable the Commission to maintain accurate files regarding the exchange and to exercise its statutory oversight functions. Without the information submitted pursuant to Rule 6a–1 on Form 1, the Commission would not be able to determine whether the respondent met the criteria for registration or exemption set forth in Sections 6 and 19 of the Act. Without the amendments and periodic updates of information submitted pursuant to Rule 6a–2, the Commission would have substantial difficulty determining whether a national securities exchange or exempt exchange was continuing to operate in compliance with the Act.

The respondents to the collection of information are entities that seek registration as a national securities exchange or that seek exemption from registration based on limited trading volume. After the initial filing of Form

1, both registered and exempt exchanges are subject to ongoing informational requirements.

Initial filings on Form 1 by new exchanges are made on a one-time basis. The Commission estimates that it will receive approximately three initial Form 1 filings per year and that each respondent would incur an average burden of 47 hours to file an initial Form 1 at an average cost per response of approximately $4517. Therefore, the Commission estimates that the annual burden for all respondents to file the initial Form 1 would be 141 hours (one response/respondent × three respondents × 47 hours/response) and $13,551 (one response/respondent × three respondents × $4517/response).

There currently are ten entities registered as national securities exchanges and two exempt exchanges. The Commission estimates that each registered or exempt exchange files one amendment or periodic update to Form 1 per year, incurring an average burden of 25 hours to comply with Rule 6a–2. The Commission estimates that the annual burden for all respondents to file amendments and periodic updates to the Form 1 pursuant to Rule 6a–2 is 300 hours (12 respondents × 25 hours/response × one response/respondent per year) and $27,960 (12 respondents × $2330/response × one response/respondent per year).

Compliance with Rules 6a–1 and 6a–2 and Form 1 is mandatory for entities seeking to register as a national securities exchange or seeking an exemption from registration based on limited trading volume. Information received in response to Rules 6a–1 and 6a–2 and Form 1 shall not be kept confidential; the information collected is public information. As set forth in Rule 17a–1 under the Act,[1] a national securities exchange generally is required to retain records of the collection of information for at least five years.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov*. Comments must be submitted to the Office of Management and Budget within 30 days of this notice.

Dated: June 22, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12662 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

[1] 17 CFR 240.17a–1.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

June 4, 2007.

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 15a–4, SEC File No. 270–7, OMB Control No. 3235–0010.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 15a–4 (17 CFR 240.15a–4) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the ''Exchange Act'') permits a natural person member of a securities exchange who terminates his or her association with a registered broker-dealer to continue to transact business on the exchange while the Commission reviews his or her application for registration as a broker-dealer if the exchange files a statement indicating that there does not appear to be any ground for disapproving the application. The total annual burden imposed by Rule 15a–4 is approximately 106 hours, based on approximately 25 responses (25 Respondents x 1 Response/Respondent), each requiring approximately 4.23 hours to complete.

The Commission uses the information disclosed by applicants in Form BD: (1) to determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers and government securities broker-dealers, and where the Commission, other regulators and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives of the Exchange Act with respect to its investor protection function.

The statement submitted by the exchange assures the Commission that the applicant, in the opinion of the exchange, is qualified to transact business on the exchange during the time that the applications are reviewed.

Completing and filing Form BD is mandatory in order for a natural person member of a securities exchange who terminates his or her association with a registered broker-dealer to obtain the 45-day extension under Rule 15a–4. Compliance with Rule 15a–4 does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to: *David_Rostker@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: June 22, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12663 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17f–4, SEC File No. 270–232, OMB Control No. 3235–0225.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 17(f) (15 U.S.C. 80a–17(f)) under the Investment Company Act of 1940 (the ''Act'') [1] permits registered management investment companies and their custodians to deposit the securities they own in a system for the central handling of securities (''securities depositories''), subject to rules adopted by the Securities and Exchange Commission (''Commission'').

Rule 17f–4 (17 CFR 270.17f–4) under the Act specifies the conditions for the use of securities depositories by funds [2] and custodians. The Commission staff estimates that 129 respondents (including 40 active funds, 73 custodians, and 16 possible securities depositories) [3] are subject to the requirements in rule 17f–4. The rule is elective, but most, if not all, funds use depository custody arrangements.[4]

Rule 17f–4 contains two general conditions. First, a fund's custodian must be obligated, at a minimum, to exercise due care in accordance with reasonable commercial standards in discharging its duty as a securities intermediary to obtain and thereafter maintain financial assets.[5] This obligation does not contain a collection of information because it does not impose identical reporting, recordkeeping or disclosure requirements. Funds and custodians may determine the specific measures the custodian will take to comply with this obligation.[6] If the fund deals directly with a depository, the depository's contract or written rules for its participants must provide that the depository will meet similar obligations.[7] All funds that seek to rely on rule 17f–4 should have either modified their contracts with the relevant securities depository, or negotiated a modification in the securities depository's written rules when the rule was amended. Therefore, this was a one-time event and does not contain a collection of information.[8]

Second, the custodian must provide, promptly upon request by the fund, such reports as are available about the internal accounting controls and financial strength of the custodian.[9] If a fund deals directly with a depository, the depository's contract with or written rules for its participants must provide that the depository will provide similar financial reports.[10] Custodians and depositories usually transmit financial reports to funds twice a year.[11] The Commission staff estimates that 73 custodians spend 920 hours (by support staff) annually in transmitting such reports to funds.[12] In addition, approximately 40 funds (*i.e.*, one percent of all funds) deal directly with a securities depository and may request periodic reports from their depository. Commission staff estimates that, for each of the 40 funds, depositories spend 9 hours (by support staff) annually transmitting reports to the funds.[13] The total annual burden estimate for compliance with rule 17f–4's reporting requirement is therefore 929 hours.[14]

If a fund deals directly with a securities depository, rule 17f–4 requires that the fund implement internal control systems reasonably designed to prevent an unauthorized officer's instructions (by providing at least for the form, content, and means of giving, recording, and reviewing all officers' instructions).[15] All funds that seek to rely on rule 17f–4 should have already implemented these internal control systems when the rule was amended. Therefore, this is a one-time event and does not contain an ongoing collection of information requirement.[16]

Based on the foregoing, the Commission staff estimates that the total annual hour burden of the rule's collection of information requirement is 929 hours.

The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and

[1] 15 U.S.C. 80a.

[2] As amended in 2003, rule 17f–4 permits any registered investment company, including a unit investment trust or a face-amount certificate company, to use a security depository. See Custody of Investment Company Assets With a Securities Depository, Investment Company Act Release No. 25934 (Feb. 13, 2003) (68 FR 8438 (Feb. 20, 2003)). The term ''fund'' is used in this Notice to mean a registered investment company.

[3] The Commission staff estimates that, as permitted by the rule, 1% of all active funds deal directly with a securities depository instead of using an intermediary. The number of custodians is from Lipper Inc.'s Lana Database. Securities depositories include the 12 Federal Reserve Banks and 4 registered depositories.

[4] Based on responses to Item 18 of Form N–SAR (17 CFR 274.101), approximately 99 percent of all funds now use depository custody arrangements. As of March 30, 2007, approximately 3990 funds out of the 4030 active funds relied on rule 17f–4.

[5] Rule 17f–4(a)(1). This provision incorporates into the rule the standard of care provided by section 504(c) of Article 8 of the Uniform Commercial Code when the parties have not agreed to a standard. Rule 17f–4 does not impose any substantive obligations beyond those contained in Article 8. Uniform Commercial Code, Revised Article 8—Investment Securities (1994 Official Text with Comments) (''Revised Article 8'').

[6] Moreover, the rule does not impose any requirement regarding evidence of the obligation.

[7] Rule 17f–4(b)(1)(i).

[8] The Commission staff assumes that new funds relying on 17f–4 would choose to use a custodian instead of directly dealing with a securities depository because of the high costs associated with maintaining an account with a securities depository. Thus new funds would not be subject to this condition.

[9] Rule 17f–4(a)(2).

[10] Rule 17f–4(b)(1)(ii).

[11] The 73 custodians would handle requests for reports from 3950 fund clients (approximately 54 fund clients per custodian) and the depositories from the remaining 40 funds that choose to deal directly with a depository. It is our understanding based on staff conversations with representatives of custodians that custodians and depositories transmit these reports to clients as a good business practice regardless of whether they are requested. Therefore, for purposes of this paperwork reduction act calculation, the Commission staff assumes that custodians transmit the reports to all fund clients.

[12] (73 custodians × 2 reports) = 146 reports × 54 fund clients per custodian = 7,884 transmissions. The staff estimates that each transmission would take approximately 7 minutes for a total of 920 hours (7 minutes × 7,884 transmissions). The estimate of time to transmit reports is based on staff conversations with representatives of custodians.

[13] (16 depositories × 2 reports) = 32 reports × 2.5 fund clients per depository = 80 transmissions. The staff estimates that each transmission would take approximately 7 minutes for a total of 9 hours (7 minutes × 80 transmissions).

[14] 920 hours for custodians and 9 hours for securities depositories.

[15] Rule 17f–4(b)(2).

[16] The Commission staff assumes that new funds relying on 17f–4 would choose to use a custodian instead of directly dealing with a securities depository because of the high costs associated with maintaining an account with a securities depository. Thus new funds would not be subject to this condition.

Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, VA 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: June 22, 2007.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12664 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8817; 34–55969; File No. 265–24]

Advisory Committee on Improvements to Financial Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Federal Advisory Committee Establishment and Notice of Meeting.

SUMMARY: The Chairman of the Securities and Exchange Commission (''Commission'') intends to establish the Securities and Exchange Commission Advisory Committee on Improvements to Financial Reporting (''Committee'').

The first meeting of the Committee will be held on August 2, 2007 in the Auditorium, Room L–002, at the Commission's main offices, 100 F Street, NE., Washington, DC beginning at 10 a.m. The meeting will be open to the public. The public is invited to submit written statements with the Committee.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an e-mail message to *rule-comments@sec.gov.* Please include File Number 265–24 on the subject line; or

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–24. 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 its Web site (*http://www.sec.gov/rules/other.shtml*). Comments also will be available for public 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. 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: James L. Kroeker at (202) 551–5360 Deputy Chief Accountant, Office of the Chief Accountant, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6561.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. 2 §§ 1–16, as amended, the Securities and Exchange Commission (''Commission'') is publishing this notice that the Chairman of the Commission intends to establish the Securities and Exchange Commission Advisory Committee on Improvements to Financial Reporting (the ''Committee''). The Committee's objective is to examine the U.S. financial reporting system, with a view to providing specific recommendations as to how unnecessary complexity in that system could be reduced and how that system could be made more useful to investors.

To achieve the Committee's goals, between 14 and 18 members will be appointed who can effectively represent the varied interests affected by the range of issues to be considered. The Committee's membership may include officers of public companies; board and audit committee members of public companies; accountants and securities lawyers who provide professional services to public companies; and investors, among others. The Committee's membership will be fairly balanced in terms of the points of view represented and the functions to be performed.

The Committee may be established 15 days after the publication of this notice by filing a charter for the Committee complying with the Federal Advisory Committee Act, with the Committee on Banking, Housing, and Urban Affairs of the United States Senate and with the Committee on Financial Services of the United States House of Representatives. A copy of the charter will be filed with the Chairman of the Commission, furnished to the Library of Congress, placed in the Public Reference Room at the Commission's headquarters, and posted on the Commission's Web site at *http://www.sec.gov.* The Committee's charter would direct it to consider the following areas:

- The current approach to setting financial accounting and reporting standards, including (a) principles-based vs. rules-based standards, (b) the inclusion within standards of exceptions, bright lines, and safe harbors, and (c) the processes for providing timely guidance on implementation issues and emerging issues;
- The current process of regulating compliance by registrants and financial professionals with accounting and reporting standards;
- The current systems for delivering financial information to investors and accessing that information;
- Other environmental factors that may drive unnecessary complexity, including the possibility of being second-guessed, the structuring of transactions to achieve an accounting result, and whether there is a hesitance of professionals to exercise judgment in the absence of detailed rules;
- Whether there are current accounting and reporting standards that do not result in useful information to investors, or impose costs that outweigh the resulting benefits (the Committee could use one or two existing accounting standards as a ''test case,'' both to assist in formulating recommendations and to test the application of proposed recommendations by commenting on the manner in which such standards could be improved); and
- Whether the growing use of international accounting standards has an impact on the relevant issues relating to the complexity of U.S. accounting standards and the usefulness of the U.S. financial reporting system.

The Committee would be directed to conduct its work with a view to enhancing financial reporting for the benefit of investors, with an understanding that unnecessary complexity in financial reporting can be harmful to investors by reducing transparency and increasing the cost of preparing and analyzing financial reports. Our expectation is that the advisory committee would provide specific recommendations and action steps that can be implemented both in the near term and the long term.

The Committee will operate for approximately 12 months from the date it is established, unless, before the expiration of that time period, its charter is extended or renewed in accordance with the Federal Advisory Committee Act or unless the Commission determines that the

Committee's continuance is no longer in the public interest.

The Committee will meet at such intervals as are necessary to carry out its functions. The charter will provide that meetings of the full Committee are expected to occur no more frequently than twelve times per year. Meetings of subcommittees of the full Committee may occur more frequently.

The charter will provide that the duties of the Committee are to be solely advisory. The Commission alone will make any determinations of action to be taken and policy to be expressed with respect to matters within the Commission's authority with respect to which the Committee provides advice or makes recommendations.

The Chairman of the Commission affirms that the establishment of the Committee is necessary and in the public interest.

Furthermore, upon establishment of the Committee, and in accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, notice is hereby given that the first meeting of the Committee will be held on August 2, 2007 in the Auditorium, room L–002 at the Commission's main offices, 100 F Street, NE., Washington, DC, beginning at 10 a.m. The meeting will be open to the public. The purpose of this meeting will be to discuss general organizational matters, to plan the progression of the Committee's work, and to begin discussions about the sources of unnecessary complexity and the barriers to investor transparency in the U.S. financial reporting system.

By the Commission.

Dated: June 27, 2007.

Nancy M. Morris,

Committee Management Officer.

[FR Doc. E7–12740 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55949; File No. SR–Amex–2007–61]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify the Method by Which Specialists Execute Odd-Lot Market Orders in Rule 205—AEMI

June 25, 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 21, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by Amex. Amex has filed this proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(5) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt clarifying changes to Rule 205—AEMI to specify that a specialist on the Exchange executes unelected odd-lot market orders, along with all other outstanding unexecuted odd-lot market orders on the AEMI book, at the price of the specialist's quote 30 seconds after the later of (i) the entry of such order into AEMI or (ii) the last round-lot election of a previously entered odd-lot market order.

The text of the proposed rule change is available on Exchange's Web site (*http://www.amex.com*), at Amex'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, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change

1. Purpose

Pursuant to its most recent amendment, Rule 205—AEMI(b) currently specifies that, to the extent an odd-lot market order is not elected by a round-lot transaction within 30 seconds of entry into AEMI, such order will be executed against the specialist's quote 30 seconds after entry of the order into AEMI.[5]

The Exchange is now submitting the instant rule change to clarify, more consistently with the way the AEMI system has been configured, that such unelected unexecuted odd-lot market orders are executed, along with all other outstanding unexecuted odd-lot market orders on the AEMI book, at the price of the specialist's quote 30 seconds after the later of (i) the entry of such order into AEMI or (ii) the last round-lot election of a previously entered odd-lot market order.

While the current version of Rule 205—AEMI(b) implies that every odd-lot market order has a unique 30-second timer for execution (if not elected by virtue of an earlier round-lot transaction), the instant rule change is necessary to clarify that, in certain limited scenarios, an unelected odd-lot market order can receive executions in under 30 seconds (where tied to executions of earlier-entered odd-lot market orders)[6] and, in rare circumstances, more than 30 seconds.[7]

2. Statutory Basis

The proposed rule change is designed to be consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system and, in

[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)(5).

[5] *See* Securities Exchange Act Release No. 55762 (May 15, 2007), 72 FR 28529 (May 21, 2007).

[6] The Exchange estimates that executed odd-lot volume that may fall into this category is less than 15,000 shares per day, or less than 1.5% of all odd-lot executed volume and less than 0.03% of Amex executed volume.

[7] The Exchange estimates that this occurs only several times per day when, within a 30-second window, multiple odd-lot market orders are entered followed by round-lot transactions insufficient in size to elect all of them. In such circumstances, remaining unelected odd-lot market order(s) may take more than 30 seconds after their entry to execute, depending on the timing of subsequent round-lot transactions. For example, if three 50-share market buy orders are entered at :01, :02, and :03 seconds, followed at :29 seconds by execution of a new 100 share order at $10, the first two market buy orders are both executed against the specialist at $10 at :29 seconds. Then, the timer in AEMI resets back to zero, and the remaining 50-share market buy order is executed against the specialist upon the earlier of (i) the next round-lot transaction (at the price of said transaction) or (ii) the expiration of 30 seconds (at the price of the specialist's then best offer), resulting in execution anywhere from 26 to 56 seconds after original entry into AEMI.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) have the effect of limiting the access to or availability of an existing order entry or trading system of the Exchange, the foregoing rule change has become effective immediately pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(5) thereunder.[11] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in 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–Amex–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–Amex–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, 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 Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–61 and should be submitted on or before July 23, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12681 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(5).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55955; File No. SR–Amex–2007–57]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Extension of the Pilot Period Applicable to the Listing and Trading of Options on the ishares MSCI Emerging Markets Index

June 25, 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 5, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, 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

The Exchange proposes to extend the pilot period applicable to the listing and trading of options on the iShares MSCI Emerging Markets Index Fund (''Fund Options''). Amex is not proposing any textual changes to its rules.

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. Amex 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

On May 17, 2006, the Commission approved an Amex proposal to list and trade the Fund Options for a 60-day pilot period that expired July 2, 2006 (the ''Pilot'').[5] The Commission approved 90-day extensions of the Pilot on June 30, 2006 [6] and September 29, 2006,[7] respectively. In addition, the Commission on January 3, 2007, approved a 180-day extension to the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 53824 (May 17, 2006), 71 FR 30003 (May 24, 2006).

[6] *See* Securities Exchange Act Release No. 54081 (June 30, 2006), 71 FR 38911 (July 10, 2006).

[7] *See* Securities Exchange Act Release No. 54553 (September 29, 2006), 71 FR 59561 (October 10, 2006).

Pilot from January 2, 2007 through June 30, 2007.[8]

The Amex proposes to extend the Pilot for an additional six months, until December 31, 2007. The Exchange represents that the Fund Options will continue to meet substantially all of the listing and maintenance standards in Commentary .06 to Amex Rule 915 and Commentary .07 to Amex Rule 916. For the requirements that are not satisfied, the Exchange continues to represent that sufficient mechanisms exist that would provide the Exchange with adequate surveillance and regulatory information with respect to the Fund Options. Continuation of the Pilot would permit the Exchange to continue to work with the Bolsa Mexicana de Valores (''Bolsa'') to develop a surveillance sharing agreement. Accordingly, the Exchange proposes to extend the Pilot for an additional six months, until December 31, 2007.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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 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

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 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), and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to thirty days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. Amex has requested that the Commission waive the 30-day delayed operative delay.[14] The Commission believes that the waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the 30-day operative period will extend the Pilot, which would otherwise expire on June 30, 2007, and allow the Amex to continue in its efforts to obtain a surveillance agreement with Bolsa. Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.[15]

At any time within sixty (60) days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to: *rule-comments@sec.gov.* Please include File Number SR–Amex–2007–57 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–2007–57. 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 Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–57 and should be submitted on or before July 23, 2007 in the **Federal Register**.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12709 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

[8] *See* Securities Exchange Act Release No. 55040 (January 3, 2007), 72 FR 1348 (January 11, 2007).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] *Id.*

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55963; File No. SR–Amex–2007–38]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Preferred Stock Voting Rights

June 26, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 20, 2007, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Amex. 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 minimum voting rights to be provided to preferred shareholders in order for a preferred stock issue to list on the Amex. The text of the proposed rule change is available at the Amex, on the Amex's Web site at *http://amex.com,* 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 Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex 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

Section 124, ''Preferred Voting Rights,'' of the Company Guide sets forth the minimum voting rights an issuer must provide to holders of preferred stock in order for a preferred stock issue to be approved for listing on the Amex. Currently, the Exchange may decline to list a preferred stock issue unless the preferred shareholders have the right, voting as a class, to vote on any change in the rights, privileges or preferences of their preferred shares and/or the creation of any additional class of preferred stock senior to or equal in preference to their preferred shares. Additionally, any such change in the rights, privileges or preferences of preferred shares and/or creation of an additional class of senior preferred stock must be approved by at least two-thirds of the preferred shareholders, and any creation of an additional class of preferred stock equal in preference must be approved by at least a majority of the preferred shareholders.

The Exchange now proposes amendments to the minimum preferred voting rights required for listing in order to provide additional flexibility to issuers of preferred stock and to make the requirements more consistent with those of the New York Stock Exchange LLC (''NYSE'').[3]

(i) *Alteration of Existing Provisions.* The Exchange proposes to amend paragraph (i) of Section 124(b) to specify that: (A) Holders of at least two-thirds of the outstanding shares of a preferred stock issue should be required to approve any charter or by-law amendment that would materially affect existing terms of the preferred stock; and (B) if all series of a class of preferred stock are not equally affected by a proposed change to the terms of the preferred stock, two-thirds approval of both the class and the series to be affected by the proposed change should be required to authorize such change. The Exchange also proposes to require that an issuer's charter not hinder preferred shareholders' right to alter the terms of their stock by limiting modification to specific items, *e.g.*, interest rate, redemption price.

(ii) *Creation of a Senior Issue.* The Exchange proposes to amend paragraph (ii) of Section 124(b) to provide that: (A) A vote by an existing series of preferred stock is not required for the board of directors of an issuer to create a senior series if shareholders authorized such action when the existing series was created; and (B) a vote by an existing class is not required for the creation of a senior issue if the existing class received adequate notice of redemption to occur within 90 days and the existing issue is not being retired with proceeds from the sale of the new issue.

(iii) *Increase in Authorized Amount or Creation of a Pari Passu Issue.* The Exchange proposes to provide in new paragraph (iii) of Section 124(b) that an increase in the authorized amount of a class of preferred stock or the creation of a pari passu issue is required to be approved by a majority of the outstanding shares of the class or classes to be affected by such change. A majority vote would not, however, be required if, at the time a class of preferred stock was created, the preferred shareholders gave the board of directors the authority to increase the authorized amount of a series of preferred stock or create an additional series of preferred stock equal in preference.

The Exchange believes that by enabling preferred stock issuers to obtain in advance the shareholder authorization required for future creations of senior or pari passu series and/or increases in authorized amounts of a series, their capital raising processes will be less restricted. In addition, the proposed rule change will align preferred voting rights with current market practices. Shareholders purchasing affected preferred shares will be put on notice, either at the time of the initial offering or subsequently, that the board of directors has such authority. Moreover, preferred shareholders will still retain important voting rights, particularly in the case of dividend defaults, and will still be protected against adverse corporate actions pursuant to applicable state law.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and 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.

[1] § 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Section 313.00(C) of the NYSE Listed Company Manual.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2007–38 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2007–38. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–38 and should be submitted on or before July 23, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12742 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55950; File No. SR–BSE–2007–09]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Appointment of Market Makers

June 25, 2007.

I. Introduction

On February 20, 2007, the Boston Stock Exchange, Inc. (''BSE'' 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 grant the authority for the Exchange to approve Market Maker appointments instead of the Board or a committee designated by the Board and to provide a process for those Market Makers who wish to withdraw from trading an option issue within their appointment. The Exchange filed Amendment No. 1 to the proposed rule change on May 11, 2007. The proposed rule change, as amended, was published for comment in the **Federal Register** on May 23, 2007.[3] The Commission received no comments on the proposal.

II. Description of the Proposal

The Exchange proposes to amend Section 4 (Appointment of Market Makers) of Chapter VI of the BOX Rules to grant the authority for the Exchange to approve Market Maker appointments instead of the Board or committee designated by the Board, as the rule currently states. This proposed change would allow the regulatory staff of the Exchange to approve Market Maker appointments. According to the Exchange, the BSE regulatory staff is more accessible than the Board and this change would help with the expediency of the Market Marker allocation approval process.

The Exchange also has proposed to add a provision to establish a process for those Market Makers who wish to withdraw from trading an option issue within their appointment.[4] A Market Maker may withdraw from an appointment as long as the Market Maker provides BOX with three business days written notice of its intent to withdraw from an appointment. If such written notice is not provided to BOX, then the Market Maker may be subject to formal disciplinary action.

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[5] and, in particular, the requirements of Section 6 of the Act.[6] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[7] in that the proposal has been designed to promote just and equitable principles of trade, and to protect investors and the public interest. The Commission believes the proposal to grant the Exchange the authority to approve Market Maker appointments, instead of the Board, should help make the Market Marker allocation approval process more efficient, thereby potentially increasing liquidity on the Exchange. The proposal also provides transparency to the Exchange's process governing Market Makers who wish to

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55774 (May 16, 2007), 72 FR 29019.

[4] *See* Proposed Section 4, subparagraph (i), Chapter VI of the BOX Rules.

[5] The Commission has considered the amended proposed rule change's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f

[7] 15 U.S.C. 78f(b)(5).

withdraw from trading an option issue within their appointment.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–BSE–2007–09), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12675 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55959; File No. SR–ISE–2007–50]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

June 26, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 19, 2007, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the ISE. The ISE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on four Premium Products.[5] The text of the proposed rule change is available at the ISE, at the Commission's Public Reference Room, and on the ISE's Web site (*http://www.iseoptions.com/legal/proposed_rule_changes.asp*).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included stat ements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its Schedule of Fees to establish fees for transactions in options on the following four Premium Products: First Trust ISE—Revere Natural Gas Index Fund (''FCG''), First Trust ISE Water Index Fund (''FIW''), the SPDR S&P Metals & Mining ETF (''XME''),[6] and the KBW Mortgage Finance Index (''MFX''). The Exchange represents that FCG, FIW, and XME are eligible for options trading because they constitute ''Fund Shares,'' as defined by ISE Rule 502(h). The Exchange further represents that MFX meets the standards of ISE Rule 2002(b), which allows the ISE to begin trading this product by filing Form 19b–4(e) at least five business days after commencement of trading this new product pursuant to Rule 19b–4(e) under the Act.[7] The ISE represents that it submitted Form 19b–4(e) to the Commission on June 19, 2007.

All of the applicable fees covered by this filing are identical to fees charged by the Exchange for all other Premium Products. Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for all transactions in options on FCG, FIW, XME and MFX.[8] The amount of the execution fee and comparison fee for products covered by this filing shall be $0.15 and $0.03 per contract, respectively, for all Public Customer Orders [9] and Firm Proprietary orders. The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.[10] Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be $0.37 and $0.03 per contract, respectively.

Additionally, the Exchange has entered into a license agreement with Keefe, Bruyette & Woods, Inc. in connection with the listing and trading of options on MFX. As with certain other licensed options, to defray the licensing costs, the Exchange is adopting a surcharge fee of $0.10 per contract for trading in options on MFX. The Exchange believes charging the participants that trade this instrument is the most equitable means of recovering the costs of the license. However, because of competitive pressures in the industry, the Exchange proposes to exclude Public Customer Orders from this surcharge fee. Accordingly, this surcharge fee will only be charged to Exchange members with respect to non-Public Customer Orders (*e.g.*, ISE Market Maker, non-ISE Market Maker & Firm Proprietary orders) and shall apply

[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] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] ''Premium Products'' is defined in the Schedule of Fees as the products enumerated therein.

[6] ''Standard & Poor's®,'' ''S&P®,'' ''S&P 500®,'' ''Standard & Poor's 500®,'' ''Standard & Poor's Depositary Receipts®,'' ''SPDR®,'' and ''the S&P® Metals & Mining Select Industry Index,'' are trademarks of The McGraw-Hill Companies, Inc. (''McGraw-Hill''), and have been licensed for use by State Street Bank and Trust in connection with the listing and trading of XME. XME is not sponsored, sold or endorsed by Standard & Poor's, (''S&P''), a division of McGraw-Hill, and S&P makes no representation regarding the advisability of investing in XME. McGraw-Hill and S&P have not licensed or authorized ISE to: (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on XME; or (ii) use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on XME or with making disclosures concerning options on XME under any applicable federal or state laws, rules or regulations. McGraw-Hill and S&P do not sponsor, endorse, or promote such activity by ISE and are not affiliated in any manner with ISE.

[7] 17 CFR 240.19b–4(e).

[8] These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2007, these fees will also be charged to Principal Orders and Principal Acting as Agent Orders. *See* ISE Rule 1900(10). *See also* Securities Exchange Act Release No. 54204 (July 25, 2006), 71 FR 43548 (August 1, 2006) (SR–ISE–2006–38) (''Linkage Orders Pilot''). Telephone conversation between Samir Patel, Assistant General Counsel, ISE, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on June 26, 2007.

[9] ''Public Customer Order'' is defined in ISE Rule 100(a)(39) as an order for the account of a Public Customer. ''Public Customer'' is defined in ISE Rule 100(a)(38) as a person that is not a broker or dealer in securities.

[10] The execution fee is currently between $0.21 and $0.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently $0.03 per contract side.

to Principal Orders and Principal Acting as Agent Orders.[11]

Further, since options on XME and MFX are multiply-listed, the Payment for Order Flow fee shall apply to these two products. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[12] in general, and furthers the objectives of Section 6(b)(4),[13] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

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

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 [14] and Rule 19b–4(f)(2) [15] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2007–50 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2007–50. 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 ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2007–50 and should be submitted on or before July 23, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

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[11] See ISE Rule 1900(10). *See also* Linkage Orders Pilot, *supra* note 5.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 19b–4(f)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55953; File No. SR–NYSE–2007–46]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to the Listing and Trading of Shares of the HealthShares™ Orthopedic Repair Exchange-Traded Fund

June 25, 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 21, 2007, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared substantially by NYSE. On May 31, 2007, NYSE filed Amendment No. 1 to the proposed rule change. This order provides notice of the proposed rule change, as amended, and approves the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the HealthShares™ Orthopedic Repair Exchange-Traded Fund (the ''Fund'').[3] The text of the proposal is available at NYSE, the Commission's Public Reference Room, and *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, and the most significant aspects of such statements are set forth in Sections A, B, and C below.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Fund is registered under the Investment Company Act of 1940 (the ''1940 Act'').

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the shares of the Fund (the ''Shares''), which are Investment Company Units, as such term is defined in Section 703.16 of the NYSE Listed Company Manual.[4] The Fund can invest in both U.S. securities and non-U.S. securities not listed on a national securities exchange.[5] Although Section 703.16 of the NYSE Listed Company Manual permits the Exchange to either originally list and trade Investment Company Units or trade Investment Company Units pursuant to unlisted trading privileges,[6] the Fund Shares do not meet the ''generic'' listing requirements of Section 703.16 of the NYSE Listed Company Manual (permitting listing in reliance upon Rule 19b–4(e)[7] under the Act) because the Index (as defined herein) underlying the Fund does not meet the initial listing requirements of Section 703.16(C)(2)(b)(ii) of the Listed Company Manual.[8] Therefore, NYSE has filed the instant proposed rule change to obtain Commission approval to list and trade the Shares on the Exchange pursuant to Section 19(b)(2) of the Act[9] and Rule 19b–4 thereunder.[10]

The Fund will be based on the HealthShares™ Orthopedic Repair Index (''Underlying Index'' or ''Index'').[11] XShares Advisors, LLC is the investment adviser (the ''Advisor'') to the Fund.[12] BNY Investment Advisors (the ''Sub-Advisor'') acts as the investment sub-advisor to the Fund. The Sub-Advisor is registered under the Advisers Act and is responsible for the day-to day management of the Fund's portfolio, which involves principally reconfiguring the portfolio of the Fund, typically quarterly, to reflect any reconfiguration in the Underlying Index for the Fund by the Index Administrator (as defined herein). While the Fund is managed by the Advisor or Sub-Advisor, the Corporation's Board of Directors has overall responsibility for the Fund's operations. Standard and Poor's, a division of The McGraw Hill Companies, Inc., is the index administrator (the ''Index Administrator'') for the Index. The Index Administrator is responsible for maintaining the Index as described below.[13] ALPS Distributors, Inc. is a registered broker-dealer and acts as distributor and underwriter (the ''Distributor'') of the Creation Units (as defined herein) of the Shares.[14] The Distributor distributes the Shares on an agency basis.

Description of the Underlying Index and the Fund. The Exchange states that the Underlying Index uses a patent-pending investment approach known as ''Vertical Investing.'' Vertical Investing seeks to categorize companies within a particular healthcare, life sciences, or biotechnology index by focusing on each company's business activities with regard to the diagnosis of diseases, the developments of drugs, treatments, therapies, delivery systems, and the development of enabling/research tools and technologies for use in the healthcare, life sciences, or biotechnology sectors. The Underlying Index for the Fund has been designed around verticals in the area of orthopedic repair.

Based on its own proprietary intellectual model, the Index uses established specific, defined characterization/inclusion/exclusion criteria (the ''Index Methodology'') that an issuer must meet in order to be included in the Underlying Index. The Index Administrator employs the Index Methodology to determine the composition of the Underlying Index. When determining the composition of the Underlying Index, the Index Administrator relies on many sources of information, including information obtained from the BioCentury and MedTrack databases. The BioCentury and MedTrack databases are independent, generally available databases that provide a vast amount of data for healthcare, life sciences, and biotechnology companies, including information regarding products, clinical trials, pipeline development, patent, and other information. The Index Methodology is publicly available on the Fund's Web site at *http://www.healthsharesinc.com*. Any change to the Index Methodology will be posted on the Fund's Web site at least 60 days prior to implementation of such change. For the equity components underlying the Index, the market capitalization range is generally from $100 million to $20 billion. Typically, the largest of these companies (determined by market capitalization) are included in the Index, with a minimum of 22 companies in the Index.[15] The initial companies

[4] Section 703.16 of the NYSE Listed Company Manual defines an Investment Company Unit as a security that represents an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or a similar entity.

[5] The Exchange represents that, as of May 7, 2007, all stocks underlying the Index (as defined herein) were listed on a national securities exchange (NYSE or The Nasdaq Stock Market LLC); however, as noted above, any changes to the Index may include non-U.S. stocks not listed on a national securities exchange.

[6] *See* Securities Exchange Act Release Nos. 55113 (January 17, 2007), 72 FR 3179 (January 24, 2007) (SR–NYSE–2006–101) (approving amendments to generic listing standards for series of Investment Company Units that are based on international or global indexes, or on indexes described in rules previously approved by the Commission); 43679 (December 5, 2000), 65 FR 77949 (December 13, 2000) (SR–NYSE–00–46) (approving generic listing standards to permit the listing and trading of Investment Company Units under Rule 19b–4(e) under the Act); and 36923 (March 5, 1996), 61 FR 10410 (March 13, 1996) (SR–NYSE–95–23) (approving the original listing standards for units of trading that represent interests in a registered investment company that would be organized either as an open-end management investment company or as a unit investment trust).

[7] 17 CFR 240.19b–4(e).

[8] Section 703.16(C)(2)(b)(ii) of the NYSE Listed Company Manual requires that, upon the initial listing of any series of Investment Company Units, the component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each must have minimum worldwide trading volume during each of the last six months of at least 250,000 shares. The Exchange represents that Index component stocks each having a worldwide monthly trading volume of at least 250,000 shares in the aggregate account for approximately 86.2% of the weight of the Index during each month from November 2006 through April 2007. Because such percentage misses the minimum required threshold by approximately 3.8%, the Shares cannot be listed and traded pursuant to Section 703.16 of the NYSE Listed Company Manual. The Exchange represents that the Fund Shares otherwise meet all of the other ''generic'' listing standards under Section 703.16 of the NYSE Listed Company Manual. Telephone conversation between Michael Cavalier, Assistant General Counsel, NYSE, and Edward Cho, Special Counsel, Division of Market Regulation (''Division''), Commission, on June 21, 2007 (''June 21 Confirmation'').

[9] 15 U.S.C. 78s(b)(1).

[10] 17 CFR 240.19b–4.

[11] HealthShares™, Inc. (the ''Corporation'') is an open-end management company with twenty other series of underlying fund portfolios that offer shares known as HealthShares™ which are similar to the Shares and are currently listed and trading on the Exchange.

[12] The Advisor is registered as an ''investment adviser'' under Section 203 of the Investment Advisers Act of 1940 (the ''Advisers Act''). *See* 15 U.S.C. 80b–3.

[13] S&P is neither a registered broker-dealer nor an ''affiliated person,'' as defined in Section 2(a)(3) of the 1940 Act, or an affiliated person of an affiliated person of the Fund, Advisor, Sub-Advisor, Distributor (as defined herein), or the Corporation. *See* 15 U.S.C. 80a–2(a)(3).

[14] The Exchange represents that the Distributor is not an ''affiliated person'' of the Advisor, the Sub-Advisor, the Fund, or the Corporation.

[15] The Exchange states that, as of May 7, 2007, the Index had a total market capitalization of approximately $52.2 billion. The average total market capitalization was approximately $2.4 billion. The Index's top three holdings were Zimmer Holdings, Smith & Nephew PLC (ADR), and DENTSPLY International. The ten largest constituents by market capitalization represented approximately 52.2% of the Index weight. The five highest weighted stocks, which represented 34.1% of the Index weight, had an average daily trading volume in excess of 7.3 million shares during the

Continued

selected for inclusion are weighted equally at inception and are thereafter weighted based upon the individual company's market value relative to the overall market value of the Index (*i.e.*, price weighted). Maximum weighting for any security in the Index is typically 15%. When a company's weighting exceeds 15% of the Index, the Index Administrator will reduce such company's weighting to 10%, with the 5% ''excess'' applied equally to all remaining component securities in the Underlying Index. Minimum weighting for a security in the Index is 2.5%. If a security's weighting falls below 2.5%, the Index Administrator will increase the security's weighting to its initial weighting or 5%, whichever is less, with the required increment taken equally from all the remaining component securities. Information about the Index, including the component securities in the Index and value of the securities in the Index are posted throughout the trading day at least every 15 seconds and are available through Reuters, a market data vendor.

The Fund's overall investment objective is to track the performance, before fees and expenses, of the Index. The Adviser uses a passive, or indexing, approach in managing the Fund. The Fund will invest at least 90% of its assets in the common stocks of companies in the Index, or in American Depositary Receipts (''ADRs'') or Global Depositary Receipts (''GDRs'') based on securities of international companies in the Index. Because the Index is comprised only of stocks as indicated by its name (*i.e.*, only companies associated with the orthopedic repair business are contained in the Index), the Fund will invest at least 90% of its assets in such companies. The Fund will provide shareholders with at least 60 days' notice of any change in these policies. The Fund may also invest up to 10% of its assets in futures contracts, options on futures contracts, options, swaps on securities of companies in the Index, as well as cash and cash equivalents, such as money market instruments (subject to applicable limitations of the 1940 Act). The Fund will attempt to replicate the Index by matching the weighting of securities in its portfolio with such securities' weightings in the Index. In managing the Fund, the Advisor seeks a correlation of 0.95 or better between the Fund's performance and the performance of its Underlying Index. A figure of 1.00 would mean perfect correlation.

From time to time, it may not be possible, for regulatory or other legal reasons, to replicate the Index, and in such cases, the Advisor may pursue a sampling strategy in managing the portfolio. Pursuant to this strategy, the Fund may invest the remainder of its assets in securities of companies not included in the Index if the Advisor believes that such securities will assist the Fund in tracking the Index. If the Fund pursues a sampling strategy, it will continue to invest at least 90% of its assets in the common stocks, ADRs, or GDRs of the companies in the Index.

Transaction expenses, including operational processing and brokerage costs, will be incurred by the Fund when investors purchase or redeem Creation Units ''in-kind'' and such costs have the potential to dilute the interests of the Fund's existing shareholders. Hence, the Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions. The exact amounts of such Transaction Fees will be determined separately for the Fund and described in the Fund's Prospectus.

Creations and Redemptions. The Fund will continuously issue its Shares in one or more groups of a fixed number of Shares (*i.e.*, 100,000 Shares). Each such group of Shares is called a ''Creation Unit,'' and such fixed number will be set forth in the Prospectus for the Fund. The initial price per Share of the Fund is expected to be approximately $25. Accordingly, the initial price of a Creation Unit would be approximately $2,500,000.[16]

All orders to purchase Shares in Creation Units must be placed with the Distributor by or through a ''Participating Organization'' which has entered into a participant agreement with the Distributor and is either (1) a ''Participating Party,'' *i.e.*, a broker-dealer or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation (the ''Clearing Process''), a clearing agency registered with the Commission, or (2) a participant in the Depository Trust Company (''DTC''). A Participating Organization is not required to be a member of an exchange.

Payment with respect to Creation Units placed through the Distributor will be made by the purchasers generally by an ''in-kind'' deposit with the Corporation of a basket of stocks that are part of the Fund's Underlying Index (''Deposit Securities'') together with an amount of cash specified by the Advisor or the Sub-Advisor in the manner described below (the ''Balancing Amount'').[17] The deposit of the requisite Deposit Securities, the Balancing Amount, and any Transaction Fees are collectively referred to herein as a ''Portfolio Deposit.''

The Advisor will make available on each business day at *http://www.healthsharesinc.com*,[18] prior to the opening of trading on the Exchange, the list of the names and the required number of shares of each Deposit Security included in the current Portfolio Deposit (based on information at the end of the previous business day) for the Fund (the ''Creation List''). Such Portfolio Deposit will be applicable, subject to any adjustments to the Balancing Amount, as described below, in order to effect purchases of Creation Units of the Fund until such time as the next-announced Portfolio Deposit composition is made available. The Advisor also will make available on each business day, prior to the opening of trading on the Exchange, the list of securities in the Fund's portfolio holdings that an investor who tenders a Creation Unit will receive as redemption proceeds (''Redemption Securities''). This list is referred to as the ''Redemption List,'' as discussed below. The Creation List, Redemption List, Balancing Amount, and the Cash Redemption Payment (as defined herein), each as created by the Sub-Advisor, also are made available to Participating Parties upon request through the facilities of the Clearing Process.

The identity and number of shares of the Deposit Securities required for the Portfolio Deposit for the Fund will change as re-balancing adjustments and corporate action events are reflected from time to time by the Advisor or the Sub-Advisor with a view to the investment objective of the Fund. The composition of the Deposit Securities may also change in response to adjustments to the weighting or composition of the component

period November 2006 through April 2007. 86.2% of the Index had worldwide monthly trading volume of 250,000 shares during each of the last 6 months (November 2006 through April 2007). The average monthly trading volume for the Index stocks over the last 6 months was 145.5 million shares.

[16] June 21 Confirmation.

[17] The Balancing Amount is an amount equal to the difference between (1) the net asset value (''NAV'') per Creation Unit of the Fund and (2) the total aggregate market value per Creation Unit of the Deposit Securities (such value referred to herein as the ''Deposit Amount''). With respect to purchases of Creation Units, the Balancing Amount serves the function of compensating for differences, if any, between the NAV per Creation Unit and the Deposit Amount.

[18] Telephone conversation between Michael Cavalier, Assistant General Counsel, NYSE, and Edward Cho, Special Counsel, Division, Commission, on May 30, 2007.

securities in the Index. The adjustments described above also will reflect changes in the composition of the Index resulting from stock splits and other corporate actions.

In addition, the Corporation reserves the right with respect to the Fund to permit or require the substitution of an amount of cash (*i.e.*, a ''cash in lieu'' amount) to be added to the Balancing Amount to replace any Deposit Security which: (1) May be unavailable or not available in sufficient quantity for delivery to the Corporation upon the purchase of Shares in Creation Units; (2) may not be eligible for transfer through the Clearing Process; or (3) may not be eligible for trading by a Participating Organization or the investor on whose behalf the Participating Organization is acting. When such cash purchases of Creation Units are available or specified for the Fund, such purchases would occur in essentially the same manner as ''in-kind'' purchases of the Shares. In the case of a cash purchase, the investor must pay the cash equivalent of the Deposit Securities it would otherwise be required to provide through an ''in-kind'' purchase, *plus* the same Balancing Amount required to be paid by an ''in-kind'' purchaser. In addition, trading costs, operational processing costs, and brokerage commissions associated with using cash to purchase the requisite Deposit Securities will be incurred by the Fund and will affect the value of all Shares. Hence the Advisor, subject to the approval of the Board of Directors of the Corporation, may adjust the relevant Transaction Fee to defray any such costs and prevent shareholder dilution within specified parameters.

The Participating Organization must make available on or before the contractual settlement date by means satisfactory to the Corporation immediately-available or same-day funds estimated by the Corporation to be sufficient to pay the Balancing Amount next determined after acceptance of the purchase order, together with the applicable Transaction Fee. Any excess funds would be returned following settlement of the Creation Unit purchase.

Once the Corporation has accepted an order, upon the next determination of the NAV per Share of the Fund, the Corporation will confirm the issuance, against receipt of payment, of a Creation Unit of the Fund at such NAV. The Distributor would then transmit a confirmation of acceptance to the Participating Organization that placed the order. A Creation Unit would not be issued until the transfer of good title to the Corporation of the Deposit Securities and the payment of the Balancing Amount have been completed (subject to certain exceptions).

Beneficial owners may sell their Shares in the secondary market, but must accumulate enough Shares to constitute a Creation Unit in order to redeem through a Participating Organization. Redemption orders must be placed by or through a Participating Organization. Creation Units will be redeemable at their NAV per Share next determined after receipt of a request for redemption by the Corporation. The Corporation has the right to make redemption payments in respect of the Fund in cash, ''in-kind,'' or a combination of both, provided the value of its redemption payments on a Creation Unit basis equals the NAV, *times* the appropriate number of Shares of the Fund. The Corporation currently contemplates that Creation Units of the Fund will be redeemed principally ''in-kind'' (together with a balancing cash payment), except in certain circumstances.

In some instances, the Creation List may differ slightly from the Redemption List. The Corporation will also deliver to the redeeming Beneficial Owner in cash the ''Cash Redemption Payment,'' which on any given business day will be an amount calculated in the same manner as that for the Balancing Amount, although the actual amounts may differ if the Redemption List is not identical to the Creation List applicable for purchases on the same day. To the extent that the Redemption Securities on the Redemption List have a value greater than the NAV of the Shares being redeemed, a cash payment equal to the difference is required to be paid by the redeeming party to the Corporation. The Corporation may also make redemptions in cash in lieu of transferring one or more Redemption Securities to a redeemer if the Corporation determines, in its discretion, that such method is warranted. This could occur, for example, when a redeeming entity is restrained by regulation or policy from transacting in certain Redemption Securities, such as the presence of such Redemption Securities on a redeeming investment banking firm's restricted list.

Redemption of Shares in Creation Units will be subject to a Transaction Fee imposed in the same amount and manner as the Transaction Fee incurred in purchasing such Shares. Redemption of Shares may be made either through the Clearing Process or through the facilities of DTC.

Dividends and Distributions. Dividends from net investment income will be declared and paid at least annually by the Fund in the same manner as by other open-end investment companies. Dividends will be paid to beneficial owners of record in the manner described below. Distributions of realized capital gains, if any, generally will be declared and paid once a year, but the Fund may make distributions on a more frequent basis to comply with certain distribution requirements.

Dividends and other distributions on the Shares will be distributed on a pro rata basis to beneficial owners of such Shares. Dividend payments will be made through the DTC and the DTC Participants to beneficial owners on the record date with amounts received from the Fund.[19]

Shareholder Reports. The Corporation will furnish to the DTC participants for distribution to beneficial owners of Shares of the Fund notifications with respect to each distribution, as well as an annual notification as to the tax status of the Fund's distributions. The Corporation will also furnish to the DTC participants for distribution to beneficial owners of the Shares the Corporation's annual report containing audited financial statements, as well as copies of annual and semi-annual shareholder reports.

Availability of Information Regarding the Shares and Underlying Index. The Exchange, through the facilities of the Consolidated Tape Association or a major market data vendor, will disseminate at least every 15 seconds during Exchange trading hours an amount per Share representing the sum of (1) the estimated Balancing Amount and (2) the current value of the Deposit Securities, on a per-Share basis. This amount is referred to herein as the Intraday Indicative Value (''IIV''). In addition, the value of the Underlying Index will be updated intra-day on a real-time basis as individual component securities change in price and will be disseminated at least every 15 seconds during Exchange trading hours by one or more major market data vendors. The value for the Underlying Index also will be disseminated by one or more major market data vendors once each trading day based on closing prices in the relevant exchange market.

If the Index includes non-U.S. stocks not listed on a national securities

[19] The Exchange states that the Corporation will not make the DTC book-entry dividend reinvestment service available for use by beneficial owners for reinvestment of their cash proceeds, but certain individual brokers may make a dividend reinvestment service available to their clients. The Corporation's disclosure documents will inform investors of this fact and direct interested investors to contact their brokers to ascertain the availability and a description of such a service through such brokers.

exchange, there may be an overlap in trading hours between the foreign and U.S. markets with respect to the Fund. In such a case, the applicable IIV would be updated at least every 15 seconds to reflect price changes in the applicable foreign market or markets, with such prices converted into U.S. dollars based on the currency exchange rate. When the foreign market or markets are closed and U.S. markets are open, the IIV would be updated at least every 15 seconds to reflect changes in currency exchange rates after the foreign market closes. The IIV will also include the applicable cash component for the Fund.

The NAV for the Fund will be calculated by BNY Asset Management between 4:30 p.m. and 6:30 p.m. Eastern Time (''ET'') each trading day, and, once calculated, BNY Asset Management and the Fund will disseminate the NAV so that it is available to all market participants at the same time.[20] The updated NAV will be available on the Corporation's Web site at the same time that the NAV is made available to other market participants. The Corporation's Web site will also include: (1) The Fund's Prospectus and Statement of Additional Information; (2) information regarding the Index; (3) the prior business day's NAV; (4) the mid-point of the bid-ask spread at the time of calculation of the NAV (the ''Bid-Ask Price''); [21] (5) a calculation of the premium or discount to the Bid-Ask Price at the time of calculation of the NAV against such NAV; (6) the component securities of the Index; and (7) a description of the methodology used in the foregoing computations (including weighting and number of Shares held).

The Exchange states that the closing prices of the Fund's Deposit Securities are readily available from, as applicable, the relevant exchange, automated quotation systems, and published or other public sources or on-line information services that are major market data vendors, such as Quotron, Bloomberg, or Reuters. Similarly, information regarding market, prices, and volume of the Shares will be broadly available on a real-time basis throughout the trading day. The previous day's closing price and volume information for the Shares will be published daily in the financial sections of many newspapers.

Trading Rules and Criteria for Initial and Continued Listing. The Fund Shares will trade as equity securities and will therefore be subject to the Exchange rules governing the trading of equity securities.[22] The Shares will trade on the Exchange from 9:30 a.m. until 4:15 p.m. ET. The minimum price variation for quoting will be $.01.

Although the Fund does not meet the initial listing requirements of Section 703.16(C)(2)(b) of the NYSE Listed Company Manual, the Exchange represents that the Fund will be subject to the criteria for continued listing of Investment Company Units under Section 703.16(H) of the NYSE Listed Company Manual.[23] A minimum of one Creation Unit (100,000 shares) will be required to be outstanding at the start of trading. This minimum number of Shares of the Fund required to be outstanding at the start of trading will be comparable to requirements that have been applied to previously traded series of Investment Company Units.

Information Memo. The Exchange will distribute an Information Memo (''Memo'') to its members in connection with the trading of the Shares of the Fund. The Memo will discuss the special characteristics and risks of trading this type of security. In addition, the Memo, among other things, will discuss what the Fund is, how the Fund's shares are created and redeemed, the requirement that members and member firms deliver a prospectus or product description to investors purchasing shares of the Fund prior to or concurrently with the confirmation of a transaction (referring members and member organizations to NYSE Rule 1100(b)),[24] the applicable Exchange rules, dissemination information, trading information, and the applicable suitability rules (including NYSE Rule 405).[25] The Memo will also discuss exemptive, no-action, and interpretive relief granted by the Commission from Section 11(d)(1) and certain other rules under the Act, if applicable.

Trading Halts. In order to halt the trading of the Shares, the Exchange may consider, among other things, factors such as the extent to which trading is not occurring in an underlying security(ies) and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the Fund's Shares is subject to trading halts caused by extraordinary market volatility pursuant to NYSE Rule 80B. The Exchange also may halt trading in the Fund if the Index Value or IIV applicable to the Fund is no longer calculated or disseminated, as provided by NYSE Rule 1100(f)(1).[26]

Surveillance. The Exchange will utilize its existing surveillance procedures applicable to equity securities to monitor trading of the Shares of the Fund. Surveillance procedures applicable to trading of the Shares are comparable to those applicable to other Investment Company Units currently trading on the Exchange. The Exchange represents that such surveillance procedures are adequate to properly monitor the trading of the Fund Shares. The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows, and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange may also obtain trading information via the Intermarket Surveillance Group (''ISG'') from other exchanges who are members or affiliate members of ISG.

[20] The Exchange represents that if the NAV is not disseminated to all market participants at the same time, the Exchange will halt trading in the Fund Shares.

[21] The Bid-Ask Price of the Fund is determined using the highest bid and the lowest offer on the Exchange on which the Shares are listed for trading.

[22] E-mail from Michael Cavalier, Assistant General Counsel, NYSE, to Edward Cho, Special Counsel, Division, Commission, dated June 4, 2007 (confirming the Exchange rules that would govern the trading of the Shares).

[23] June 21 Confirmation.

[24] The Exchange states that the Commission has granted the Corporation an exemption from certain prospectus delivery requirements under Section 24(d) of the 1940 Act. *See* Investment Company Act of 1940 Release No. 27594 (December 7, 2006), 2006 SEC LEXIS 2920 (December 15, 2006) (812–13264) (''Exemptive Order''). The Exchange further states that any product description used in reliance on the Exemptive Order would comply with all representations made therein and all conditions thereto. The Memo will advise members and member organizations that delivery of a prospectus to customers in lieu of a product description would satisfy the requirements of NYSE Rule 1100(b), which sets forth certain product description delivery requirements that apply only to a series of Investment Company Units as to which the sponsor or other appropriate party has obtained an exemption from Section 24(d) of the 1940 Act.

[25] Specifically, the Memo to members will note that, before an Exchange member, member organization, or employee thereof recommends a transaction in Fund Shares, a determination must be made that the recommendation is in compliance with all applicable Exchange and Federal rules and regulations, including due diligence obligations under NYSE Rule 405 (Diligence as to Accounts).

[26] NYSE Rule 1100(f)(1) states, in relevant part, that if the estimate, updated at least every 15 seconds, of the IIV or the Index value applicable to a series of Investment Company Units is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or the Index value occurs. If the interruption to the dissemination of the IIV or the Index value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. *See also* Section 703.16(H) of the NYSE Listed Company Manual (setting forth additional circumstances that could trigger the suspension of trading and delisting of the Shares).

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act,[27] in general, and furthers the objectives of Section 6(b)(5),[28] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

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

The Exchange has neither solicited for nor received any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–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–NYSE–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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–46 and should be submitted on or before July 23, 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 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[29] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[30] which requires that the rules of an exchange be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Although Section 703.16 of the NYSE Listed Company Manual permits the Exchange to either originally list and trade Investment Company Units or trade Investment Company Units pursuant to unlisted trading privileges, the Shares do not meet the ''generic'' listing requirements of Section 703.16 of the NYSE Listed Company Manual (permitting listing in reliance upon Rule 19b–4(e)[31] under the Act) because the components of the Index underlying the Fund do not meet the initial listing requirements of Section 703.16(C)(2)(b)(ii) of the Listed Company Manual. Section 703.16(C)(2)(b)(ii) of the NYSE Listed Company Manual requires that, upon the initial listing of any series of Investment Company Units, the component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio each must have minimum worldwide trading volume during each of the last six months of at least 250,000 shares. The Exchange represents that Index component stocks each having a worldwide monthly trading volume of at least 250,000 shares in the aggregate account for approximately 86.2% of the weight of the Index in the aggregate during each month from November 2006 through April 2007. Because such percentage misses the minimum required threshold by approximately 3.8%, the Shares cannot be listed and traded pursuant to Section 703.16 of the NYSE Listed Company Manual. The Commission believes, however, that the listing and trading of the Shares would be consistent with the Act. The Commission notes that it has previously approved exchange rules that contemplate the listing and trading of derivative securities products based on indices that were composed of stocks that did not meet certain quantitative generic listing criteria by only a slight margin.[32] The Commission also notes that the Fund is substantially similar in structure and operation to other HealthShares™ exchange-traded funds, the shares of which are currently listed and trading on the Exchange.[33]

[27] 15 U.S.C. 78f.

[28] 15 U.S.C. 78f(b)(5).

[29] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[30] 15 U.S.C. 78f(b)(5).

[31] 17 CFR 240.19b–4(e).

[32] *See* Securities Exchange Act Release Nos. 55699 (May 3, 2007), 72 FR 26435 (May 9, 2007) (SR–NYSEArca–2007–27) (approving the listing and trading of shares of the iShares FTSE NAREIT Residential Index Fund where the weighting of the five highest components of the underlying index was marginally higher than that allowed by NYSE Arca, Inc.'s relevant generic listing standards); and 52826 (November 22, 2005), 70 FR 71874 (November 30, 2005) (SR–NYSEArca–2005–67) (approving the listing and trading of shares of the iShares Dow Jones U.S. Energy Sector Index Fund and the iShares Dow Jones U.S. Telecommunications Sector Index Fund where the weightings of the most heavily weighted component stock and the five highest components of the underlying indexes, respectively, were higher than that required by NYSE Arca, Inc.'s relevant generic listing standards). *See also* Securities Exchange Act Release No. 46306 (August 2, 2002), 67 FR 51916 (August 9, 2002) (SR–NYSE–2002–28) (approving the trading pursuant to unlisted trading privileges of shares of Vanguard Total Stock Market VIPERs, iShares Russell 2000 Index Funds, iShares Russell 2000 Value Index Funds, and iShares Russell 2000 Growth Funds, none of which met the trading volume requirement of the relevant generic listing criteria for NYSE).

[33] Telephone conversation between Michael Cavalier, Assistant General Counsel, NYSE, and Edward Cho, Special Counsel, Division, Commission, on June 4, 2007 (confirming that the shares of other HealthShares™ exchange-traded funds were listed pursuant to Rule 19b–4(e) under the Act because they met the ''generic'' listing

Continued

The Commission further believes that the proposal is consistent with Section 11A(a)(1)(C)(iii) of the Act,[34] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. The Exchange, through the facilities of the Consolidated Tape Association or a major market data vendor, will disseminate the IIV at least every 15 seconds during Exchange trading hours. In addition, one or more major market data vendors will calculate and disseminate an updated, intra-day value of the Underlying Index on a real-time basis during Exchange trading hours and the closing value of such Underlying Index once each trading day. BNY Asset Management will calculate and disseminate once each trading day the NAV to all market participants at the same time. The Corporation's Web site at *http://www.healthsharesinc.com* will include information pertaining to the Index and its component securities, the Index Methodology, the NAV and the prior day's NAV, the Bid-Ask Price and related information, the Prospectus and Statement of Additional Information, and other relevant trading information. The Advisor will make available on each business day, prior to the opening of trading on the Exchange, the Creation List and Redemption List. Moreover, the closing prices of the Fund's Deposit Securities are readily available from the relevant exchange, automated quotation systems, and major market data vendors. Information regarding the market, closing prices, and trading volume of the Shares will be publicly available on a real-time basis throughout the trading day and in the daily publications of financial news services. In sum, the Commission believes that the proposal is reasonably designed to facilitate access to information that could assist investors in properly valuing the Shares.

The Commission finds that the Exchange's proposed rules and procedures for trading of the Shares are consistent with the Act. The Shares will trade as equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

In support of this proposal, the Exchange has made the following representations:

(1) The Exchange would utilize its existing surveillance procedures applicable to equity securities to monitor trading of the Shares of the Fund. Surveillance procedures applicable to trading of the Shares are comparable to those applicable to other Investment Company Units currently trading on the Exchange. The Exchange represents that such surveillance procedures are adequate to properly monitor the trading of the Fund Shares. The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows, and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. The Exchange may also obtain trading information via the ISG from other exchanges who are members or affiliate members of ISG.

(2) The Index Administrator is neither a registered broker-dealer nor an ''affiliated person,'' as defined in Section 2(a)(3) of the 1940 Act, or an affiliated person of an affiliated person of the Fund, Advisor, Sub-Advisor, Distributor, or the Corporation.

(3) In order to halt the trading of the Shares, the Exchange may consider, among other things, factors such as the extent to which trading is not occurring in an underlying security and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in the Fund's shares is subject to trading halts caused by extraordinary market volatility pursuant to NYSE Rule 80B. The Exchange also may halt trading in the Fund if the Index Value or IIV applicable to the Fund is no longer calculated or disseminated, as provided by NYSE Rule 1100(f)(1).[35]

(4) The Exchange will distribute a Memo to its members in connection with the trading of the Shares of the Fund. The Memo will discuss the special characteristics and risks of trading this type of security. In addition, the Memo, among other things, will discuss what the Fund is, how the Fund's shares are created and redeemed, the requirement that members and member firms deliver a prospectus or product description to investors purchasing shares of the Fund prior to or concurrently with the confirmation of a transaction,[36] the applicable Exchange rules, dissemination information, trading information, and the applicable suitability rules. The Memo will also discuss exemptive, no-action, and interpretive relief granted by the Commission from Section 11(d)(1) and certain other rules under the Act, if applicable.

This order is conditioned on the Exchange's adherence to the foregoing representations.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As referenced above, the Commission notes that the Fund is substantially similar in structure, operation, and function to other HealthShares™ exchange-traded funds, the shares of which are currently listed and trading on the Exchange pursuant to Rule 19b–4(e) under the Act.[37] In addition, the Commission notes that it has previously approved exchange rules that contemplate the listing and trading of derivative securities products based on indices that were composed of stocks that did not meet certain quantitative generic listing criteria by similar amounts.[38] Although the Fund Shares do not meet the initial listing requirement of Section 703.16(C)(2)(b)(ii) of the NYSE Listed Company Manual [39] and therefore cannot be listed pursuant to Rule 19b–4(e), the Commission believes that the Shares are substantially similar to the other HealthShares™ trading on the Exchange and notes that the Shares will otherwise comply with all other ''generic'' listing requirements under Section 703.16.[40] The listing and trading of the Shares do not appear to present any new or significant regulatory concerns. Therefore, the Commission believes that accelerating approval of this proposal would allow the Shares to trade on the Exchange without undue delay and should generate additional competition in the market for such products.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[41] that the proposed rule change (SR–NYSE–2007–46), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

standards under Section 703.16 of the NYSE Listed Company Manual). *See* 17 CFR 240.19b–4(e).

[34] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[35] *See supra* note 26.

[36] *See supra* note 24.

[37] *See supra* note 33.

[38] *See supra* note 32.

[39] *See supra* note 8.

[40] *See id.*

[41] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[42]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12676 Filed 6–29–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISISON

[Release No. 34–55964; File No. SR–OC–2007–01]

Self-Regulatory Organizations; OneChicago, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Nullification Policy for Error Trades and Mistrades

June 26, 2007.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on June 4, 2007 OneChicago, LLC (''OneChicago'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. OneChicago also has filed the proposed rule change with the Commodity Futures Trading Commission (''CFTC'').

OneChicago filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act[3] on June 1, 2007.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago is proposing to amend its Error Trade Nullification Policy (''Error Trade Policy'').

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

OneChicago is proposing to amend its Error Trade Policy. The proposed rule change would make substantive changes to update and clarify the Error Trade Policy based on the Exchange's experience and make other non-substantive, conforming, and stylistic changes. Among others, the proposed rule change would amend the ''no bust'' range, add the term ''Questioned Trade'', permit trades within the ''no bust'' range to be busted or adjusted if there were an Exchange system failure, require traders or customers with a contingency trade triggered by a trade that is questioned to call the OneChicago Operations Management (''OOM'') Help Desk within five minutes of notification of a questioned trade, and permit the parties to make restitution by making a reasonable cash payment to compensate for any losses or costs directly incurred as a result of the error.

The proposed rule change would set the ''no bust'' range for trades that are questioned (''Questioned Trades'') at fixed amounts. Currently, the ''no bust'' range is tiered as follows: if the reasonable market price is less than or equal to $10, the ''no bust'' range is 10% above or below the reasonable market price; if the reasonable market price is between $10 and $100, the ''no bust'' range is 5% above or below the reasonable market price; and, lastly, if the reasonable market price is higher than $100, the ''no bust'' range is 3% above or below the reasonable market price. Under the proposed rule change, the ''no bust'' range will also be tiered and based on the reasonable market price as set by the OOM. The new ''no bust'' range would be as follows: if the reasonable market price were less than $25, the ''no bust'' range would include any price that is no greater than $0.50 from the reasonable market price; if the reasonable market price were equal to or higher than $25 but less than $100, the ''no bust range'' would be any price that is no greater than $1.00 from the reasonable market price; and for reasonable market prices at or above $100, the no bust range would be any price that is within one percent of the reasonable market price.

The proposed rule change would also add language that would clarify that the Exchange may bust a trade outside the ''no bust'' range or require that a price adjustment be made. If OOM determines that a price adjustment is appropriate, the proposed rule change would permit OOM to set or allow a price adjustment at or near the reasonable price range plus (in the case of a buy-side error) or minus (in the case of sell-side error) an amount up to and including the relevant ''no bust'' range for the contract. Under the proposed rule change, an OOM directed price adjustment would either be made by having the OOM Help Desk cancel (bust) the original trade and reenter it at the adjusted price or by having the members on either side of the trade make a cash-payment directly between them. Additional language would be added to make it clear that members are responsible to and for their respective customers and that in no event should participants to an error trade take action to adjust the price or make cash payment without the knowledge and approval of OOM.

The proposed rule change would eliminate the requirement that OOM may only provide assistance to Registered Trading Privilege Holders (''RTPH'') for error trades. The Exchange believes it is appropriate to permit OOM to provide assistance to RTPHs and other persons.

Currently, if a Questioned Trade is inside the no bust range, the trade will not be busted. The proposed rule change would permit a Questioned Trade within the no bust range to be busted if there were an Exchange system failure. The proposed rule change would also add new language that would emphasize to the parties of a Questioned Trade that they should not assume that a trade would be busted or not busted until the OOM makes a final decision.

The contingency portion of the Error Trade Policy would be amended to place a time limit on requests by traders to bust or adjust a contingent trade triggered by a Questioned Trade. Under the proposed rule change, the traders or customers on either side of a contingent trade would be required to call the OOM Help Desk no later than 5 minutes after the OOM initially notified the market that the triggering trade was in question. The proposed amendment to the contingency provision would also permit adjusting the price of the trade.

The proposed rule change would also add language that would make it clear that the party responsible for a mistrade would be required to report to the OOM Help Desk the details of any transactions conducted pursuant to Part A or B of the Error Trade Policy that occurred outside of the OneChicago system.

[42] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 7 U.S.C. 7a–2(c).

The proposed amendments to Part B.1 of the Error Trade Policy, (trades not brought to the attention of OOM within eight minutes or within five minutes for contingency trades), would permit restitution in the form of a reasonable cash payment, if the parties agreed to do so in order to compensate for any losses or costs directly incurred as a result of the error. Under the proposed rule change, the parties to the trade could also agree to retain the trade but make reasonable cash payment to compensate for any losses or costs caused by the error. The proposed rule change would also add new language to this Part clearly stating that in no event should participants take action to adjust the price or make cash payment without the knowledge of OOM.

Part B.2 of the Error Trade Policy dealing with arbitration of disputes would be amended to require that a written notice of arbitration claim be given to the National Futures Association in addition to the OOM Help Desk. The proposed rule change would delete portions of Part B.2 requiring the owner of the account on the other side of an error to be a RTPH or subject to OOM's jurisdiction to bring an arbitration claim and limiting the recovery under arbitration to the difference between the error trade price and the true market price for the relevant contract immediately before the error trade occurred.

Part C of the current Error Trade Policy dealing with voluntary adjustment of trade price for those trades outside the ''no bust'' range reported within eight minutes would be deleted and the current Part D, Schedule of Administrative Fees, would be renumbered to be Part C. Since the proposed rule change would permit the OOM to direct the traders to make a price adjustment, this provision is no longer necessary. Therefore, the parties may no longer independently decide to keep and adjust trades that are reported within eight minutes of when the trade occurred or within five minutes of when the trade was questioned for contingency trades and outside of the ''no bust'' range. This adjustment must be made by the Exchange.

The Schedule of Administrative fees would be amended to make administrative fees permissive rather than mandatory. Under the proposed rule change, if OneChicago adopts an administration fee schedule, the party responsible for the Questioned Trade would be required to pay a fee in accordance with the fee schedule. The proposed rule change would also add two new provisions, Part D, which would permit the Exchange to bust any trades affected by a system failure or partial failure whether or not the trades occurred within the ''no bust'' range and Part E, which would permit the Exchange to bust or adjust any trades that are in violation of OneChicago rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[4] in general and Section 6(b)(5) of the Act[5] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

OneChicago does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(7) of the Act.[6] Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[7]

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–OC–2007–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OC–2007–01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*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 OneChicago. 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–OC–2007–01 and should be submitted on or before July 23, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–12743 Filed 6–29–07; 8:45 am]

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[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(7).

[7] 15 U.S.C. 78s(b)(1).

[8] 17 CFR 200.30–3(a)(73).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2007–0049]

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Railroad Retirement Board (RRB))—Match Number 1308

AGENCY: Social Security Administration (SSA).

ACTION: Notice of the renewal of an existing computer matching program

which is scheduled to expire on October 1, 2007.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces the renewal of an existing computer matching program that SSA is currently conducting with RRB.

DATES: SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The renewal of the matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner for Income Security Programs, 252 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: June 5, 2007.

Manuel J. Vaz,

Acting Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Social Security Administration (SSA) With the Railroad Retirement Board (RRB)

A. Participating Agencies

SSA and RRB.

B. Purpose of the Matching Program

The purpose of this matching program is to establish the conditions, terms and safeguards under which RRB agrees to the disclosure of RRB annuity payment data to SSA. This disclosure will provide SSA with information necessary to verify an individual's self-certification of eligibility for prescription drug subsidy assistance under the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA). The disclosure will also enable SSA to implement a Medicare outreach program mandated by section 1144 of title XI of the Social Security Act. Information disclosed by RRB will enable SSA to identify individuals to determine their eligibility for Medicare Savings Programs (MSP) and subsidized Medicare prescription drug coverage and enable SSA, in turn, to identify these individuals to the States.

C. Authority for Conducting the Matching Program

The legal authority for SSA to conduct this matching activity is contained in section 1860D–14 (42 U.S.C. 1395w–114) and section 1144 (42 U.S.C. 1320b–14) of the Act.

D. Categories of Records and Individuals Covered by the Matching Program

1. Specified Data Elements Used in the Match

a. RRB will electronically furnish SSA with the following RRB annuitant data: Name, Social Security Number, date of birth, RRB claim number, and annuity payment.

b. SSA will match this file against the Medicare database (MDB).

2. Systems of Records

RRB will provide SSA with electronic files containing RRB annuity payment, address changes and subsidy changing events data on Qualified RRB beneficiaries from its systems of records, RRB–22 Railroad Retirement Survivors and Pension Benefits Systems (CHICO). RRB will also provide SSA with electronic files of all qualified RRB beneficiaries from its system of records, RRB–20 (Medicare) and newly qualified RRB beneficiaries from RRB's Post-Entitlement System (PSRRB). Pursuant to 5 U.S.C. 552a(b)(3), RRB has established routine uses to disclose the subject information.

SSA will match the RRB information with the electronic data from SSA's system of records, No. 60–0321, MDB (Medicare Database).

E. Inclusive Dates of the Matching Program

The matching program will become effective upon signing of the agreement by all parties to the agreement and approval of the agreement by the Data Integrity Boards of the respective agencies, but no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. E7–12666 Filed 6–29–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 5853]

30-Day Notice of Proposed Information Collection: DS–230, Application for Immigrant Visa and Alien Registration, OMB Number 1405–0015

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:* Application for Immigrant Visa and Alien Registration.

• *OMB Control Number:* 1405–0015.

• *Type of Request:* Extension of a Currently Approved Collection.

• *Originating Office:* Bureau of Consular Affairs, Department of State (CA/VO).

• *Form Number:* DS–230.

• *Respondents:* Immigrant visa applicants.

• *Estimated Number of Respondents:* 475,000 per year.

• *Estimated Number of Responses:* 475,000 per year.

• *Average Hours per Response:* 2 hours.

• *Total Estimated Burden:* 950,000 hours per year.

• *Frequency:* Once per respondent.

• *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 2, 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: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Lauren Prosnik of the Office of Visa Services, U.S. Department of State, 2401 E. Street, NW., L–603, Washington, DC 20522, who may be reached at 202–663–2951.

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:

Form DS–230 is used to elicit information to determine the eligibility of aliens applying for immigrant visas.

Methodology:

The information will be collected in person at posts.

Dated: June 7, 2007.

Stephen A. Edson,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E7–12748 Filed 6–29–07; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 5854]

30–Day Notice of Proposed Information Collection: Form DS–117, Application to Determine Returning Resident Status, OMB Control Number 1405–0091

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:* Application to Determine Returning Resident Status.

• *OMB Control Number:* 1405–0091.

• *Type of Request:* Extension of a Currently Approved Collection.

• *Originating Office:* Bureau of Consular Affairs, Department of State (CA/VO).

• *Form Number:* DS–117.

• *Respondents:* Aliens applying for special immigrant classification as a returning resident.

• *Estimated Number of Respondents:* 875 per year.

• *Estimated Number of Responses:* 875.

• *Average Hours Per Response:* 30 minutes.

• *Total Estimated Burden:* 438 hours per year.

• *Frequency:* Once per respondent.

• *Obligation to Respond:* Required to Obtain or Retain a Benefit.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from July 2, 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: *Katherine_T._Astrich@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: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Lauren Prosnik of the Office of Visa Services, U.S. Department of State, 2401 E. Street, NW. L–603, Washington, DC 20522, who may be reached at (202) 663–2951.

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:

Form DS–117 is used by consular officers to determine the eligibility of an alien applicant for special immigrant status as a returning resident. Methodology:

Information will be collected in person at posts abroad. Additional Information:

Dated: June 7, 2007.

Stephen A. Edson,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. E7–12749 Filed 6–29–07; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 5852]

Meeting of the Environmental Affairs Council (EAC) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR)

ACTION: Notice and request for comments.

SUMMARY: The Department of State and the Office of the United States Trade Representative (USTR) are providing notice that, as set forth in Chapter 17 (Environment) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR), the United States and the other CAFTA–DR Parties (''CAFTA–DR Parties'' or ''the Parties'')—intend to hold the second meeting of the Environment Affairs Council (the ''Council'') in Guatemala City, Guatemala on July 24, 2007. The Council will hold an information session for members of the public on July 24, 2007, at 2 p.m., at the Guatemala City Marriott Hotel, 7 Avenue 15–45, Zona 9, Guatemala City, Guatemala 01009. The purpose of the Council meetings is detailed below under **SUPPLEMENTARY INFORMATION.**

The meeting agenda will include discussions of: (1) A review of the implementation of Chapter 17 obligations, including a report on the operation of the Secretariat for Environmental Matters, established pursuant to Article 17.7 of the Chapter; (2) working procedures for the Secretariat; (3) anticipated activities and operations for the Secretariat; and (4) cooperative environmental activities the Parties are undertaking consistent with the CAFTA–DR Environmental Cooperation Agreement (ECA). The Department of State and USTR invite interested agencies, organizations, and members of the public to submit written comments or suggestions regarding agenda items.

In preparing written comments or suggestions, we encourage submitters to refer to:

- The CAFTA–DR's Environment Chapter including Annex 17.9, and the Final Environmental Review of CAFTA–DR, available at: *http://www.ustr.gov/Trade_Agreements/Bilateral/CAFTA/Section_Index.html.*
- The ECA, available at: *http://www.state.gov/g/oes/rls/or/42423.htm.*
- Communiqué of the EAC and Work Plan from the 2006 Council meeting at: *http://www.state.gov/g/oes/env/trade/index.htm.*

DATES: To be assured of timely consideration, comments are requested no later than July 7, 2007.

ADDRESSES: Written comments or suggestions should be submitted to both:

(1) Rachel Kastenberg, U.S. Department of State, Bureau of Oceans, Environment, and Science, Office of Environmental Policy by electronic mail at *KastenbergRL@state.gov* with the subject line ''CAFTA–DR EAC Meeting'' or by fax to (202) 647–5947 or (202) 647–1052; and (2) Mara M. Burr, Deputy Assistant United States Trade Representative for Environment and Natural Resources, Office of the United States Trade Representative by electronic mail at *MBurr@ustr.eop.gov* with the subject line ''CAFTA–DR EAC Meetings'' or by fax to (202) 395–6865.

FOR FURTHER INFORMATION CONTACT: Rachel Kastenberg, Telephone (202) 647–6777 or Mara M. Burr, Telephone (202) 395–7320.

SUPPLEMENTARY INFORMATION: Article 17.5 of Chapter 17 of CAFTA–DR establishes an Environment Affairs Council (the ''Council''). Article 17.5 requires the Council to meet at least once a year, unless the Parties otherwise agree, to discuss the implementation of, and progress under, Chapter 17. Article 17.5 also requires, unless the Parties otherwise agree, that each meeting of the Council include a session in which members of the Council have an opportunity to meet with the public to discuss matters relating to the implementation of Chapter 17.5.

In addition, in Article 17.9 of the Chapter, the Parties recognize the importance of strengthening capacity to protect the environment and to promote sustainable development in concert with strengthening trade and investment relations and their commitment to expanding their cooperative relationship on environmental matters. Article 17.9 also notes that the Parties have negotiated an Environmental Cooperation Agreement (ECA) that sets out certain priority areas of cooperation on environmental activities. These priority areas also are reflected in Annex 17.9 and include, among other things, conserving and managing shared, migratory, and endangered species in international trade; exchanging information on domestic implementation of multilateral environmental agreements that all the Parties have ratified; and strengthening each Party's environmental management systems, including reinforcing institutional and legal frameworks and the capacity to develop, implement, administer, and enforce environmental laws, regulations, standards, and polices.

The Council held its first meeting on May 24, 2006, in Guatemala City, Guatemala. At that meeting, the Council discussed issues of mutual concern related to Chapter 17 of the CAFTA–DR, including the establishment of a Secretariat for Environmental Matters (''the Secretariat''). The Council met for the second time on July 27, 2006, to sign the Secretariat Agreement and appoint a General Coordinator for the Secretariat. At its third meeting, the Council will, among other things, (1) review the implementation of Chapter 17 obligations; (2) receive a report on the activities of the Secretariat; (3) discuss anticipated activities and operations for the Secretariat; (4) discuss working procedures for the Secretariat; and (5) review the status of cooperative environmental activities the Parties are implementing consistent with the CAFTA–DR ECA. At this meeting, a framework for future regional environmental cooperation will also be discussed.

The public is advised to refer to the State Department Web site at *http://www.state.gov/g/oes/env/* for further information related to the Council meetings.

Dated: June 26, 2007.

Harvey S. Lee,

Acting Director, Office of Environmental Policy, Department of State.

[FR Doc. E7–12751 Filed 6–29–07; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 5829]

Announcement of Meetings of the International Telecommunication Advisory Committee

SUMMARY: This notice announces meetings of the International Telecommunication Advisory Committee (ITAC) to prepare advice on U.S. positions for a meeting of the Advisory and Study Groups of the International Telecommunication Union—Development Sector (ITU–D), to prepare advice on U.S. positions for a meeting of the Radio Assembly of the International Telecommunication Union—Radiocommunication Sector (ITU–R), and to prepare advice on U.S. positions for a meeting of the Advisory Group of the International Telecommunication Union—Telecommunication Standardization Sector (ITU–T).

The ITAC will meet as the ITAC–D to prepare for the ITU–D September 2007

Advisory and Study Group meeting on July 19 and 26, and August 2 and 9, 2007, in the Washington, DC metro area. All meetings are from 2 p.m.–4 p.m. EDT.

The ITAC will meet as the ITAC–R to prepare for the next ITU–R Radio Assembly weekly on Thursdays from July 26 through October 11, 2007 from 10 a.m.–noon, in the Washington, DC metro area.

The ITAC will meet as the ITAC–T to prepare for the ITU–T December 2007 Advisory Group meeting, in particular addressing restructuring the ITU–T Study Group structure, from 2 p.m.–4 p.m. EDT on July 18, 2007, in the Washington, DC metro area.

The actual locations and other meeting particulars will be announced on the ITAC–D and ITAC–T reflectors or may be obtained from the secretariat, *(minardje@state.gov).* The meetings are open to the public.

June 21, 2007.

Doreen McGirr,

Foreign Affairs Officer, EEB/CIP/MA, Department of State.

[FR Doc. 07–3216 Filed 6–29–07; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice Before Waiver With Respect to Land at Roanoke Regional Airport, Roanoke, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is publishing notice of proposed release of 1.2 acres of land at the Roanoke Regional Airport, Roanoke, Virginia to the City of Roanoke (Property Map Parcel N) in exchange for 1.2 acres of land with frontage on Barnes Road (Property Map Parcel M). The land swap will allow the airport to control the land at the bottom of an existing drainage conveyance channel. Releasing the land does not adversely impact the Airport and the land is not needed for airport development as shown on the Airport Layout Plan. Fair Market Value of the land has been assessed for both parcels and will be a beneficial exchange for the Airport Sponsor.

DATES: Comments must be received on or before August 1, 2007.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Terry J. Page, Manager, FAA Washington Airports District Office, P.O. Box 16780, Washington, DC 20041–6780.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Jacqueline L. Shuck, Executive Director, Roanoke Regional Airport, at the following address: Jacqueline L. Shuck, Executive Director, Roanoke Regional Airport Commission, 5202 Aviation Drive, Roanoke, Virginia 24012–1148.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Page, Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166, telephone (703) 661–1354, fax (703) 661–1370, e-mail *Terry.Page@faa.gov.*

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61) (AIR 21) requires that a 30 day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Chantilly, Virginia, on June 20, 2007.

Terry J. Page,

Manager, Washington Airports District Office, Eastern Region.

[FR Doc. 07–3200 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirteenth Meeting: RTCA Special Committee 207/Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 207 Meeting, Airport Security Access Control Systems.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 207, Airport Security Access Control Systems.

DATES: The meeting will be held July 12, 2007 from 9:30 a.m.–4 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., Conference Rooms, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 207 meeting. The agenda will include:

- July 12:

- Opening Plenary Session (Welcome, Introductions, and Administrative Remarks).

- Review of Meeting Summary.

- Review of Workgroup Leaders Meetings.

- Workgroup Reports.

- Workgroup 2: Introduction.

- Workgroup 3: Local Identity Management System.

- Workgroup 4: Physical Access Control.

- Workgroup 5: Intrusion Detection Systems.

- Workgroup 6: Video Systems.

- Workgroup 7: Security Operating Center.

- Workgroup 8: Communications Infrastructure.

- Workgroup 9: General Considerations.

- Workgroup 10: Appendices.

- Closing Plenary Session (Other Business, Establish Agenda, Date and Place of Following Meetings).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 25, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–3199 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–28580]

Agency Information Collection Activities: Notice of Request for Renewal of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for renewal 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 31, 2007.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2007–28580 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.

FOR FURTHER INFORMATION CONTACT: Ms. Connie Yew, (202) 366–1078, Office of Infrastructure, 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: Preparation and Execution of the Project Agreement and Modifications.

OMB Control Number: 2125–0529.

Background: Formal agreements between State Transportation Departments and the FHWA are required for Federal-aid highway projects. These agreements, referred to as ''project agreements'' are written contracts between the State and the Federal government that define the extent of work to be undertaken and commitments made concerning a highway project. Section 1305 of the Transportation Equity Act for the 21st Century (TEA–21, Pub. L. 105–178) amended 23 U.S.C. 106(a) and combined authorization of work and execution of the project agreement for a Federal-aid project into a single action. States continue to have the flexibility to use whatever format is suitable to provide the statutory information required, and burden estimates for this information collection are not changed.

Respondents: There are 56 respondents, including 50 State Transportation Departments, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Territories of Guam, the Virgin Islands and American Samoa.

Frequency: On an on-going basis as project agreements are written.

Estimated Average Annual Burden per Response: There is an average of 476 annual agreements per respondent. Each agreement requires 1 hour to complete.

Estimated Total Annual Burden Hours: 26,656 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 25, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7–12687 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Davie County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project to improve the U.S. 64 and U.S. 601 corridors in the vicinity of Mocksville and Davie County, North Carolina. (TIP Project R–3111)

FOR FURTHER INFORMATION CONTACT: Mr. Clarence Coleman, PE, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601, Telephone: (919) 856–4350, Extension 133.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on proposed improvements to the U.S. 64 and U.S. 601 corridors in the vicinity of Mocksville and Davie County. The proposed action will be the construction of a multilane divided controlled access highway on new location from U.S. 64 east of Mocksville to U.S. 601 and/or U.S. 64 northwest of Mocksville. The purpose of this project is to improve traffic flow and safety on the U.S. 64 and U.S. 601 corridors, relieve congestion, and reduce non-essential truck traffic in the Town of Mocksville. The proposed action is consistent with the 1992 Mocksville Thoroughfare Plan and the 2003 Davie County Thoroughfare Plan.

Alternatives studied included: (1) The ''no-build'' alternative, (2) improve existing facilities, and (3) a controlled access highway on new location.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies. Citizens Informational Workshops and meetings with local officials and neighborhood groups have been and will continue to be held in the study area. Public hearings will also be held. Information on the time and place of the workshops and hearings will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of hearing.

After the June 1997 scoping meeting, the February 1998 interagency meeting, and the July 2001 meeting with local

officials, an environmental study area for the U.S. 64 and U.S. 601 corridor improvements was developed. This study area was presented to the public at a July 2001 Citizens Informational Workshop, at which time public input on this study area was received. In September 2001, NCDOT assembled an interagency project team to obtain input on the purpose and need and preliminary study alternatives. In July 2003, another Citizens Informational Workshop was held by NCDOT, showing the preliminary study alternatives to the public and seeking public input. In January 2004, the interagency project team considered the public input in selecting the detailed study alternatives for the project. A newsletter was mailed to the area residents and project stake holders in March 2004, showing the location of the U.S. 64 and U.S. 601 detailed study alternatives being considered. Due to extensive coordination with the resource agencies, local officials, and the public during the EIS process, no additional scoping meetings will be conducted for the DEIS.

To ensure that the full range of issues related to the proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 26, 2007.

Clarence W. Coleman,

Operations Engineer Raleigh, North Carolina.

[FR Doc. E7–12724 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplemental Draft Environmental Impact Statement (SDEIS): Arkansas River Valley Intermodal FAcilities, Russellville, Arkansas (Pope County)

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Intent to Prepare a SDEIs.

SUMMARY: The Federal Highway Administration (FHWA) in a joint venture with the Arkansas State Highway and Transportation Department (AHTD) and the River Valley Regional Intermodal Facilities Authority (RVRIFA), is issuing this notice to advise the public of its intent to prepare a SDEIS for developing a regional intermodal facility in the Arkansas River Valley. The U.S. Army Corps of Engineers (USACE) is functioning as a Cooperating Agency for this project and plans to adopt the River Valley Regional Intermodal Facilities Environmental Impact Statement upon completion. This project is intended to improve regional and national transportation, to serve existing industry, and to provide

FOR FURTHER INFORMATION CONTACT: Mr. Randal Looney, Environmental Specialist, Federal Highway Administration —Arkansas Division Office 700 West Capitol Avenue, Room 3130, Little Rock, AR 72201–3298.

SUPPLEMENTARY INFORMATION: The U.S. Department of Transportation Federal HIghway Administration (FHWA), in cooperation with the Arkansas State Highway and Transportation Department (AHTD) and the River Valley Regional Intermodal Facilities Authority (RVRIFA), intends to prepare a Supplemental Draft Environmental Impact Statement (SDEIS) for the Arkansas River Valley Intermodal Facilities projects. The U.S. Army Corps of Engineers (USACE) will serve as a Cooperating Agency for this project. An SDEIS will be prepared to further refine the Purpose and Need and Alternatives Analysis sections that were presented in the original Draft Environmental Impact Statement (DEIS) approved and released for public review in March 2006. This additional information will be used to ensure that the Purpose and Need for the project is described completely and that the methods and screening criteria used during the alternatives development process to identify all reasonable alternatives for the project are fully explained and disclosed.

The Arkansas River Valley Intermodal Facilities (ARVIF) project is proposed to include access to the national railway grid through the Class I Union Pacific Railroad 9UPRR), possibly through the Class III short line Dardanelle Russellville Railroad (DRRR), and local roadway access to Interstate 40 (I–40) using existing highway connections via State Highway 7 and/or the proposed improved State Highway 247. A slackwater harbor would be constructed along the McClellan-Kerr Arkansas River Navigation System (MKARNS) to connect the intermodal facilities to the U.S. Inland Waterway System. Additional services at the intermodal facility would include on-site rail/truck transfers, truck/water transfers, rail/water transfers, fright tracking, a foreign trade sub-zone, warehousing, distribution, consolidation, just-in-time inventory services, and material storage capabilities.

There are currently three public ports/terminals along the Arkansas segment of the MKARNS located in Pine bluff, Little Rock, and Fort Smith. There are no public use facilities within 30 miles of the study area, however there are three private docks within 30 miles of the study area including the following: Pine Bluff Sand & Gravel, the Port of Dardanelle; and Oakley Port.

The NEPA process to support this intermodal facility was initiated by the development of an Environmental Assessment (EA) with a defined purpose and need and supporting alternatives. The EA was approved for public dissemination by FHWA in November 2002, however it was determined that further study would be required and a Finding of No Significant Impact (FONSI) would not be issued by FHWA for the project. Further study in the subsequent DEIS released for review in March 2006 included a revised purpose and need for the project and a description of proposed reasonable alternatives identified using screening criteria based on social, environmental, and economic impacts of the proposed project. The reasonable alternatives were developed, screened, and carried forward for detailed analysis in the DEIS based on their ability to address the project purpose and need while avoiding adverse impacts to known and sensitive resources. The USACE-Little Rock District plans to adopt the FHWA ARVIF EIS for their portion of the project involving slackwater harbor previously studied under a separate EA/FONSI issued by the USACE-Little Rock District in January 2000. FHWA is considered the Lead Agency for the ARVIF EIS.

Local, State, and Federal Agencies, Native American Tribes, private organizations, citizens, and interest groups will have an opportunity to provide input into the development of the SDEIS and identify any issues that should be addressed. Notices of public meetings or public hearings relating to the SDEIS will be given through various forums providing the time and place of the meeting along with other relevant information. The SDEIS will be available for public and agency review and comment prior to the public hearings.

To ensure that the full range of issues related to this proposed action are identified and taken into account,

comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and SDEIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action.).

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: June 20th, 2007.

Sandra L. Otto,

Division Administrator, FHWA, Little Rock, Arkansas.

[FR Doc. 07–3198 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–26653]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 27 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective July 2, 2007. The exemptions expire on July 2, 2009.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, 202–366–4001, FMCSA, Room W64–224, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at *http://dmses.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at *http://dms.dot.gov.*

Background

On February 26, 2007, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (72 FR 8417). That notice listed 28 applicants' case histories. The 28 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

FMCSA was provided additional medical information by Mr. Donald V. Ports' ophthalmologist indicating that an error was made in the documentation previously provided as part of his application. Based on this information, FMCSA determined that Mr. Ports meets the current guidelines for visual acuity of at least 20/40 in each eye, therefore, he does not require a vision exemption.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 28 applications on their merits and made a determination to grant exemptions to 27 of them. The comment period closed on March 28, 2007.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 27 exemption applicants listed in this notice are in this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, macular scar, retinal detachment, corneal scarring, prosthesis, corneal opacity, optic nerve injury, persistent hyperplastic primary vitreous, aphakia, cataract, exotropia, maculopathy and loss of vision due to trauma. In most cases, their eye conditions were not recently developed. All but seven of the applicants were either born with their vision impairments or have had them since childhood. The seven individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 28 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 27 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 4 to 28 years. In the past 3 years, two of the drivers have had

convictions for traffic violations and none of them were involved in crashes.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the February 26, 2007 notice (72 FR 8417).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at docket number FMCSA–98–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used everyday by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes. (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 27 applicants, one of the applicants had traffic violations for speeding, and one applicant failed to obey a traffic sign. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to 27 of the applicants listed in the notice of February 26, 2007 (72 FR 8417).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 27 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSRs, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of

exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

Based upon its evaluation of the 28 exemption applications, FMCSA exempts Michael W. Anderson, Manassah E. Baker, Thomas H. Barnhart, Jr., Michael R. Bradford, Jeanpierre Brefort, John J. Caricola, Jr., Paul W. Caulfield, Denice M. Engle, John B. Gregory, Gary D. Hallman, Wade M. Hillmer, Michael W. Jensen, Jorge Lopez, Albert E. Marbut, Michael J. McGregan, Willie E. Nichols, John P. Perez, Robert M. Pickett II, Jeffrey W. Pike, Jr., Robert A. Reyna, Scott K. Richardson, Kyle C. Shover, Charles H. Smith, Robert G. Springer, Harry J. Stoever, Jr., Scott A. Taylor, and John E. Terrell from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on June 25, 2007.

Larry W. Minor

Acting Associate Administrator for Policy and Program Development.

[FR Doc. E7–12701 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2007–27387]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt fifty-seven individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective July 2, 2007. The exemptions expire on July 2, 2009.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at *http://dms.dot.gov.*

Background

On May 16, 2007, FMCSA published a notice of receipt of Federal diabetes exemption applications from fifty-seven individuals, and requested comments from the public (72 FR 27625). The public comment period closed on June 15, 2007 and one comment was received.

FMCSA has evaluated the eligibility of the fifty-seven applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The Agency would like to publish a correction regarding four applicants whose names were spelled incorrectly in a previous final disposition notice for 74 individuals, published on June 8, 2007, (72 FR 31876). They are Olufemi A. Aruwajoye, Brian C. Brainard, Lucas J. Jordon, and Mark W. Sadowski.

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that diabetic drivers had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The 2003 notice in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** Notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These fifty-seven applicants have had ITDM over a range of 1 to 37 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or resulted in impaired cognitive function without warning symptoms in the past 5 years (with one year of stability following any such episode). In each case, an endocrinologist has verified that the driver has demonstrated willingness to properly monitor and manage their diabetes, received education related to diabetes management, and is on a stable

insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the May 16, 2007, **Federal Register** Notice (72 FR 27625). Therefore, they will not be repeated in this notice.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologist's medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not they are related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment is considered and discussed below.

A letter of recommendation was written in favor of granting the Federal Diabetes Exemption to Mr. Richard M. Carey. It was written by his sister, Maureen Carey, who states that Mr. Carey makes his health a top priority and is very responsible in effectively managing his diabetes.

Conclusion

After considering the comment to the docket, and based upon its evaluation of the fifty-seven exemption applications, FMCSA exempts, Darrell L. Allen, Jeffery C. Badberg, Kevin W. Bender, Karry J. Benfiet, Ronnie T. Bledsoe, Ricky N. Blankenship, Kevin E. Blythe, Clayton J. Bragg, James A. Broderick, Clifford O. Bull, Richard M. Carey, Cary W. Chase, Robert L. Chestnut, Dino J. Coli, Jr., Larry E. Colson, Elijah N. Craft, Leonard Cunningham, LaVerne A. DeChausse, Jason E. Earlywine, Eddie L. Edwards, Leroy Finn, John E. Fitch, Steven L. Garland, William J. Gerlach, Anthony Giulitto, Francis J. Godwin, Ricky A. Goss, Robert J. Guilford, Lucas C. Hansen, Ryan R. Harris, Dale R. Hass, Robert P. Haught, Troy O. Heathcock, Mark E. Hogmire, Matthew P. Horner, Scott D. Leland, Dennis R. Mace, Elizabeth A. Marsh, Peggy A. Myers, Franklin C. Perrin, Herbert A. Pierce, Douglas F. Reinke, Carlos Rosa, Nicholas F. Santacroce, Timothy S. Seitz, Steven J. Shaw, Donna B. Shehan, Kenneth J. Shifton, Rick G. Skonberg, Stephanie B. Smith, Earl C. Smouse, Randall J. Stoller, Peter A. Storm, Robert H. Thompson, Jr., Robert D. Toland, Mark A. Weber, and Jeffrey A. Withers from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: June 25, 2007.

Larry W. Minor,

Acting Associate Administrator for Policy and Program Development.

[FR Doc. E7–12702 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2007 28586]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intention to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before August 31, 2007.

FOR FURTHER INFORMATION CONTACT: Kenneth Willis, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202–366–2306; or e-mail: *kenneth.willis@dot.gov*. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Application and Reporting Requirements for Participation in the Maritime Security Program.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0525.

Form Numbers: None.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: The Maritime Security Act of 2003 provides for the enrollment of qualified vessels in the Maritime Security Program Fleet. Applications and amendments are used to select vessels for the fleet. Periodic reporting is used to monitor adherence of contractors to program parameters.

Need and Use of the Information: The collected information is necessary for MARAD to determine if selected vessels are qualified to participate in the Maritime Security Program.

Description of Respondents: Respondents are vessel operators.

Annual Responses: 15.

Annual Burden: 224 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov.*

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Authority: 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: June 22, 2007.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7–12688 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Maintenance and Repair Reimbursement Pilot Program

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of application deadline.

SUMMARY: The Maritime Administration is hereby giving notice that the closing date for filing applications to enroll in the Maintenance and Repair Reimbursement Pilot Program is August 1, 2007.

FOR FURTHER INFORMATION CONTACT: Jean E. McKeever, Associate Administrator for Business and Workforce Development, Maritime Administration, 1200 New Jersey Ave., SE., Washington, DC 20590; phone: (202) 366–5737; fax: (202) 366–3511; or e-mail *Jean.McKeever@dot.gov.*

SUPPLEMENTARY INFORMATION: Section 3517 of the National Defense Authorization Act for fiscal year 2007 (Pub. L. 109–163) requires a person who is awarded a Maritime Security Program (''MSP'') agreement to also enter into an agreement with the Maritime Administration to perform maintenance and repair (''M&R'') work in United States shipyards as a condition of the MSP award. The Maritime Administration's M&R regulations do not apply the M&R condition to contractors who have already been awarded an M&R agreement. Thus, the Maritime Administration's M&R regulations make the M&R obligation mandatory on new awardees, including transferees, of MSP agreements, and voluntary for existing MSP contractors.

The John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109–364) grants a priority, during times of insufficient appropriations, in allocation of MSP payments to MSP contractors that have entered into M&R agreements. The M&R regulations were published in the **Federal Register** on February 6, 2007 (72 FR 5342–01), but did not specify a time period for submitting applications. In order to administer the priority provisions of Public Law 109–364, we need to close the application period.

(Authority: 49 CFR 1.66)

By Order of the Maritime Administrator.

Dated: June 22, 2007.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7–12686 Filed 6–29–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designation of Individuals Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of two newly-designated individuals whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.''

DATES: The designation by the Director of OFAC of the two individuals identified in this notice pursuant to Executive Order 13382 is effective on June 15, 2007.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax on-demand service, tel.: (202) 622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA''), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the ''Order''), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or

other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On June 15, 2007, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated two individuals whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of additional designees follows:

1. QANNADI, MOHAMMAD (a.k.a. GHANNADI MARAGHEH, MOHAMMAD; a.k.a. GHANNADI, MOHAMMAD; a.k.a. QANNADI MARAGHEH, MOHAMMAD), c/o ATOMIC ENERGY ORGANIZATION OF IRAN, Iran; DOB 13 Oct 1952; POB Maragheh, Iran; citizen Iran; nationality Iran; Passport 20694 (Iran); alt. Passport A0003044 (Iran) (individual) [NPWMD].

2. LEILABADI, ALI HAJINIA (a.k.a. LAILABADI, ALI HADJINIA), c/o MESBAH ENERGY COMPANY, Iran; DOB 19 Feb 1950; POB Tabriz, Iran; citizen Iran; Nationality Iran; Passport E4710151 (Iran) issued 15 Oct 2000 expires 15 Oct 2005 (individual) [NPWMD].

Dated: June 15, 2007.

Adam Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E7–12761 Filed 6–29–07; 8:45 am]

BILLING CODE 4811–42–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on CARES Business Plan Studies; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on CARES Business Plan Studies has scheduled a meeting for July 24, 2007, at Montrose VA Medical Center, Building 15, Room 7, 2094 Albany Post Road, Montrose, New York. The meeting will convene at 4 p.m. and will conclude at 7 p.m. The meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary of Veterans Affairs on proposed business plans at those VA facility sites identified in May 2004 as requiring further study by the Capital Asset Realignment for Enhanced Services (CARES) Decision document.

The objective of the meeting is to provide the Secretary with advice regarding the final selection of a business planning option to modernize the Montrose and Castle Point VA Medical Centers from those options previously selected by the Secretary for further study. An analysis of the business planning options completed by the VA contractor will be presented for Committee review in preparation for submitting the Committee's final recommendations to VA. The agenda will also accommodate public commentary on the business planning options.

Interested persons may attend and present oral or written statements to the Committee. For additional information regarding the meeting, please contact Mr. Jay Halpern, Designated Federal Officer, (00CARES), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, by phone at (202) 273–5994, or by e-mail at *jay.halpren@hq.med.va.gov.*

Dated: June 26, 2007.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–3208 Filed 6–29–07; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
July 2, 2007

Part II

Department of Labor

Office of Labor–Management Standards

29 CFR Part 404
Labor Organization Officer and Employee Report, Form LM–30; Final Rule

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 404

RIN 1215–AB49

Labor Organization Officer and Employee Report, Form LM–30

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The Employment Standards Administration's (''ESA'') Office of Labor-Management Standards (''OLMS'') of the Department of Labor (''Department'') publishes this Final Rule to revise the Form LM–30, Labor Organization Officer and Employee Report, its instructions, and related provisions in the Department's regulations. The Form LM–30 implements section 202 of the Labor-Management Reporting and Disclosure Act of 1959 (''LMRDA'' or ''Act''), 29 U.S.C. 432, whose purpose is to require officers and employees of labor organizations to report specified financial transactions and holdings to effect public disclosure of any possible conflicts between their personal financial interests and their duty to the labor union and its members. This rule clarifies the Form LM–30 and its instructions by explaining key terms and providing examples of the financial matters that must be reported, eliminates or modifies administrative exceptions in the old Form LM–30 that impeded the full disclosure of financial matters that constitute conflicts, or potential conflicts, of interest, and improves the usability of the reports by union members and the public.

DATES: *Effective Date:* This rule will be effective August 16, 2007.

FOR FURTHER INFORMATION CONTACT: Kay H. Oshel, Director, Office of Policy, Reports, and Disclosure, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, *olms-public@dol.gov,* (202) 693–1233 (this is not a toll-free number). Individuals with hearing impairments may call 1–800–877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: An outline of this information and a note regarding the references to statutory provisions in this document follow:

Table of Contents

Note: Throughout this document, the Department refers to various statutory provisions as ''section ____.'' All such references, unless otherwise noted, are to Title 29 of the U.S. Code. Further, unless otherwise noted, all the sections are part of the Labor-Management Reporting and Disclosure Act of 1959, which is set forth in Chapter 11 of Title 29, 29 U.S.C. 401–531. Following is a list of the most frequently cited LMRDA provisions in this document with corresponding citations to the U.S. Code: section 3(l), 29 U.S.C. 402(l); 201, 29 U.S.C. 431; section 202, 29 U.S.C. 432; and section 203, 29 U.S.C. 433. The only other provision of the U.S. Code frequently referred to in the document by the section number in the public law in which it was enacted is ''section 302(c),'' a reference to a provision of the Labor Management Relations Act, as amended, 29 U.S.C. 141–188. A reference to

section 302(c), 29 U.S.C. 186(c), appears in the text of section 202(a)(6) of the LMRDA, 29 U.S.C. 432(a)(6).

I. Background

A. Statutory Authority

Section 208 of the LMRDA states in part:

The [Department] shall have authority to issue, amend and rescind rules and regulations prescribing the form and publication of reports required to be filed under this title and such other reasonable rules and regulations (including rules prescribing reports concerning trusts in which a labor organization is interested) as he may find necessary to prevent the circumvention or evasion of such reporting requirements.

29 U.S.C. 438. Today's rule prescribes the disclosure form required to be filed by a union officer or employee if such an official, his or her spouse, or minor child hold an interest in or receive payments from certain entities. The reporting requirements are contained in section 202, which provides in its entirety:

§ 202. (a) Every officer of a labor organization and every employee of a labor organization (other than an employee performing exclusively clerical or custodial services) shall file with the Secretary a signed report listing and describing for his preceding fiscal year—

(1) Any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child derived directly or indirectly from, an employer whose employees such labor organization represents or is actively seeking to represent, except payments and other benefits received as a bona fide employee of such employer;

(2) Any transaction in which he or his spouse or minor child engaged, directly or indirectly, involving any stock, bond, security, or loan to or from, or other legal or equitable interest in the business of an employer whose employees such labor organization represents or is actively seeking to represent;

(3) Any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees such labor organization represents or is actively seeking to represent;

(4) Any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, a business any part of which consists of buying from, or selling or leasing directly or indirectly to, or otherwise dealing with such labor organization;

(5) Any direct or indirect business transaction or arrangement between him or his spouse or minor child and any employer whose employees his organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such employer and except purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer; and

(6) Any payment of money or other thing of value (including reimbursed expenses) which he or his spouse or minor child received directly or indirectly from any employer or any person who acts as a labor relations consultant to an employer, except payments of the kinds referred to in section 302(c) of the Labor Management Relations Act, 1947, as amended.

(b) The provisions of paragraphs (1), (2), (3), (4), and (5) of subsection (a) shall not be construed to require any such officer or employee to report his bona fide investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934, in shares in an investment company registered under the Investment Company Act or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, or to report any income derived therefrom.

(c) Nothing contained in this section shall be construed to require any officer or employee of a labor organization to file a report under subsection (a) unless he or his spouse or minor child holds or has held an interest, has received income or any other benefit with monetary value or a loan, or has engaged in a transaction described therein.

B. Departmental Authorization

Section 208 of the Act, 29 U.S.C. 438, provides that the Secretary of Labor shall have the authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under Title II of the Act and such other reasonable rules and regulations as she may find necessary to prevent the circumvention or evasion of the reporting requirements. Secretary's Order 4–2007, issued May 2, 2007, and published in the **Federal Register** on May 8, 2007 (72 FR 26159), contains the delegation of authority and assignment of responsibility of the Secretary's functions under the LMRDA to the Assistant Secretary for Employment Standards and permits the redelegation of such authority.

C. Background to and Overview of Rule

In today's rule, the Department revises the Form LM–30, Labor Organization Officer and Employee Report based on its review of public comments received in response to its Notice of Proposed Rulemaking (''NPRM''), 70 FR 51166 (Aug. 29, 2005). The Form LM–30 is used by officers and employees of labor organizations subject to the LMRDA. Section 202 of the Act requires public disclosure of certain financial interests held, income received, and transactions engaged in by labor organization officers and employees (generally referred to herein as ''union officials'' or ''officials'') and their spouses and minor children. Subject to exclusions, these interests, incomes, and transactions include:

1. Payments or benefits from, or interests in, an employer whose employees the filer's union represents or is actively seeking to represent;

2. Transactions involving interests in, or loans to or from, an employer whose employees the filer's union represents or is actively seeking to represent;

3. Interests in, income from, or transactions with a business a substantial part of which consists of dealing with an employer whose employees the filer's union represents or is actively seeking to represent;

4. Interests in, income from, or transactions with a business that deals with the filer's union or a trust in which the filer's union is interested;

5. Transactions or arrangements with an employer whose employees the filer's union represents or is actively seeking to represent; and

6. Payments from an employer or labor relations consultant to an employer.

As sometimes used herein, the shorthand phrase ''payments or other financial interests'' or its equivalent is used to refer to the various payments, transactions, arrangements and other monetary and financial interests that must be reported. Payments, as a general rule, include gifts, gratuities, restaurant meals, and entertainment.

The Form LM–30 must be filed annually by a union officer or employee (other than those solely engaged in performing clerical or custodial duties) if the official, the official's spouse, or minor child (or children) receives a payment or other financial interest from a business or employer in connection with certain activities, identified in section 202. Section 202's disclosure obligations for union officials (as embodied in the Form LM–30) are an integral part of the Act's reporting structure. The Act requires annual reports by unions as ''institutions'' under section 201 (Forms LM–2, LM–3, and LM–4), by employers, who must

report payments to unions and their representatives under section 203 (Form LM–10), and by unions for trusts in which they have an interest (''section 3(l) trusts,'' a reference to section 3(l) of the Act defining such trusts) under sections 201 and 208 (Form T–1).

In the NPRM the Department invited comment with respect to the benefits of the proposed changes, the ease or difficulty with which union officials would be able to comply with these changes, and whether the changes would be meaningful, useful, and in accord with the LMRDA disclosure purposes. The initial 60-day comment period provided for in the NPRM was subsequently extended to January 26, 2006. 70 FR 61400 (Oct. 24, 2005). The Department received over 1,000 comments. Of these comments about 50 were unique; the rest were form letters. Almost 300 of the comments were from unions or union members, most of whom were critical of all or parts of the proposal; about 700 were from individuals who generally supported the proposal, about 25 were from business or trade organizations, who expressed diverse views on the proposal; about 10 were from law firms, on their own behalf or their clients, who mostly opposed the proposal; two were from benefit fund administrators, who opposed the proposal; and one was from an academic who reported on his limited study of the reactions of union officials to the proposed form and instructions from which he concluded these documents needed substantial improvement. Over 280 of the union commenters were members of one local. In their form letters, they urged rejection of the rule ''in its entirety.'' They characterized the proposed requirements as ''frivolous.'' They asserted that the existing form was adequate to ensure ''due diligence'' by union officials, adding that the proposed union-leave and no-docking requirements would turn shop stewards into accountants because of the duty to ''calculate their time.'' Of the individuals supporting the proposal, the Department received about 660 form letters. These individuals asserted that such reforms were long overdue, noting that under the current form it is difficult to determine when a report is required and that the proposed form's inclusion of clear definitions and examples would improve reporting.

The historically low filing rates during the years preceding the initiation of this rulemaking process demonstrated substantial non-compliance with the Act. The Department recognized that its own compliance assistance efforts in this area needed improvement and thus it has retargeted its resources to educate the affected community about the Form LM–30 reporting obligation and to increase its enforcement efforts. At the same time as the Department was working on the proposed rule, it announced an initiative to improve Form LM–30 compliance. As part of this effort, the Department substantially augmented its published guidance to Form LM–30 filers, primarily by posting information on OLMS Web pages and by further disseminating this information by notifying subscribers to its free, automated list serve. On April 25, 2005, the Department announced a special enforcement policy under which new Form LM–30 filers, absent extraordinary circumstances, would not have to submit reports for prior years, even if such reports should have been filed. Specifically, the Department advised the regulated community that it would not require a new filer to submit reports covering the same financial interest for any prior years absent extraordinary circumstances. To take advantage of this grace period, the new filer had to submit his or her initial report voluntarily during a ''grace period,'' which ended August 15, 2005. With the substantial voluntary assistance of the AFL–CIO and other labor organizations to educate union officials about their reporting obligations, the Department experienced a large upsurge in the number of Form LM–30 filings over historical levels. To help union officials better understand their filing obligations, the Department proposed to change the instructions to the old form by defining and explaining key concepts and terms used by the statute and the form, and providing examples of situations where reporting is required. The Department also proposed to redesign the reporting format to better assist filers and improve the utility of the collected information to union members, the Department, and the general public. Following its review of the comments and taking into account the Department's recent Form LM–30 filing experience—as requested by some commenters, the Department remains convinced that this approach is sound and therefore today's rule preserves the overall approach outlined in the NPRM. At the same time, the comments were helpful in reconsidering some aspects of the rule and improving the content of the instructions and the form. The Department has revised the layout of the form. Instead of the subsection-by-subsection approach in the proposed form and instructions that parallels the structure of section 202 and its subsections (i.e., sections 202(a)(1) through 202(a)(6)), the rule organizes the form and instructions by the source of the reportable payment to a union official. Thus, the form lists the types of employer relationships that trigger a reporting requirement and the types of business relationships that trigger a reporting requirement. The instructions identify the types of payments and other financial interests that must be reported by a union official if received from an employer, differentiating between payments received from an employer whose employees the filer's union represents or is actively seeking to represent and those received from certain other employers. The instructions also identify the types of payments that must be reported if received from businesses that maintain business dealings with the official's union, a trust in which the official's union is interested, or certain employers. In the NPRM, the Department requested comment on whether labor organizations should be required to notify their officers and employees of their Form LM–30 reporting obligations. After review of the comments and the number of recent filers, the Department has decided to not require unions at this time to provide such notification to their officials.

In the NPRM, the Department proposed to revise its longstanding de minimis exception by adopting a quantitative standard of $25 as the amount that would trigger a reporting obligation. Numerous comments attacked the $25 threshold as unreasonably low, while other commenters argued that there should be no de minimis level at all. The Department adopts $250 as the amount above which a report is required and $20 as the amount above which payments or benefits must be counted when calculating whether the union official's $250 reporting threshold has been met. The rule also includes a limited exclusion for widely attended gatherings, allowing union officials to attend two such gatherings without incurring a reporting obligation provided the employer or business paying for the gathering spent $125 or less per attendee per gathering.

One provision of the Act, section 202(a)(6), may be read to impose a requirement on union officials to report payments from all employers. The Department's proposal to construe this obligation in this manner was opposed by most of the comments that discussed this point. In light of these comments, today's rule clarifies the scope of the reporting obligation under section 202(a)(6), identifying particular situations that pose a conflict of interest

that otherwise would not be captured by the other five subsections of section 202(a).

The Department also proposed to remove certain administrative exceptions that were available to filers under the old rule: Purchases and sales in the regular course of business at prices generally available to any employee of the employer; work performed and payments and benefits received as a bona fide employee of the employer; certain loans; and specified interests relating to stock ownership. The rule generally adopts the proposals as set forth in the NPRM to narrow the scope of these exceptions and thus makes reportable interests and payments that present previously unreported potential conflicts of interest.

The Department requested comment on whether to retain the distinction between securities traded on a registered national stock exchange and securities traded elsewhere, such as the NASDAQ stock market, notwithstanding the language in the Act limiting the exception to registered securities exchanges. *See* section 202(b) (ties exception to such exchanges registered under the Securities Exchange Act of 1934 and other enumerated statutes). After reviewing the comments, the Department retains its interpretation that it should not extend this limited exception to exchanges that have not been registered. The Department, however, notes that on July 15, 2006, the Securities and Exchange Commission (''SEC'') approved NASDAQ's application for registration as a national securities exchange, effective July 31, 2006.

Payments received by union officials from employers for work done on the union's behalf are reportable because such payments are not received as a bona fide employee of the employer making the payment. The Department explained in its proposal that union officials must report any payments for other than ''productive work'' for the employer, including union-leave and no-docking payments. Similarly, the proposed definition of ''labor organization employee'' clarified that an individual who is paid by an employer to perform union work is an employee of the union if he or she is under the control of the union, while so engaged. Today's rule adopts the proposed definition of ''bona fide employee'' and ''labor organization employee,'' making union-leave and no-docking payments reportable. However, today's rule stipulates that if such payments are made pursuant to a collective bargaining agreement and the payments are made for 250 or fewer hours during the year then there is no reporting obligation.

The meaning given ''labor organization'' defines the scope of a union official's obligation to report interests in or payments by certain employers and businesses. Essentially the question presented by the Department's proposal is whether this obligation applies to only an official's immediate organization, *e.g.*, a local union or international union in which he or she holds office, or whether it extends to situations involving organizations affiliated with the immediate organization. For instance, is an international officer required to report payments received from a business that sells products or services to intermediate and local affiliates or from employers whose employees are represented by a subordinate union? Under today's rule, an international union officer must report such payments. The same obligation exists under the old rule. Today's rule further clarifies that the same reporting obligation applies to payments received by an intermediate union officer. The Department, however, does not impose a reporting obligation on local or intermediate union officials who receive payments from an entity that does business with a higher affiliated organization. The rule also excepts *employees* of international, national, and intermediate unions from this reporting requirement. Further, the reporting obligation on officers of national and intermediate unions does not extend to payments received as employment compensation by their spouse or minor child that otherwise would be reportable because of the payer's relationship with a subordinate union.

Although the Department's old rule applies to payments received from a section 3(l) trust and the Department proposed no departure from this rule, numerous comments were received arguing that the Form LM–30 reporting obligation has never been applied to payments by trusts to union officials. These commenters are mistaken. The Department always has maintained the position that payments from trusts and vendors to such trusts enjoy no special excepted status under the Act's reporting provisions. Some commenters argued that such reporting would only be duplicative of reporting already required by ERISA and could discourage union trustees from attending conferences designed to educate trustees about their duties as trustees. The Department believes that the concerns about burden and overlap with ERISA disclosure requirements are overstated. In light of the comments, however, today's rule clarifies that a payment by a trust is treated no differently than other payments by an employer or a business to union officials.

Section 202(a)(3) imposes a limited reporting obligation on a union official who has an interest in or receives payments from a business that buys, sells, leases, or otherwise deals with the business of an employer if the latter's employees are represented by the official's union or it is actively seeking to represent these employees. The obligation attaches only if the vendor's dealings with the employer comprise a ''substantial part'' of the vendor's business. The Department proposed to define ''substantial'' as more than 5% of the vendor's business. Most of the comments criticized the threshold as too low. Today's rule sets the threshold at 10%.

In addition to some of the terms discussed above, the Department has clarified some of the proposed definitions. By clarifying these terms and the concepts that underlie the Act's reporting provisions, the rule ensures transparency in the personal financial affairs of union officials that may pose conflicts between the official's duty to their union and its members and the official's personal interests.

A number of comments were received from employer and industry associations. Most of these comments focused on the obligation of employers to file a Form LM–10 on certain payments made by employers or labor relations consultants to unions or union officials. Today's rule is specific to Form LM–30 filers. It does not amend the Department's current regulations or guidance specific to the Form LM–10. The Department, however, has carefully considered all the comments submitted by these groups and addresses them herein insofar as they address particular aspects of the Form LM–30 proposal. Form LM–10 Frequently Asked Questions (FAQs) on the OLMS Web site at *http://www.olms.dol.gov* informs the public that the Department will not enforce certain Form LM–10 reporting requirements until both the Form LM–30 rulemaking is completed and further written guidance is issued on the Form LM–10. This written guidance will be issued in revisions to the FAQs that will be announced through the OLMS list serve which can be subscribed to at *http://www.dol.gov/esa/aboutesa/org/olms/olms-mailinglist.htm.*

1. The Reasons for Today's Revisions of the Form LM–30

The Form LM–30 has remained essentially unchanged since 1963.

During this time, there have been many significant changes in the ways in which unions operate and conduct their financial affairs. Individuals too have more and varied financial interests than was the case forty years ago. As explained in the NPRM, many unions manage benefit plans for their members, maintain close business relationships with financial service providers such as insurance companies and investment firms, operate revenue-producing subsidiaries, and participate in foundations and charitable activities. The complexity of these financial practices, including business relationships with outside firms and vendors, increases the likelihood that union officials may have interests in, or receive income from, these businesses. As more labor organizations conduct their financial activities through sophisticated trusts, increased numbers of businesses have commercial relationships with such trusts, creating financial opportunities for union officers and employees who may operate, receive income from, or hold an interest in such businesses. In addition, employers also have fostered multi-faceted business interests, creating further opportunities for financial relationships between employers and union officers and employees. In this context, disclosure is critical to promoting good union governance, fostering ethical behavior, and deterring and detecting self-dealing.

As noted in the NPRM, on many occasions the Department has discovered during an audit or investigation that a union officer or employee received a reportable payment or other financial benefit but had failed to file the Form LM–30 as required. The Department identified several such situations in the NPRM, including the following:

- A local president owned 50% of a business that resurfaced the union's parking lot. Over two years, the business received $9,000 from the union.
- A union designated certain attorneys to represent injured members. Some of these attorneys, who were employers, furnished cash or items of value such as trips and golf clubs to union officials.
- A union hired the accounting firm of an employee's spouse. The firm received over $29,000 from the union over two years.
- An officer of a union, whose members worked at a theater, formed a business with two partners. He put his share of the business in his wife's name although he actually managed the business, which employed members of his local to work for the theater. He and his wife received almost $75,000 in profits, expense reimbursements, and salary from the business.
- A union president owned the building in which the union rented office space.
- A union employee's spouse owned an advertising company that printed materials for the union and its funds. In one year, the company received over $245,000 as payment for her company's services.
- Four local officers formed a company that provided payroll services to the local as well as to theatrical companies that employed members of the local. Two other officers of the local received over $20,000 as employees of the company.
- The spouse of a union officer owned a company that provided cleaning and maintenance services to the union and a trust in which the union was interested. In one year, the company received over $94,000 from the union and the trust.
- A union officer's spouse owned a janitorial business that provided daily janitorial services to the union at $800 per month.
- A union officer was part-owner, along with his wife and daughter, of a copier supply company. He was an officer of several unions, including one that employed his daughter as a benefit representative and union trustee. All of the unions purchased office equipment and services from the family's company.
- During a campaign for a State government office, a business agent received contributions from employers who were covered by the union's collective bargaining agreement.
- A union employee owned a heating and air conditioning business that performed HVAC work for the union.

In these instances, compliance with the Form LM–30 requirements would have provided union members with valuable information concerning financial practices of their unions' officials. This information would have assisted union members in evaluating the efficacy of the work performed by union employees and the leadership provided by union officers. Furthermore, the information would have alerted them to potential conflicts of interests and guided them as to which actions or decisions of their officers and employees might require greater scrutiny in order to determine whether the conflicts had affected the union official's service to the union. Armed with this information, union members could express their concerns at membership meetings, *see* section 101(a), 29 U.S.C. 411(a), evaluate the use of union monies as reported on the union's annual financial report, *see* section 201(b), 29 U.S.C. 431(b), cast more informed votes at internal union elections, *see* sections 401–403, 29 U.S.C. 481–483, employ union procedures for removal of officers guilty of serious misconduct, *see* section 401(h), 29 U.S.C. 481(h), and exercise their right to obtain judicial relief for violations of the official's fiduciary responsibilities. *See* section 501(b), 29 U.S.C. 501(b).

In other instances, as described in the NPRM, compliance with Form LM–30 requirements would have revealed criminal conduct. For example, the president of a national union had the sole authority to appoint or remove attorneys from a list of ''Designated Legal Counsel.'' These attorneys represented injured union members who sought compensation from the railroad for on-the-job injuries. Rather than selecting attorneys on the basis of their skills, the president awarded the designation to attorneys who gave the union president cash or other things of value. In another instance, contractors were hired to make repairs and improvements to the offices of a local union. The contractors also performed work on the officers' homes. All the expenses of the work, including about $1.2 million for work on the officers' homes, was charged to and paid by the union. A third example involved a contractor, an investment firm that managed pension and investment accounts for unions. This company collapsed in September 2000, costing its clients about $355 million. The company's former chairman was indicted on counts of fraud, money laundering, witness tampering, and making illegal payments to union benefit plan trustees. As part of its scheme to buy the influence of pension fund trustees, who were union officers, the investment firm hired relatives of pension trustees as well as provided plan trustees with gifts including rifles, season tickets to sporting events, and fishing and hunting trips to various locations in the western U.S., Canada, Africa, Argentina and Mexico.

As the above incidents demonstrate, a statement made in 1986 continues to ring true: ''The plunder of union resources remains an attractive [target for certain individuals and organizations]. * * * The most successful devices are the payment of excessive salaries and benefits to * * * union officials and the plunder of workers'' health and pension funds.'' President's Commission on Organized Crime, *Report to the President and Attorney General, The Edge: Organized Crime, Business, and Labor Unions*

(1986), at 12. Added transparency about a union official's conflicts of interest will help ensure that all union officials keep paramount the interests of their union and its members. Most union officials will never be tempted to subordinate their union's interests to their own financial interests; the rule will help them avoid the perception that their financial interests, left unreported through inadvertence or misunderstanding, may engender unfair suspicion. Others, though tempted, will be deterred from taking such action. See Archibald Cox, *Internal Affairs of Labor Unions Under the Labor Reform Act of 1959*, 58 Mich.L.Rev. 819, 827 (1960) (''*Internal Affairs of Labor Unions*'') (''The official whose fingers itch for a ''fast buck'' but who is not a criminal will be deterred by the fear of prosecution if he files no report and by fear of reprisal from the members if he does'').

The Form LM–30 has been redesigned to facilitate full and accurate completion by the filer and review by members of the filer's union and the public. The instructions now contain useful definitions of key terms and concepts required to complete the form and numerous practical examples to assist filers in completing the form. Union officials will also better understand the disclosure obligations relating to actual or potential conflicts of interest and will be mindful of their duty to hold their union's interests above their own personal financial interests. Financial transparency, as noted above, also may deter fraud and self-dealing and facilitates discovery of such misconduct when it occurs. Transparency promotes the unions' own interests as democratic institutions. By these improvements, union members will obtain a more accurate picture of the personal financial interests of their union's officers and employees, as those interests may bear upon their actions on behalf of the union and its members. With this information, union members will be better able to understand any financial incentives or disincentives faced by their union's officers and employees and to make more informed choices about the leadership of their union and its management of its affairs. Through these actions, the Department advances the LMRDA's declared purpose ''that labor organizations, employers, and their officials adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their organizations.'' Section 2(a). As such, today's rule will better achieve the purposes of the LMRDA than the old reporting regimen.

2. Legislative History

To better understand the purposes served by disclosure, a brief review of the history of the LMRDA's reporting and disclosure requirements for union officials is appropriate. As explained in the NPRM, at 70 FR 51166, the LMRDA was passed in 1959 by a bipartisan Congress that found: In labor and management fields:

> [T]here have been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct which require further and supplementary legislation that will afford necessary protection of the rights and interests of employees and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers and representatives.

Section 2(a).

The legislation was the direct outgrowth of a Congressional investigation conducted by the Select Committee on Improper Activities in the Labor or Management Field, commonly known as the McClellan Committee, chaired by Senator John McClellan of Arkansas. In 1957, the committee began a highly publicized investigation of union racketeering and corruption; its findings of financial abuse, mismanagement of union funds, and unethical conduct provided much of the impetus for enactment of the LMRDA's remedial provisions. *See generally* Benjamin Aaron, *The Labor-Management Reporting and Disclosure Act of 1959,* 73 Harv. L. Rev. 851, 851–55 (1960). During the investigation, the committee uncovered a host of improper financial arrangements between officials of several international and local unions and employers (and labor consultants aligned with the employers) whose employees were represented by the unions in question or might be organized by them. Similar arrangements also were found to exist between union officials and the companies that handled matters relating to the administration of union benefit funds. *See generally, Interim Report of the Select Committee on Improper Activities in the Labor or Management Field,* S. Report No. 85–1417 (1957) (''*Interim Report*''). For examples of some of the improper arrangements directly or indirectly involving officials of these unions, *see Interim Report,* pp. 42–86, 122–30, 150–57, 222–55, 376–420, 441–50. *See also* Robert F. Kennedy, *The Enemy Within* (1960) (discussing the committee's investigation).

The statute was designed to remedy these various ills through a set of integrated provisions aimed at union governance and management. These included a ''bill of rights'' for union members, which provides for equal voting rights, freedom of speech and assembly, and other basic safeguards for union democracy, *see* sections 101–105 of the LMRDA, 29 U.S.C. 411–415, financial reporting and disclosure requirements for unions, union officers and employees, employers, labor relations consultants, and surety companies, *see* sections 201–206 and 211 of the LMRDA, 29 U.S.C. 431–436, 441; detailed procedural, substantive, and reporting requirements relating to union trusteeships, *see* sections 301–306 of the LMRDA, 29 U.S.C. 461–466; detailed procedural requirements for the conduct of elections of union officers, *see* sections 401–403 of the LMRDA, 29 U.S.C. 481–483, safeguards for unions, including bonding requirements, the establishment of fiduciary responsibilities for union officials and other representatives; and criminal penalties for embezzlement from a union, for loans over $2,000 by a union to officers or employees, for a union's employment of certain convicted felons or permitting them to hold union office, and for payments to employees for prohibited purposes by an employer or labor relations consultant, *see* sections 501–504 of the LMRDA, 29 U.S.C. 501–504; and prohibitions against retaliation for exercising protected rights, *see* sections 601–611 of the LMRDA, 29 U.S.C. 521–531.

The reporting requirement for union officials operates in tandem with the Act's establishment of a fiduciary duty for union officials and representatives. Section 501, 29 U.S.C. 501. Congress addressed conflicts of interest in both sections 202 and 501(a) of the Act. The latter section provides in part:

> The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization * * *.

Both provisions address the potential and actual conflict between a union representative's personal interests and his or her duty to the union and its

members. *See* Theodore Clark, Jr., *The Fiduciary Duties of Union Officials under Section 501 of the LMRDA,* 52 Minn. L. Rev. 437, 458–60 (1962).

The McClellan Committee hearings disclosed a history of self-dealing by certain union officials, often at the expense of their union's membership. Then Senator John F. Kennedy was the chief sponsor of the Senate bill, S. 505, which served as the foundation for the LMRDA. In introducing the bill for the Senate's consideration, Senator Kennedy addressed concerns about the involvement of union officials in matters that blurred their personal interests and their union's interests, which concerns would be remedied by the legislation. Senator Kennedy used the experience of the Teamsters union, as revealed by the investigation of the McClellan Committee, to underscore the purposes to be achieved by the Act:

> First. It will no longer be possible for the dues of Teamster members to be * * * used by [the union's] officers to build their own personal financial empires without the knowledge of the members themselves—or without investigation by the press and public authorities.
>
> Second. [A union official] would be required to disclose all his business dealings with insurance agents handling the union's welfare funds, his private arrangements with employers, his hidden partnerships in business ventures foisted upon his members, and all other possible conflicts of interest.
>
> * * * * *
>
> Sixth. [Union officials] will find future collusion with employers vastly restricted—with no more loans from employer groups, no more attacks on rival unions through middlemen * * *, and no more secrecy shrouding the use of union funds to bail out a collaborating employer.

105 Cong. Rec. S817 (daily ed. Jan. 20, 1959), *reprinted in 2 NLRB Legislative History of the Labor-Management Reporting and Disclosure Act of 1959 (''Leg. History''),* at 969.

The improper dealings by the Teamsters officials, to which Senator Kennedy refers, are detailed in the *Interim Report,* at *e.g.*, 48, 59–60, 64–86, 222–54, 443–50. These dealings, like those identified by officials of other unions in the *Interim Report,* included actions undertaken by national officers, or others acting at their behest, involving matters affecting not only the national union's operation but also matters of importance to local and intermediate bodies of their union. *See e.g., Interim Report,* at 4–7, 46–49, 51, 55, 59–60, 63, 69, 74, 81, 87, 122–25, 128, 130, 179, 186–87, 224, 228, 230–40, 244, 250, 252, 264–66, 268, 281, 284–85, 295, 297, 300, 444–48. *See also The Enemy Within,* at 97, 99, 104–05, 106, 221–24.

As explained in the Senate Committee Report, S. Rep. No. 187 (1959) (''*Senate Report*''), at 15, *reprinted in 1 Leg. History,* at 411: ''The hearings before the McClellan committee brought to light a number of instances in which union officials gained personal profit from a business which dealt with the very same employer with whom they engaged in collective bargaining on behalf of the union.'' *Id.* The committee endorsed the concern expressed in the AFL–CIO's Ethical Practices Code that the union official ''may be given special favors or contracts by the employer in return for less than a discharge of his obligations as a trade-union leader.'' *Id.*

In explaining the purpose of the disclosure rules for union officers and employees, the *Senate Report* presented ''three reasons for relying upon the milder sanction of reporting and disclosure [relative to establishing criminal penalties] to eliminate improper conflicts of interest,'' which we summarize as follows:

- Disclosure discourages questionable practices. ''The searchlight of publicity is a strong deterrent.'' Disclosure rules should be tried before more severe methods are employed.
- Disclosure aids union governance. Reporting and publication will enable unions ''to better regulate their own affairs. The members may vote out of office any individual whose personal financial interests conflict with his duties to members,'' and reporting and disclosure would facilitate legal action by members against ''officers who violate their duty of loyalty to the members.''
- Disclosure creates a record. The reports will furnish a ''sound factual basis for further action in the event that other legislation is required.''

Senate Report, at 16, *reprinted in 1 Leg. History,* at 412.

The Report further stated: ''No union officer or employee is obliged to file a report unless he holds a questionable interest or has engaged in a questionable transaction. The bill is drawn broadly enough, however, to require disclosure of any personal gain which an officer or employee may be securing at the expense of the union members.'' *Senate Report,* at 14–15, *reprinted in 1 Leg. History,* at 410–11. The House Committee Report, H.R. Rep. No. 741 (1959) (''*House Report*''), at 11, *reprinted in 1 Leg. History,* at 769, conveyed the same message. Both the Senate and House Reports recognize that a reportable interest is not necessarily an illegal practice. As the *House Report* stated:

> In some instances matters to be reported are not illegal and may not be improper but may serve to disclose conflicts of interest. Even in such instances, disclosure will enable the persons whose rights are affected, the public, and the Government, to determine whether the arrangements or activities are justifiable, ethical, and legal.

House Report, at 4, *reprinted in 1 Leg. History*, at 762. *See Senate Report*, at 38, *reprinted in 1 Leg. History,* at 434 (''By requiring reports * * *, the committee is not to be construed as necessarily condemning the matters to be reported if they are not specifically declared to be improper or made illegal under other provisions of the bill or other laws''). ''Reports are required as to matters which should be public knowledge so that their propriety can be explored in the light of known facts and conditions.'' *Id.* As stated by Senator Barry Goldwater after the LMRDA had been passed:

> Briefly, what must be reported are holdings of interest in or the receipt of economic benefits from employers who deal or might deal with such union official's union, or holdings in or benefits from enterprises which do business with such union official's union.

105 Cong. Rec. A8512 (daily ed. Oct. 2, 1959), *reprinted in 2 Leg. History*, at 1846.

Conflict of interest standards, including disclosure obligations of individuals and entities occupying positions of trust, are well grounded in U.S. law. As stated in the *House Report*, repeating almost verbatim the same point in the *Senate Report:*

> For centuries the law of fiduciaries has forbidden any person in a position of trust subject to such law to hold interests or enter into transactions in which self-interest may conflict with complete loyalty to those whom he serves. * * * The same principle * * * should be equally applicable to union officers and employees [quoting the AFL–CIO's Ethical Practices Code]: ''[A] basic ethical principle in the conduct of union affairs is that no responsible trade union official should have a personal financial interest which conflicts with the full performance of his fiduciary duties as a worker's representative.''

Senate Report, at 11, *reprinted in 1 Leg. History*, at 769. *See generally Restatement* (*Second) of Trusts* (1959) §§ 170, 173; *Restatement (Second) of Agency* (1958) §§ 381, 387–98.

Section 202 is an effort, in part, to make effective the disclosure requirements associated with the fiduciary standards applied to union officials in Title V of the LMRDA, a duty that includes an obligation to report potential conflicts of interest. Both Titles II and V of the Act represent an effort to codify various requirements

contained in an extensive code of ethics voluntarily adopted by the AFL–CIO in 1957 and applied to its affiliated unions and officials. *See Senate Report*, at 12–16, *reprinted in 1 Leg. History*, at 408–12; *House Report*, at 9–12, *reprinted in 1 Leg. History*, at 767–70. *See also Internal Affairs of Labor Unions*, 58 Mich. L. Rev. at 824–29. The following excerpts from this code demonstrate the similarities between a union official's fiduciary duty and the disclosure requirements of section 202.

> [A] basic ethical principle in the conduct of trade union affairs is that no responsible trade union official should have a personal financial interest which conflicts with the full performance of his fiduciary duties as a workers' representative.
>
> [U]nion officers and agents should not be prohibited from investing their personal funds in their own way in the American free enterprise system so long as they are scrupulously careful to avoid any actual or potential conflict of interest.
>
> In a sense, a trade union official holds a position comparable to that of a public servant. Like a public servant, he has a high fiduciary duty not only to serve the members of his union honestly and faithfully, but also to avoid personal economic interest which may conflict or appear to conflict with the full performance of his responsibility to those whom he serves.
>
> There is nothing in the essential ethical principles of the trade union movement which should prevent a trade union official, at any level, from investing personal funds in the publicly traded securities of corporate enterprises unrelated to the industry or area in which the official has a particular trade union responsibility.
>
> [These principles] apply not only where the investments are made by union officials, but also where third persons are used as blinds or covers to conceal the financial interests of union officials.

Ethical Practices Code IV: Investments and Business Interests of Union, 105 Cong. Rec.*16379 (daily ed. Sept. 3, 1959), *reprinted in 2 Leg. History*, at 1408. *See also Ethical Practices Code II: Health and Welfare Funds, id.*, 2 *Leg. History*, at 1406–07.

The Department intends by today's rule to better achieve the purposes of the LMRDA, as reflected by its legislative history.

II. Discussion of Comments Received on Proposed Rule and Department's Response

A. Why the Changes To the Form Are Needed Now

Several commenters recommended that the Department should evaluate its recent compliance experience with Form LM–30 reports submitted by union officials using the old form before considering any changes to the form. One commenter stated that there is no problem with the old form. Another asserted that the affected community has spent a ''huge amount of time getting up to speed on the present form,'' arguing that the proposed form is more confusing than the current form because it requires filers to identify for each reportable interest the particular statutory provision to which it relates.

A labor educator, noting the upsurge in Form LM–30 filings about the time of the comment period on the proposed rule, suggested that the Department should postpone any changes until it completed a thorough analysis of these submissions. Although this commenter acknowledged that the old form presents some challenges to a filer's easy understanding of the reporting requirements, he asserted that the proposed form poses greater opportunity for mistake and confusion. Two commenters argued: ''[R]adically changing the form at the same time as the Department provides comprehensive guidance on what is considered reportable [on the old form] will only impede the efforts to encourage accurate and full reporting.''

The old Form LM–30 posed substantial challenges to filers. As discussed in the NPRM and as demonstrated by comments on the proposal, filers have been unsure about the kinds of payments that trigger the need to file a Form LM–30. *See* 70 FR 51172–73, 51175. Keeping the status quo would leave in place exceptions that permit union officials to avoid disclosing payments that would otherwise be reportable under the statute, denying union members information about their officials' interests in and payments by employers and businesses that raise conflict of interest questions. Deferring the final rule for an exhaustive analysis of all the Form LM–30 filings during the April through mid-August 2006 ''grace period,'' numbering about 13,000 would cause undue delay with little additional gain. The Department's preliminary and ongoing review of these filings demonstrates that the old form is unclear and that today's rule will rectify many of the problems observed in those filings.

One commenter recommended that the Department, well in advance of the filing deadline, ''should grant a reasonable extension for filing and/or make any aspects of the final rule that are more restrictive than the current rule prospective only. DOL should only apply any changes prospectively, and it should provide a reasonable opportunity for necessary recordkeeping and related efforts to facilitate accurate reports and compliance.'' Another commenter argued that no new requirements should be imposed on service providers until rulemaking on the Form LM–10 is completed. Another commenter argued that no changes in reporting should occur any sooner than a filer's fiscal year that begins after the final rule takes effect.

DOL is applying these changes prospectively only. This final rule will apply to fiscal years beginning on or after _____, 2007. Therefore, no report subject to today's rule will be due until at least _____, 2008. There is ample time from publication of this final rule until _____, 2008 for all filers to obtain any information they need to comply with the filing requirements.

B. Why the Department Is Not Presently Requiring Unions to Notify Their Officers and Employees (''Officials'') About Their Annual Reporting Obligations

In the NPRM, the Department requested comments on whether the Department should require unions to provide notice of the filing requirements to their officers and employees. The NPRM discussed possible notification options. Under one option, unions would be required to notify their officers and employees of their Form LM–30 obligations within 30 days of their installation into office or hire, respectively. Unions would be required to provide initial notification within 60 days of the enactment of the regulation, and annually thereafter to all officers and employees. Under the proposal, a union could meet this requirement by providing a copy of the Form LM–30 and its instructions. E-mail notification might be considered. As an alternative, a general notice, provided in a union publication addressed to each officer and employee, might be adequate for this purpose.

A number of comments were received on the notification question. Commenters were divided on the question. Some commenters strongly supported mandatory notification, pointing to low numbers of past filers as evidence that notification is essential. No union commenter supported the proposal. Commenters were divided as to whether the Department has authority to require notification under sections 105 or 208 of the LMRDA. One commenter asserted that the Department lacks authority to issue a notification requirement under section 105, arguing that this provision does not allow imposition of a detailed code of union conduct. Another commenter used section 105 to illustrate its position that Congress knew how to establish a notification requirement, arguing that its

failure to so provide in section 202 evinces the intention to excuse unions from any obligation to provide such notice. Another commenter argued to the contrary, stating that mandatory notification is consistent with section 105 which states, ''[e]very labor organization shall inform its members concerning the provisions of this Act.'' While acknowledging that section 208 arguably permits a notification requirement, a commenter argued that the Department must first demonstrate that such a rule is necessary to prevent the circumvention or evasion of the reporting obligation. It argued that ''circumvention'' and ''evasion'' connote a willful disregard of the filing obligation, actions that require as a premise that the filer already is aware of the filing obligation.

A commenter argued that the Department should impose a broader notification requirement on unions. Unions should be required, in its view, to provide notice to both officials *and* their members about both the filing obligations of union officials and the union's own reporting obligations to file a Form LM–2, 3 or 4. Another commenter viewed notification as a ''first-step in the right direction.'' It stated a preference for a system whereby the Department would provide annual reminders about Form LM–30; each union would be required to file with the Department the names and addresses of all its officers and employees. On the other hand, several commenters argued that reliance on voluntary efforts would better achieve the goal of informing officials about their filing obligation. One of these commenters stated that voluntary education works better than mandatory notification given that unions have a variety of governance structures and that they operate, in effect, in different industries calling for different approaches. Another commenter suggested that DOL ''work informally'' to obtain compliance. This commenter explained that under the old regulation, unions take various steps to inform their officials about Form LM–30 requirements, such as by holding meetings or providing written notices. The commenter argued that the choice of a method to inform union members should be left to the union. Several commenters argued that notification was unnecessary in light of new Department guidance, pointing to the rise in filings to support its claim.

The Department believes it possesses the authority to impose a notification requirement. However, the Department has concluded, based on its review of the comments and the recent experience with Form LM–30 filers, that a mandatory notification requirement is unnecessary on the present record to effectuate the disclosure purpose served by section 202 of the Act. After unions and their counsel became aware of the Department's increased emphasis in securing compliance with section 202, many contacted their officers and employees to inform or at least remind them of their obligation to file a Form LM–30 if they engaged in any of the activities identified by the form and its instructions. While in previous years less than 100 forms were typically filed each year, during the 2005 grace period contemporaneous with this rulemaking, 13,326 reports were filed. During FY 2006, 4,348 Form LM–30 reports were filed. Given the historic increases in Form LM–30s during the grace period with stepped up Departmental compliance assistance and voluntary efforts by major unions to educate affiliates and officials, there is currently not a sufficient record to conclude that a mandatory requirement is needed.

The Department applauds the voluntary efforts by the AFL–CIO and other unions to apprise union officials about their Form LM–30 reporting obligations. However, insufficient time has passed to conclude that union officials, without receiving regular notice by their union of these obligations, will remain aware of these obligations. If future compliance figures indicate that new union officials are uninformed about their Form LM–30 filing obligations or that others appear to have forgotten their obligations, the Department may then reassess the need for imposing a notification requirement.

C. Why the De Minimis Exemption From Reporting Insubstantial Gifts and Other Financial Benefits Has Been Simplified and Subjected to a $250 Limit, With an Exclusion for Gifts Valued at $20 or Less and Certain Widely-Attended Gatherings

Section 202(a) of the LMRDA calls for disclosure of ''any'' stock, bond or other interest, ''any'' income, ''any'' loan, and ''any'' payment or other thing of value received by a union official, his or her spouse, or minor child[ren] from employers and businesses as defined in sections 202(a)(1) through 202(a)(6). While this inclusive language may be read to require a report on any such payments regardless of amount, the Department always has excepted from reporting payments of insubstantial or de minimis value. Thus, the old instructions to the Form LM–30 inform filers: ''You do not have to report any sporadic or occasional gifts, gratuities, or loans of insubstantial value, given under circumstances or terms unrelated to the recipient's status in a labor organization.'' This exemption applies by its terms to all reports due under section 202. The *LMRDA Interpretative Manual (''LMRDA Manual*''), as revised in March 2005, states that anything with a value of $25 or less will be considered de minimis and therefore not reportable if it is given on an ''infrequent or sporadic'' basis under circumstances unrelated to the recipient's status in a labor organization. *LMRDA Manual*, § 241.700.

The Department sought comments on the de minimis exception generally and specifically on whether the $25 threshold is appropriate, whether the burden is reasonable, and whether reporting of all transactions should be required without regard to their value. 70 FR 51175. In November 2005, following a review of Form LM–30 reports filed during the Department's grace period, which revealed the reporting of numerous payments that union members and the public would regard as trivial, and based on comments from union representatives that the threshold was too low, the Department issued guidance advising that ''gifts, gratuities or loans with a value of $250 or less'' would be considered insubstantial for the purposes of Form LM–30 reporting.

In the NPRM, the Department noted the inclusive language used by Congress in defining the scope of the reporting obligation and the absence of any general substantiality test for the LMRDA's reporting provisions. *See* section 202(a)(3); 29 U.S.C. 432(a) (limiting reports specific to certain ''substantial'' dealings). The Department also noted that exceptions based on insubstantiality are commonly read into statutes that do not expressly contain them and that the financial disclosure reports for certain Federal government employees contain a de minimis exemption.

The Department in today's rule retains a de minimis exemption. Under this exemption, payments or gifts totaling $250 or less from any one source during the reporting year need not be reported. In addition, the Department decides that payments or gifts valued at $20 or less need not be included in determining whether the $250 threshold has been met. The Department has concluded that a dollar-specific test for de minimis payments is preferable to one that requires filers to make a fact-specific determination of what is ''insubstantial'' or ''unrelated to the filer's status in a labor organization'' or ''sporadic and occasional.'' The Department also has crafted a limited reporting exclusion for a union official's

attendance at ''widely attended gatherings.'' If during the year, an officer or employee attends one or two widely-attended gatherings for which an employer has spent $125 or less per attendee per gathering, the officer or employee has no Form LM–30 obligation with regard to tracking or disclosing these events. A gathering will be considered ''widely attended'' if it is expected that a large number of persons will attend and that attendees will include both union officials and a substantial number of individuals with no relationship to a union or its section 3(l) trust.

The Department received numerous comments on the de minimis question, mostly in favor of retaining the exemption and the adoption of a quantitative threshold substantially higher than the $25 figure discussed in the NPRM. Particular comments are discussed below.

A few commenters argued that no de minimis level should be adopted at all. One commenter stated that full disclosure was appropriate because it allowed a union's members to decide whether a gift to a union official presented a negligible conflict of interest or not. The Department acknowledges that there would be some benefit in eliminating the exception; this change would allow individual union members to determine whether a particular payment poses a conflict of interest and more importantly could lead to further inquiry about a union official's actions. As stated in the NPRM, there is no statutory requirement for a de minimis level. *See Environmental Defense Fund, Inc.* v. *EPA,* 82 F.3d 451, 466 (D.C. Cir. 1996). Nonetheless, abandoning a de minimis threshold altogether would be a sharp departure from the Department's historical practice. Moreover, as further discussed below, the Department believes that elimination of the de minimis exception would only marginally increase meaningful transparency. Furthermore, the absence of a specific de minimis exception in section 202 is not determinative; exceptions based on insubstantiality are commonly read into statutes that do not expressly contain them, and this practice demonstrates their practical value. *See Wisconsin Dept. of Revenue* v. *William Wrigley, Jr., Co.,* 505 U.S. 214, 231 (1992). For these reasons, the Department retains the de minimis exception.

Many commenters noted the difficulty of applying the vague de minimis standard in the old instructions and the historical absence of helpful guidance in applying the exception. Several requested the Department to provide at least an illustrative dollar figure and to explain the meaning it attributes to the terms ''unrelated to the filer's status in a labor organization'' and ''sporadic and occasional.'' Some specifically requested the Department to provide additional examples so that filers could better understand the de minimis exception. Others argued for a test that was solely tied to the dollar value of any gift or payment.

As acknowledged in the NPRM, the qualitative aspects of the rule have proved difficult to apply. Based on its consideration of the comments and further review of this question, the Department has concluded that the purposes of section 202 can best be achieved by modifying the test so that the value of the payment or gift is the sole consideration affecting its disclosure. Additional conditions for claiming the exception would often present filers with the burden and expense of undertaking a fact-specific inquiry even though the amount of the gift or payment, as recognized by the dollar threshold, is insubstantial.

Some commenters favored replacing or at least supplementing the de minimis rule with the creation of broad exceptions to the various reporting requirements. These commenters requested exceptions for what they viewed as routine activities necessary for conducting business. Thus, exceptions, among others, were proposed for the following: any expenses related to an employee benefit plan including educational benefits, receptions and meals, routine business functions and luncheons, all marketing expenses, marketing and entertainment expenses provided equally to union and management trustees, and any promotional or branded good containing a company name or logo. Most of these comments were from employers or industry associations that anticipate that union officials will rely on the vendors to keep track of any gifts or payments so that they can readily determine whether they have incurred a reporting obligation. Another commenter suggested that no report should be required for any gratuity that would be considered a ''business expense'' by the IRS. One commenter characterized the rule as ''incredibly burdensome'' and an ''unprecedented imposition'' on service providers to trusts. Another commenter suggested, in effect, that the Department should adopt the rules and exceptions provided under the disclosure rules for Federal employees in place of the Department's proposed de minimis rule.

Several comments expressed concern about the need to report educational materials and seminars provided union trustees by vendors offering or providing services to welfare and pension plans. These commenters argued that even a high de minimis level would have a chilling effect because union trustees would refuse the materials or decline to attend a seminar in order to avoid the recordkeeping and reporting burden or the perception by union members that the trustee's attendance would be inappropriate. One commenter suggested that no report should be required for educational resources provided to union officials, so long as the sponsoring organization retained a statement of the educational purpose of the resource, a list of its total expenses relating to the otherwise reportable event, and if a seminar, the list of attendees.

The Department declines to create any suggested broad category of exceptions. Creating the broad exceptions suggested would frustrate the purpose of the statute to make transparent possible conflicts and would deny union members the ability to evaluate any concerns they might have about the possibility that a union official might put his or her own interests above those of the union and its members. Educational seminars and resources may benefit trustees to pension or welfare plans and the workers whom the plan is meant to benefit. The same event, however, may well include gifts, meals, travel, lodging and entertainment provided by service providers, or potential service providers, to these plans. By requiring reporting, the Department need not attempt the highly difficult task of crafting a rule that will identify the questionable payments. Rather, union members and the public can evaluate the situation on a case-by-case basis, and make their own decisions on the choices made by their officials. Furthermore, these commenters fail to recognize that the Secretary's authority to fashion a de minimis exception is a limited one. The LMRDA does not confer on the Secretary the authority to except from reporting matters which Congress has evinced no intention to withhold from disclosure and the de minimis principle, as evidenced by its name, only applies to matters of relative insignificance. Although the disclosure rules for Federal employees provide an alternative system for reporting financial interests that may pose a conflict with an individual's duties, that system was designed to meet the special needs and interests of Federal employment and the various laws that govern such employment. The

Department has borrowed some ideas from the disclosure rules for Federal employees but to adopt the Federal disclosure rules wholesale would be impracticable.

Most of the commenters advocated a dollar threshold substantially higher than the $25 figure mentioned in the NPRM; many urged a figure higher than $250. These commenters and others requested the Department to exclude from the aggregate amount ''hospitality gifts'' of nominal value, variously defined by particular commenters. Several commenters urged the Department to adopt a two-tier approach similar to Federal conflict of interest disclosure requirements for Office of Government Ethics (OGE) Form 450 and Form SF 278. In general, these commenters recommended that gifts totaling $250 or less from any one source need not be reported and that ''insubstantial'' gifts (ranging from $75 to $250) should not be included in determining whether the $250 threshold has been met. Otherwise, many commenters argued, the recordkeeping burden would be unreasonable because union officials would have to track every cup of coffee and every lunch to determine whether and when the $250 level was met. The general rule for employees covered by the Federal disclosure rules is that they are prohibited from accepting any gift because of their government position. Examples of prohibited gifts are those that come from persons or firms that have contracts, grants, or other business with the employee's agency, or are seeking such contracts, grants or other business. These employees are also prohibited from accepting gifts from entities that are either regulated by the employee's agency or may be affected by the performance of the employee's duties. An exception to this general rule applies to unsolicited non-cash gifts of $20 or less up to a maximum of $50 per year from a single source. 5 CFR 2635.204(a).

The Department believes that, by setting the threshold at $250 and providing that payments or gifts valued at $20 or less need not be included in determining whether the $250 threshold has been met, it has achieved the appropriate balance between ensuring transparency of potential conflicts and minimizing the reporting burden. This two-tier approach has precedent in the Federal employee disclosure regime. By excluding expenses of $20 or less from the $250 computation, the Department substantially reduces the burden associated with aggregating gifts or payments from a particular employer or business. There will be no need to keep records of coffee and pastry service, modest lunches, or similar ''hospitality gifts.''

Some commenters expressed the concern that requiring large numbers of reports on relatively small amounts of payments ''buries'' from view reports of greater value. The Department believes this fear is unfounded, especially in light of the $250 aggregate threshold established by today's rule. Even at a much lower figure, the number of reports of interest to a particular union member would constitute only a small fraction of the total number of reports filed and these reports could easily be culled electronically from the other reports.

The Department does not find persuasive the comments urging that payments higher than $20 should be excluded from the $250 reporting threshold. While there may be merit to some arguments urging a somewhat higher or lower amount, a $20 initial threshold minimizes reporting burden and ensures disclosure of financial relationships that may pose a conflict of interest. The Department, however, rejects the suggestion that items valued substantially more than $20 should go unreported. While in the Department's view, a single gift of $75 or even $100 is unlikely to be a matter of substantial concern to some members, even a few gifts of this magnitude would be of concern to most members. And almost every member would be concerned if a union official received several gifts of such value. By setting the amount at $100, for example, a union official could receive a respectable set of golf clubs, gloves, shoes, and other golfing attire through a series of $100 gifts without filing a Form LM–30. Most union members and members of the public, the Department believes, would view the gift of a complete set of clubs or other serial or packaged gifts as posing a potential conflict of interest between the union duties of the recipient and matters affecting the donor of the gifts.

The purpose of the de minimis exception is to minimize reporting burden. A filer may not use the exception to hide the receipt of a series of payments or gifts that are purposely set at $20 or less to avoid reaching the $250 reporting threshold. For example, a filer would have to report his or her receipt of individual tickets worth $20 or less to all of a professional baseball team's home games that are provided before each game rather than given as a complete package at the start of the season. The Department is sensitive to the concern that by setting the de minimis level at $250 today's rule could lead to the unintended consequence that some union officials will choose not to attend some widely-attended gatherings of value to them and their union's members. However, the Department also believes that reporting attendance at legitimate educational gatherings will also benefit the filer by showing their union members that the filer is taking steps to learn and advance the skills needed for their position. As stated above, the Department's authority to fashion a de minimis exception is constrained by the language of section 202. In the Department's view, however, the Department is within the bounds of its discretion to craft a limited reporting exception for such gatherings. Thus, the Department concludes that no union official need report their attendance at one or two such gatherings annually provided the expense incurred by the employer or business holding the gathering is $125 or less per expected attendee. The Department believes this change meets the concern of some commenters that union officials and trustees would be discouraged from attending educational seminars related to their union or trustee duties if they were required to report such activities. The Department considered, but rejected as impractical and perhaps beyond the Department's authority, a broader qualitative exception for meetings. None of the comments provided a ready basis for distinguishing between the purposes of various meetings that would reduce the reporting burden without impeding the disclosure of information relevant to assessing the potential conflict of interest from the value of attendance at several meetings or a single meeting of significant economic value to a union official present at the meeting.

D. Why Reporting Exceptions Permitted Under the Old Rule Have Been Eliminated or Modified To Provide More Information to Union Members

In the NPRM, the Department proposed the elimination of regulatory exceptions from the reporting requirements of section 202. One of these exceptions relates to the reporting by union officials of payments received under ''union-leave'' and ''no-docking'' policies; this exception is discussed separately. Although each exception is based on statutory language excepting the reporting of specific interests in or payments from an employer, the old Form LM–30 and its instructions apply these specific exceptions more generally to other matters that otherwise would have to be reported. As discussed in the NPRM, by administratively enlarging exceptions to reporting, the Department deprived union members of information

to which they were entitled under particular provisions of section 202. 70 FR 51175–78. The Department also proposed to eliminate a provision in its regulations, 29 CFR 404.4, which now states that the Department may require a union official to file a special report in situations where the administrative exceptions departed from the language of the statute. 70 FR 51178.

Under today's rule, as discussed below, the Department generally has adopted the proposals set forth in the NPRM to narrow the scope of these exceptions in order to better adhere to the statutory design. The Department also has eliminated the ''special reports'' language as unnecessary given the Department's express statutory mandate to conduct investigations under the Act.

1. Regular Course of Business Exception

Section 202(a)(5) of the LMRDA requires union officials to report any ''business transaction or arrangement'' with an employer whose employees the union represents or is actively seeking to represent. This section excepts from reporting two categories of transactions and arrangements: (1) Payments and benefits received as a bona fide employee of an employer whose employees the official's union represents or is actively seeking to represent; and (2) *''purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer.''* (Emphasis added). Sections 202(a)(1) and 202(a)(2) require union officers and employees to report payments from and other financial interests with such an employer. These sections do not contain this ''employee discount in the regular course of business'' exception, but the prior instructions applied it to financial matters covered by these subsections.

The Department adopts its proposal to limit the exception to financial matters reportable under section 202(a)(5). Thus, this exception will no longer apply to matters reportable under sections 202(a)(1) or 202(a)(2). It will not be applicable to (1) Holdings in an employer whose employees the union represents or is actively seeking to represent, (2) transactions in such holdings, (3) loans to or from such employer, and (4) income or any other benefit with monetary value (including reimbursed expenses) received from such an employer.

The Department received a few comments specific to this issue. One commenter supported the proposal to remove the exception, while two others objected to the proposal. One commenter based its support of the Department's proposal in the statutory language, noting that the ''regular course of business/employee discount'' exception is found only in section 202(a)(5) and not in sections 202(a)(1) and 202(a)(2). Therefore, this commenter contended, ''the current instructions create an exception for transactions under the latter two subsections that Congress did not envision.'' Numerous commenters objected generally to reporting related to the routine conduct of business, especially in connection with business conducted between section 3(l) trusts and service providers, including financial institutions. For example, one commenter asserted that the Department should not focus on ''routine business transactions conducted at arms length,'' but rather on those transactions that may be evidence of a potential conflict of interest.

One commenter offered a general argument against reporting of what it considers to be routine business transactions, including payments or loans to union officials. The commenter argued, in effect, that the proviso in section 202(a)(6), excepting reporting on ''payments of the kinds referred to in section 302(c) of the Labor Management Relations Act,'' should be applied broadly to all the subsections of section 202(a). Thus, this commenter argues implicitly that section 302(c) of the Labor Management Relations Act excepts from the section's criminal prohibition the payment of money or other thing of value ''with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business.'' 29 U.S.C. 186(c)(3). This commenter apparently believes that Congress also intended to exclude such payments from any reporting by union officials, notwithstanding the absence of such exception from subsections (a)(1)–(5) of section 202.

The Department disagrees that Congress intended the section 302(c) proviso in section 202(a)(6) to supplant the specific reporting obligations prescribed by the other five subsections of section 202(a), several which have unique exceptions narrowly applicable to the types of payments for which reports must be filed. The Department concludes that this construction is contrary to the plain language of the Act, and would render superfluous specific exclusions Congress crafted for particular types of payments. It would make no sense for Congress to craft a disclosure-specific statute with explicit reporting obligations and explicit exceptions and, at the same time, undo those specific provisions by a vague reference to another statute.

Union members have an interest in knowing of such holdings, transactions in holdings, loans, and income so they can evaluate whether each is significant enough, or of such a nature, to constitute a conflict of interest. The statutory exemption for payments and other benefits received as a bona fide employee of the employer is sufficient to exempt all the ordinary payments received as part of an employment relationship; the exemption in the current form, the Department finds, may provide a means to exclude other items that present conflicts of interest for union officials. For example, a union officer who receives income from the employer of union members for contract work could, at least arguably, avoid disclosing the payment by relying on this exemption. A union employee who purchases certain types of ownership interests could avoid disclosing the holding by relying on this exemption. A union official with an employer as a client has a conflict between personal interests and union loyalties, as does an official with an ownership interest in the employer. The change is consistent with the plain language of the statute, which applies this exception only to financial matters reportable under section 202(a)(5), not to section 202(a)(1) or 202(a)(2). The elimination of this exemption will result in more detailed and transparent reporting of financial information that union members may find helpful in determining whether their union's officers and employees are subject to financial pressures inconsistent with their responsibilities to the union and its members.

2. Bona Fide Employee Exception for Transactions With an Employer Whose Employees the Official's Union Represents or Is Actively Seeking To Represent

Sections 202(a)(1) and 202(a)(5) include language that specifically excepts ''payments and other benefits received as a bona fide employee of such employer'' from reporting. Under the old Form LM–30 and the instructions, however, this exception also was applied to matters for which reports were required under section 202(a)(2). Section 202(a)(2) requires union officials to report: (1) Transactions in holdings in an employer whose employees the union represents or is actively seeking to represent, and (2) loans to or from such an employer. Section 202(a)(2) does not include the ''bona fide employee'' exception.

The Department proposed to limit this exception only to reports due under sections 202(a)(1) and 202(a)(5), thereby eliminating the old exception for reports (on payments other than loans) due under section 202(a)(2). *See* 70 FR 51176–78, 51188. The Department received only one comment on this issue. It supported the proposal. Today's rule adopts the proposal, which is consistent with the plain language of the statute. A union official's decision to purchase or divest holdings in the employer could be of significant importance to union members and its reporting would prevent a possible conflict from escaping the scrutiny of members. As noted in the proposal, sales and purchases of an ownership interest in the employer are unlikely to constitute payments received as a bona fide employee; by eliminating this exception, a union official must now, for example, report payments made to officials as stock options where the employer buys back such options.

3. Exception for Bona Fide Loans or Interest From a Banking Institution

Section 202(a)(6) requires union officials to report ''any payment of money or other thing of value (including reimbursed expenses)'' received from ''any employer'' or any labor relations consultant to an employer. Under the old Form LM–30 and its instructions, the following are excepted from reporting: ''[B]ona fide loans, interest or dividends from national or state banks, credit unions, savings or loan associations, insurance companies, or other bona fide credit institutions.'' *See* Part C (ii) of the instructions to the old form. The Department proposed to eliminate the exemption.

Upon review of the comments, the Department *retains* the general exception but limits its scope because the Department has determined that the exception is too broad. Under the final rule, this exception will not apply to ''national or state banks, credit unions, savings or loan associations, insurance companies, or other bona fide credit institutions that constitute a 'trust in which your labor organization is interested'.''

The Department received two comments in support of the proposal to eliminate this exception *in toto*. One commenter argued that the exception in the Form LM–30 instructions had no statutory basis, and that its existence tended to shield transactions that should be reported. The Department received four comments opposed to this proposal. These commenters stated that the elimination of this exception would burden union officers and employees, employers, and the Department; interfere with the privacy of the employees as well as the financial institutions by revealing confidential information; and fail to advance the goal of disclosing potential conflicts of interest. One commenter argued that the Department's proposal to eliminate the exception was an ''unwarranted intrusion on privacy,'' while providing only minimal benefit to union members. This commenter questioned why the public should be made aware of a ''bona fide mortgage'' from a financial institution unrelated to the union and given on terms generally offered to the public. Most mortgages along with other encumbrances on property must be recorded with a government office, typically at the county level, to be effective. These filings are publicly available and as such the insinuation that the Department is now making public information that was secret is unfounded. Further, the vast majority of these loans will be made on neutral criteria not related to the filer's status with a labor organization and as such will not be reportable. The rare instance where the filer's status with the labor organization is a criterion for issuance of the loan is exactly the type of situation where a possible conflict of interest exists. As such, reporting on transactions of this type is warranted.

Another commenter recommended that the Department only require reporting of loans made to employees in whole or in part due to their union status. The commenter expressed concern over the volume and diversity of new transactions that would come under the scope of the new Form LM–30, such as payroll advances, and the burdensome recordkeeping requirements that would accompany the elimination of this exception. One commenter argued that the ''overwhelming majority'' of the estimated 206,000 union officers and employees would now have to report under the new Form LM–30.

The Department has concluded that the exception as drawn in the instructions to the old Form LM–30 is too broad. While there is a strong argument that elimination of the exception would best serve the disclosure purposes of the Act, the total burden associated with requiring reports on payments received from all financial institutions would be considerable. Loans, interest, and dividends earned during the regular course of business with a bona fide financial institution are among the most common financial transactions undertaken by individuals. For example, without this exception, a union official would have to report each mortgage or other bank loan received from any financial institution in competition with a financial institution that deals with the official's union. A union official would first have to identify all the financial transactions with the official, his or her spouse or minor children and then look at the corresponding institutions to see whether they do business with the official's union, or compete with those that deal with the official's union. In the Department's view, the burden would outweigh the value of the additional information disclosed.

The current exception has kept improper transactions from being disclosed. As noted in the NPRM, the Department only belatedly became aware of a situation where a credit union controlled by a local union made 61% of its loans to four of its loan officers, three of whom were officers of the local. 70 FR 51177. If the officials had been required to report these loans, the members would have learned that their credit union was making loans for reasons related to union status, not on a borrower's ability to repay the debt, which posed a risk to the credit union by failing to spread the lending risk more broadly. In short, the members would have been able to determine whether the officials had placed their own personal interests above the union's interest in the credit union that it ostensibly controlled. By eliminating the exception for institutions that are trusts, valuable information regarding potential conflicts of interest will be publicly disclosed.

While the Department recognizes that an official's interest in preserving the confidentiality of such information may be considerable; nonetheless, this interest is outweighed by the need for union members and the public to know of transactions between union officials and related organizations. Thus, here the balance tips in favor of disclosure in the limited situations proposed by today's rule.

This exception applies, and has always applied, only to reports due under section 202(a)(6). Where the financial institution is an employer whose employees the filer's union represents or is actively seeking to represent, the exception would not apply. Nor would it apply where the financial institution is a business that buys, sells, leases or otherwise deals with the union, a trust in which the union is interested, or in substantial part with the employer of the union members.

One commenter ''strongly'' disagreed with the proposal, arguing that it would impose a reporting obligation on union

officials, even though financial institutions are expressly relieved from reporting such loans by section 203(a)(1) of the Act. Section 203(a)(1) specifically exempts ''payments or loans made by any national or State bank, credit union, insurance company, savings and loan association or other credit institution.'' The commenter pointed out the potential ''reporting inequities'' of the Department's proposal and argued that the inconsistent reporting obligation would make comparative analysis of Forms LM–10 and LM–30 impossible. The Department acknowledges that by modifying the exception, union officials will be required to report on matters about which the financial institutions themselves have no LMRDA reporting responsibility. However, the commenter overlooked the limited scope of the divergence. Section 203(a)(1)'s exception for ''credit institutions'' does not extend to any payments or loans made by such institutions to persuade or otherwise interfere with employee collective bargaining or representation rights. *See* 29 U.S.C. 203(a)(2) and (3). Furthermore, strong policy reasons exist for requiring union officials to report their arrangements with financial institutions in the limited circumstances required by today's rule.

4. Exceptions Relating to Stocks

The Department invited comments about whether to remove or retain the administratively created exception related to the reporting of holdings, transactions or receipts of income from securities that do not meet the registration requirements of the Act, are of insubstantial value, and occur under terms unrelated to an employee's status in a labor organization. The old rule states: ''For purposes of this exclusion, holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial.'' 70 FR 51176.

On a related issue, the Department sought comments on whether to retain the distinction between, on the one hand, securities traded on a registered national stock exchange and, on the other hand, securities that while traded on a high volume exchange, are not traded on a *registered* national exchange (as was the case with NASDAQ until recently). 70 FR 51177. Section 202(b) provides that a union official is not required ''to report his bona fide investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934, in shares in an investment company registered under the Investment Company Act of 1940, or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, or to report any income derived therefrom.'' The NPRM listed all of the stock exchanges currently registered under the Securities and Exchange Act of 1934: ''The American Stock Exchange, Chicago Board Options Stock Exchange, International Securities Exchange, National Stock Exchange (formerly the Cincinnati Stock Exchange), New York Stock Exchange, Pacific Exchange, and Philadelphia Stock Exchange.'' The proposal noted that NASDAQ was not registered as a national securities exchange.

Two commenters favored the complete elimination of the insubstantiality exception for securities not meeting the registration requirements. One of these commenters argued that the insubstantiality exception flies in the face of clear statutory intent to require the reporting of all stock transactions apart from bona fide investments in securities traded on a national securities exchange. The other commenter argued that union members, not this Department, should determine what is and is not insubstantial. One commenter also supported the exception for small holdings of unregistered securities as long as the holdings are too small to give rise to a controlling interest. Focusing on the comprehensibility of the exceptions to ''end-user'' union officials and members, another commenter stated that the ''$1,000/100'' and ''publicly-traded securities'' exceptions are specific and easily understood. By contrast, all of the union commenters, along with a labor educator, favored the exception and supported its broadening.

The Department believes that the $1,000/$100 exception is warranted, and therefore it is *retained* in today's rule. Where the value of securities and any interest thereon is less than these threshold amounts, there is little risk of potential conflict between an official's personal interests and his or her duties to the union. Moreover, any such risk is outweighed by the burden associated with such reporting. Thus, for these and the reasons already expressed more generally herein on the application of the de minimis principle to the reporting obligation, today's rule retains this limited reporting exception.

One commenter objected to maintaining the exception for stock traded on other than a registered, national stock exchange on the ground that the statute does not provide for such an exception. Another commenter argued that there should be no exceptions for transactions involving the stock of the employer, regardless of whether the stock is traded on a registered securities exchange. This commenter expressed concern about the potential for insider trading by union officials who have knowledge about the position of the company that the rank and file members do not have. In support of his position, the commenter provides an example in which members of a union executive board sell stock options in a national exchange or private exchange shortly before authorizing a strike against the company that issued the stock.

Other commenters argued that the existing exception for securities traded on a registered, national stock exchange should be continued and extended to cover stock transactions for shares traded on NASDAQ. All of the union commenters, along with a labor educator, favored the exception and supported broadening it. A commenter supported maintaining the exception for stock that is held in a company unrelated to the filer's labor organization because, in its view, there is no potential for a conflict of interest. In support of their position, they argued that the LMRDA's legislative history demonstrates that Congress did not want to burden officials with reporting holdings of publicly traded or regulated stocks ''because of the unlikelihood that such holdings will amount to a substantial or controlling interest * * * in the company in question. The argument follows that because NASDAQ securities are publicly regulated and publicly traded, they fall within the purview of what Congress sought to exempt from reporting under section 202(b). One commenter illustrated its position with the different reporting requirements that would apply if a union official owned both Gateway and Dell stock: the Dell stock (traded on NASDAQ) would be reported, whereas the Gateway stock (traded on the NYSE) would not be reported. According to this commenter, there is no conflict of interest in either instance, and accordingly neither transaction should be reported. Another commenter noted that when the LMRDA was enacted in 1959, the shares of large corporations were exclusively traded on registered exchanges. It explains that now, however, the shares of many of those same large corporations are traded on the NASDAQ and that shares traded on NASDAQ are subject to Federal registration requirements.

The Department *retains* the rule set forth in the instructions to the old rule, continuing the obligation of union officials to report transactions with any

exchange unless and until they meet the requirements embodied in section 202(b). As a pure matter of policy, the argument for adding securities traded on a highly regulated, albeit ''unregistered,'' market to the general exception for stock traded on a registered, national stock exchange may have merit. However, such argument founders on the plain language used by Congress to craft the exception for securities traded on a registered exchange as provided in the statute. By conditioning a reporting exception on registration, Congress obviously considered whether unregistered stocks should be similarly exempted and decided against it. Similarly, the statutory language prevents the Department from adopting a rule, as suggested by one commenter, to require officials to report their holdings in such securities that he or she has purchased in a company whose employees the official's union represents or is actively seeking to represent.

Although the commenters have demonstrated that the exception crafted by Congress, differentiating between certain kinds of stock depending upon how they are traded, may lead to some perceived anomalies, they do not show that this reporting obligation will impose any undue burden on filers. Furthermore, on July 15, 2006, the SEC approved NASDAQ's application for registration as a national securities exchange, effective July 31, 2006. In announcing its decision, the SEC stated that the ''vast majority'' of the companies listed on NASDAQ have previously registered their securities under the Exchange Act. Press Release, SEC (July 31, 2006), available at *http://www.sec.gov/news/press/2006/2006–127.htm* (last visited on Nov. 21, 2006). Thus, under today's rule, the exception provided by section 202(b) applies to registered stocks traded on NASDAQ; and the instructions have been revised to reflect this change. As some of the commenters suggested, the distinction between highly regulated stocks that are traded on a national, but unregistered exchange, and those traded on a registered national exchange is not immediately apparent to many filers, particularly insofar as NASDAQ-traded securities were concerned. The Department believes that its proposed definition of ''publicly-traded securities'' (albeit something of a misnomer in that registration of a national exchange, not ''public trading,'' is the distinguishing characteristic for reporting purposes) accurately set forth the statutory reporting obligation. At the same time, however, the change in the registration status of NASDAQ has largely eliminated the need for a lengthy discussion of this point in the instructions. For this reason, the final instructions more closely follow the abbreviated discussion of this point in the current instructions, without the need for a separate definition of ''publicly-traded securities'' or an equivalent term.

5. Revision of Special Report Language

As noted, the old Form LM–30 administratively excepts union officials from reporting various matters that otherwise would have to be reported under the particular subsections of section 202(a). A special report was intended to be used to obtain such information about such unreported matters upon demand of the Department. *See* 29 CFR 404.4. The Department proposed to delete the special report provision.

At the time the Form LM–30 was created, the Department apparently believed that more complete reporting, consistent with the reporting requirements of section 202, could be realized through an ad hoc special report that could be selectively required by the Department. *See* 29 CFR 404.4. As discussed in the NPRM, these reports would allow the Department to require the disclosure of the information that was exempted from disclosure by operation of the administrative exceptions. No procedures were established, however, to identify the circumstances for which a special report would be required; and apparently the Department has never requested a union official to provide a special report. As noted in the NPRM, the elimination of the special report provision does not diminish the Department's authority to assess each Form LM–30 report for sufficiency, require amended reports, and to commence investigations where it is necessary to determine whether any person has or is about to violate any provision of the Act. 29 U.S.C. 440, 521.

E. Why Union Officials, as a General Rule, Must Report Payments Received as Members of a Company's Board of Directors

If a union official serves as a director for an employer and receives compensation or reimbursement for attendance at meetings, the official must report such payments. Such payments may not have been reported on the old Form LM–30 because of an official's reliance on an earlier opinion by the Department on this issue. In the NPRM, the proposed instructions provided the following example of a transaction to be reported under section 202(a)(4):

> You are a national union president and a trustee of a jointly administered health care trust that insures union members through an insurance company. Premiums for coverage are paid by the trust to the insurance company. You are a member of the board of directors of the health insurance company, which pays you an annual fee and reimburses expenses for your attendance at board meetings. * * * As the insurance company is doing business with a trust in which your union is interested, you must report your annual fee and reimbursed expenses under this subsection. The dealings between the health insurance company and the trust must also be reported.

70 FR 51215.

The Department only received one comment on this point. The commenter opposed the proposal, arguing that the Department should confirm its 1986 opinion that directors' fees paid to union officers serving on a corporate board need not be reported ''so long as the corporation pays the union officer/director at the same rate it pays the other directors, for the same services.'' The opposition was based on the commenter's broader premise that Congress intended to generally except any payments to union officials that are made in the regular course of business. The Department disagrees.

In the commenter's view, the old Form LM–30, in effect, applies language in section 202(a)(5)—excepting from reporting certain transactions involving the ''purchases and sales of goods or services in the regular course of business at prices generally available to any employee of [the] employer'' who sold the goods or service—to modify generally the reporting obligations under section 202. The commenter argued that the instructions to the old Form LM–30 also apply, in effect, language in section 202(a)(6)—excepting from reporting certain payments ''of the kinds referred to in section 302(c) of the Labor Management Relations Act''—to modify generally the reporting obligations of section 202. The commenter, in essence, asserts that the instructions to the old form, like the 1986 opinion on directors' fees, which draws on similar language in section 302(c), properly effectuate the intent of Congress and therefore should be preserved. The commenter further asserts that there is no justification for additional recordkeeping and reporting if the union representatives are being treated the same as their fellow directors on a corporate board.

The Department disagrees with this commenter's opposition to this reporting requirement. The commenter's reference to the 1986 opinion on directors' fees refers to a letter by a senior Department official responding to

a request for an opinion concerning directors' fees paid to union officers serving on a corporate board. The official concluded that ''so long as the corporation pays the union officer/director at the same rate that it pays the other directors, for the same services,'' the payments are not reportable. The opinion letter reversed a 1983 determination by another senior Department official that the fees must be reported. After again carefully reviewing this question and the example discussed above in the NPRM, the Department concludes that the NPRM correctly illustrated a payment that is required under section 202(a)(4) (a business dealing directly or indirectly with an official's union) and section 404.2 of the Department's regulations on reporting by union officials (a business dealing with a section 3(l) trust that involves the official's union).

If a union official serves on an employer's board of directors and receives a fee, the employer has made a payment to a union official. Such payments are typically not of the kind referred to in section 302(c) because the exception concerning compensation to employees is not applicable unless the director is employed by the company on whose board he or she sits, an atypical status for a corporate director. Further, directors' fees are not an article or commodity, and it is questionable whether such payments for these types of personal services can be said to have a prevailing market price. Significantly, these payments raise potential questions of a conflict of interest, due to the employer's role in selecting the directors and setting the amount of the fee. A union member has an interest in knowing whether decisions made by his or her union officials may have been affected by the official's competing personal financial interest. The commenter's contention that no report should be filed where union-affiliated directors receive the same compensation as non-union directors is not persuasive. The LMRDA's reach extends only to regulating the conduct of union officials, not to setting general standards of corporate governance.

Thus, under today's rule, no separate reporting exception is made for directors' fees. A union official must report his or her receipt of directors' fees when made by an employer whose employees the payment recipient's union represents or is actively seeking to represent. Sections 202(a)(1), (2) and (5). Such fees will also be reportable when made by a business, a substantial part of which consists of buying, selling, or otherwise dealing with an employer whose employees the payment recipient's union represents or is actively seeking to represent, or any part of which consists of buying, selling, or otherwise dealing with the recipient's union, or a trust in which the recipient's union is interested. Section 202(a)(4). Finally, as discussed in greater detail, the official must report his or her receipt of directors' fees from an employer defined by this rule under 202(a)(6) including an employer in competition with an employer whose employees the payment recipient's union represents or is actively seeking to represent.

F. Why Officers of International, National, and Intermediate Labor Unions, in Addition to Their Obligation to Report Payments and Other Financial Benefits Received From Businesses and Employers That Have a Direct Relationship With the Component of the Union to Which They are Elected or Appointed, Must Also Report Payments and Other Financial Benefits Received From Businesses and Employers Whose Relationship Is With a Subordinate Body of Their Union

In the NPRM, the Department proposed to clarify the obligation of a union official to report his or her interests in and payments (and those of the official's spouse and minor children) from employers and businesses that have a relationship with the official's union, albeit at a different hierarchical level than the level at which the official serves as an officer or employee. Under sections 202(a)(1) through (a)(5), union officers and employees must report payments from, holdings in, or transactions with: (1) An employer whose employees the filer's labor organization represents or is actively seeking to represent; (2) a business a substantial part of which consists of dealing with an employer whose employees the filer's labor organization represents or is actively seeking to represent; or (3) a business that deals with the filer's labor organization or a trust in which the filer's labor organization is interested. The scope of the reporting obligation thus depends on what organization constitutes the filer's ''labor organization.'' As explained in the NPRM, many labor organizations consist of a three-tier hierarchy, such as a local labor organization, an intermediate body, and a national or international labor organization. 70 FR 51182. The NPRM explained that the Department's proposal clarifies the reach of the disclosure obligation to include conflicts that arise between a union official and his or her responsibility to both the immediate unit of the union that he or she serves and any of its parent or subordinate bodies. The NPRM noted that the *LMRDA Manual* provides that an officer at the highest tier of a three-tier labor organization must report payments from businesses that deal with employers whose employees are represented by a subordinate union local. ''An international union officer must report his income from [a] business [that has dealings with an employer whose employees a local union represents] even though he is not an officer of the local which represents the employees of the business, and even though his duties as an international officer do not include representation activities.'' *LMRDA Manual,* § 241.100. The proposed rulemaking noted that members of an LMRDA-covered labor organization would have an interest in knowing if a subordinate labor organization purchases goods or services from a business entity owned by a higher level labor organization officer because local union personnel may choose to deal with this business entity out of fear of alienating the higher level officer. 70 FR 51183.

The old instructions are silent about the obligation of an officer or employee to report interests or income from businesses that have a relationship with parent or subordinate labor organizations of the filer's immediate union body, *i.e.*, the particular component of the official's union in which he or she holds office or is employed. *See* 29 U.S.C. 432(a)(4). In the same way, the instructions are silent as to whether labor unions affiliated with that of the union officer or employee are encompassed by the phrase ''an employer whose employees *such labor organization represents or is actively seeking to represent.*'' *See* 29 U.S.C. 202(a)(1), (2), (5) (emphasis added). The Department proposed to establish a rule requiring a union official to report payments he or she received from a business or employer that had a relationship with any component of the overall union hierarchy to which the official belongs or whose employees any components of that union represent or are actively seeking to represent. To accomplish this result, the Department proposed to define ''labor organization,'' for purposes of Form LM–30 reporting as ''the local, intermediate, or national or international labor organization that employed the filer, or in which the filer held office, during the reporting period, and any parent or subordinate labor organization of the filer's labor organization.'' 70 FR 51174.

Commenters were divided on the proposal, with most opposed to what

they viewed as an expanded reporting obligation. Representative of the comments favoring the proposal is the following: Union members deserve to know whether union officers or employees ''receive benefits from businesses whose employees are represented by, or are actively seeking to be represented by, a parent or subordinate union, to form an opinion about whether a conflict of interests exists.'' Representative of the opposing viewpoint is the following: Union officers do not have the resources to ''trace the repercussions of each potentially reportable interest * * * up or down the organizational hierarchy and throughout the national marketplace.'' As discussed below, the Department has decided to modify the reporting obligation by excluding local officials from reporting financial interests in businesses and employers that are involved with higher level components of their union's hierarchy and clarifying and reducing the reporting obligation of officials of national, international, and intermediate level unions. Thus, the Department has narrowed the reporting obligation from that proposed in the NPRM by adopting the existing ''top-down'' approach. *See LMRDA Manual,* § 241.100.

The Department adopts a revised definition of ''labor organization,'' which reads in the instructions as follows:

> Labor organization means the local, intermediate, or national or international labor organization that employed the filer, or in which the filer held office, during the reporting period, and, in the case of a national or international union officer or an intermediate union officer, any subordinate labor organization of the officer's labor organization. Item 6 of the Form LM–30 identifies the relationships between employers and ''your labor organization'' or ''your union'' that trigger a reporting requirement. Item 7 of the Form LM–30 identifies the direct and indirect relationships between a business (such as a goods vendor or a service provider) and ''your labor organization'' that trigger a reporting requirement. The terms ''your labor organization'' and ''your union'' mean:
>
> a. *For officers and employees of a local labor organization.*
>
> Your local labor organization.
>
> b. *For officers of an international or national labor organization.*
>
> Your national or international labor organization and all of its affiliated intermediate bodies and all of its affiliated local labor organizations.
>
> *But note:* A national or international union officer does not have to report, payments from, or interests in businesses that deal with employers represented by, or actively being organized by, any lower level of the officer's labor organization. Such officers are also not required to report payments and other financial benefits received by their spouses or minor children as bona fide employees of a business or employer involved with a lower level of the officer's labor organization.
>
> c. *For employees of a national or international labor organization.*
>
> Your national or international labor organization.
>
> d. *For officers of intermediate bodies.*
>
> Your intermediate body and all of its affiliated local labor organizations.
>
> *But note:* An officer of an intermediate body does not have to report payments from or interests in businesses that deal with employers represented by, or actively being organized by, any lower level of the officer's labor organization. Such officers are also not required to report payments and other financial benefits received by their spouses or minor children as bona fide employees of a business or employer involved with a lower level of the officer's labor organization.
>
> e. *For employees of an intermediate body.*
>
> Your intermediate body.

The first sentence of the definition is also adopted as part of the definitions section of the Department's regulations (to be codified as 29 CFR 404.1(f)). A summary of the principal comments on this issue and the Department's response to the comments follows.

Some commenters expressed a belief that the proposed definition is not supported by the statutory definition of ''labor organization'' at section 3(i). Instead, they argued that the term ''labor organization'' refers to the immediate labor organization of the filer, exclusive of any parent and subordinate entities. A commenter claimed support for its argument in the legislative history of the LMRDA, specifically the *Senate Report,* which discusses the conflict of interest that develops when a union officer is involved in collective bargaining with a business in which he or she has a financial interest. *Id.,* at 15, *reprinted in 1 Leg. History,* at 411. Some commenters argued that interests and payments that would be reported under the Department's proposal do not present conflicts of interest; one commenter explained that transactions involving parent and subordinate organizations are not reportable because the union officer is not bargaining on behalf of those organizations.

The Department is not persuaded that the language of the statute compels, or even that it can be best read to support, the conclusion that Congress intended to confine a union official's reporting obligation solely to the entity of a national or international union to which a particular union official is elected, appointed, or hired. As defined by the Act:

> ''Labor organization'' means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms and conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a state or local central body.

Section 3(i); 29 U.S.C. 402(i). This definition, broad in scope, does not answer the question posed by the Department's proposal. Section 3(i) serves mostly a functional purpose, to distinguish labor organizations from other groups or associations to which employees may belong by focusing on the organization's purpose and activities to collectively represent the employees in their dealings with employers about matters affecting various aspects of its members' employment. Section 3(j) of the Act, 29 U.S.C. 402(j), albeit focused on the nexus between an organization and its effect on interstate commerce, is more helpful in discerning whether Congress proceeded upon a general premise that it was creating rights and obligations that would be specific to only a particular component of a larger organization, *i.e.*, legislating on a separate, component-by-component basis. If Congress had that intent, the Act should provide precise boundaries between entities that otherwise are often combined in everyday usage. The statute, however, does not contain such precision. Congress instead took an approach, consistent with the common understanding of the term ''labor organization'' and its flexible usage in which the existence and overlapping responsibilities of entities that constitute or comprise a labor organization are inferred unless otherwise indicated. Thus, Congress understood that a union engages in representation through various means, including certification, or through the employer's ''recognition or acting as the representative of employees.'' *Id.* This section also recognizes that the term ''labor organization'' includes a ''local or subordinate body'' to such an organization and a higher body of which it is part. See sections 3(j)(1) through 3(j)(5).

As section 3(j) recognizes, the term ''labor organization'' requires a flexible meaning, depending upon the particular context in which it is used. For example, while section 101 of the Act establishes a bill of rights conferring on ''every member'' of a labor organization ''equal rights and privileges within such organization,'' it obviously does not

create for every member of a national ''labor organization,'' the same rights as members of a particular component of the organization in voting for that component's officers, but it does confer such rights insofar as they are exercised within the ''larger organization.'' In contrast, section 104 takes a different approach; in imposing on a ''labor organization'' the duty to provide copies of collective bargaining agreements, it distinguishes between the particular duty ''in the case of a local labor organization'' and the duty ''in the case of a labor organization other than a local labor organization.'' This approach obviously contrasts with the approach taken by Congress in crafting the reporting obligation to file labor organization annual financial reports in section 201 of the Act. Although the filing obligation is cast in terms of ''each labor organization,'' the context makes clear that the obligation applies to the financial affairs of a particular component of a labor organization. With respect to section 202, the context does not make clear whether the obligation is limited to a particular component of the union or not. Each of the particular requirements may be applied to an official's ''immediate labor organization'' or the ''larger labor organization'' to which the official belongs. As discussed below, the Department believes that this ambiguity, based on its review of the statute's legislative history and public policy considerations, should be resolved in favor of disclosure. At the same time, as discussed below, the Department has taken into account the burden which such a reporting obligation may entail and has crafted a rule that achieves a balance between disclosure and undue burden.

Although some commenters apparently would argue that the language in section 202 evinces an intention to restrict the reporting obligation to the official's immediate union, this contention begs the question of what was intended by the referent, ''such labor organization,'' as used in that section. As explained above, the structure of the LMRDA does not compel nor even strongly suggest that intention. The Department believes that the disclosure purposes of the Act are best met by giving the term ''labor organization'' its broader reach in applying the reporting obligation. As discussed above, section 3(j) recognizes that representation of employees is exercised in different ways, not merely through a union component that holds ''certified'' status. Moreover, as the statute's legislative history and the Department's own experience bear out, national and international unions often exercise authority that affects subordinate bodies (and their members) in their relationship with employers even though a subordinate union holds the certification or recognition with the employer and may have retained formal authority over such matters. Given the broad reach of the term labor organization section 202's use of the term ''such'' in combination with ''labor organization'' does not qualify or restrict the reporting obligation.

The argument, in effect, that Congress intended to restrict a union official's reporting obligation to the particular component of the union he or she serves as an officer or employee also is belied by the legislative history of the LMRDA. As discussed in greater detail herein, the genesis of the LMRDA's reporting provisions was the conflicts of interest between the personal financial interests of national and international union officials and their duty to promote the interest of all the members of their union. The hearings of the McClellan Committee revealed numerous instances whereby such officials took actions to advance the interests of employers with whom they had obtained financial benefits or the officials' own personal financial interests, overriding local officials and the interests of these locals. *See Interim Report*, at 4–5, 69–70, 73–74, 85–86, 122–28, 130–31, 228, 230, 240–41, 250, 252, 262, 265–66, 298, 441–45; *The Enemy Within*, at 26, 94, 97–98, 104–06, 219–20. At the same time, the hearing did not show a reciprocal pattern whereby local officials were able to interject themselves into matters handled at higher levels of their union to advance the interests of an employer with whom the local official had a financial relationship.

Apart from the question of legal authority, several commenters expressed concern about the wisdom of the Department's proposal, suggesting that the information sought by the Department did not pose a conflict of interest and that, even if it did, the burden of reporting outweighed any benefit from obtaining the information. For example, a commenter asserted that filers will be confused by the requirements and many individuals will unintentionally fail to report transactions because ''they lack knowledge of any connection between the employer involved and the newly expanded 'labor organization' of which the individual is considered to be an officer or employee.''

The Department believes that union members have an interest in knowing if an international, national, or intermediate union officer receives payments and benefits from, or holds an ownership interest in, a business that deals with subordinate labor organizations or trusts in which these labor organizations are interested. The national or international officer could use his or her position to influence subordinate labor organizations to utilize the services of that business. Moreover, his or her financial interests in those businesses create the same potential for putting the official's personal financial interests above his or her duties to the union and its members. The proposed instructions include several examples of situations that would create a tension between a union official's duty to the ''larger union'' which the official serves and his or her own personal finances. *See* 70 FR 51189–91. Union members are entitled to this information in order to determine if their interests are best served where a union official has such financial ties. Without such disclosure, it is unlikely that a union member would be able to determine whether such payments reflected a ''cut'' of the union's funds that were advanced for a particular purchase or to disguise a payment for services rendered by the official in favor of an employer whose employees are represented by or may be the target of organizing by a subordinate union of the official's union. Such reporting also prevents circumvention or evasion of the Act's other reporting obligations. Requiring union officials to report such payments not only allows members to ''follow the money'' that otherwise would be identified in the union's Form LM–2, but also increases the likelihood that the employer making the payment also will comply with its own obligations under section 203 of the Act.

The concern about the conflicts between the personal financial interests of national and international officials and the interests of the union's members at all levels of the union underlies the Department's interpretation in the *LMRDA Manual*, at § 241.100, quoted above. After carefully considering the comments received on this point and reevaluating the legislative history, the Department has decided to impose the reporting obligation only on union officers who have dealings with businesses and employers that deal with components of the union *subordinate* to the level of the union which the official serves as an officer. In reaching this decision, the Department recognized that a much greater probability exists that an official with a position higher in the union hierarchy would be able to

wield influence on matters affecting a subordinate entity than the reverse situation, and that officials in higher positions are more readily able to obtain the information needed to meet this obligation than someone lower placed in the union hierarchy. For similar reasons, the Department has determined to limit the reporting obligation to the national or international union's *officers*; under today's rule, *employees* of the national or international union are not required to report payments or other financial interests that solely relate to subordinate entities of the international. Although section 202 would allow such reporting, the Department believes that potential conflicts are much more likely to arise where a payment or other financial interest is received by a union officer rather than by an employee. Furthermore, given the typically much larger number of employees than officers in national and international unions, the overall reporting burden of the rule is minimized by excepting employees from this particular reporting obligation. To further reduce the overall reporting burden, the Department has decided to except from reporting payments or other financial interests received, as a bona fide employee, by an officer's *spouse* or *minor child* in connection with dealings relating to subordinate components of the officer's union—payments that if made to the officer would be reportable. In this way, the rule also represents a reduction in burden from the prior rule, which required officers of international unions to report all payments to their spouses and minor children from vendors to subordinate locals.

As noted, the cited interpretation in the Department's *LMRDA Manual* only refers to officers of an international union (and by extension to national unions); however, the same concerns that require such officers to report possible conflicts involving subordinate components of the union counsel for requiring intermediate union officers to report possible conflicts involving locals or members that the intermediate union oversees. The same potential for conflicts and manipulation exists as to the relationship between intermediate union officers and businesses and employers dealing with local labor organizations. For example, local union personnel may choose to deal with a business entity owned or controlled in whole or in part by an intermediate or national or international union officer out of fear of alienating the higher level officer. 70 FR 51183.

Some commenters expressed concern that the Department's proposal would impose a substantial burden on union officials, requiring them to identify the ''spider web like'' connections between the various components of their union and the businesses and employers who are represented by any of the components or who any of the components is actively seeking to represent. As a general rule, local officials need only report payments from and other financial interests in businesses that sell products or services to the local or the local's section 3(l) trusts and employers whose employees are represented by the local or it is actively seeking to represent. The only other payments or interests that they must report are those from ''other employers'' that involve identified conflicts of interest. Thus, for reporting purposes, the local official need only identify those entities which he or she holds an interest in or receives a payment from and the relationship between these entities and the official's local.

The burden is potentially greater for an officer of an international, national, or intermediate labor organization, but so too, as evidenced by the McClellan Committee hearings discussed above, is the potential for a conflict between the officer's personal finances and his or her duty both to the component of the union in which he or she serves and its subordinate bodies. In the Department's view, when officers have an ownership interest in a business, they should either have personal knowledge of whether the business deals with subordinate labor organizations or the ability to obtain this information from the business. While the information may be more difficult to obtain where the officer is an employee of the entity in question, rather than an owner, any burden is outweighed by the benefit to union members of obtaining reports of their official's conflicts of interests.

G. Why Union Officials Must Report Payments Under Union-Leave and No-Docking Practices Subject to an Exception for Payments of 250 Hours or Less Per Year Made in Accordance With a Collective Bargaining Agreement

The Department proposed to require union officials to report payments received from employers for activities engaged in by the officials on the union's behalf. The most common payments by employers to individuals for conducting union business are made pursuant to ''union-leave'' or ''no-docking'' policies established in collective bargaining agreements or by customary practice. Under a union-leave policy, the employer continues the pay and benefits of an individual who works full time for a union. Under a no-docking policy, the employer permits individuals to devote portions of their day or work week to union business, such as processing grievances, with no loss of pay. The Department proposed that an officer or employee would have to report any payments for other than ''productive work,'' including union-leave and no-docking payments. The Department explained in its proposed definition of bona fide employee that these payments are not received as a bona fide employee of the employer; rather, they are received as a representative or employee of the union.

Under the instructions to the old Form LM–30, such payments are not reportable if they are: ''(a) Required by law or a bona fide collective bargaining agreement, or (b) made pursuant to a custom or practice under such a collective bargaining agreement, or (c) made pursuant to a policy, custom, or practice with respect to employment in the establishment which the employer has adopted without regard to any holding by such employee of a position with a labor organization.'' See instructions, Part A, exception (iv); *see also LMRDA Manual* § 248.005. This section of the Manual, as noted in the NPRM, discusses the situation where a union officer ''is excused from his regular work to handle grievances and [is] paid his regular wages while handling grievances.'' The Manual states: ''Such a situation will not normally require reports from the union officer * * * on the theory that the employee officer is being paid for work performed of value to the employer who is interested in seeing to it that grievances are immediately adjusted.'' *LMRDA Manual,* § 248.005. See 70 FR 51181.

In the NPRM, the Department explained that the exception for payments made to a bona fide employee is required by statute, but that the statute is silent on the scope of the exception and specifically its applicability to ''union-leave,'' ''no-docking,'' and similar payments. The Department explained that under its proposal ''to be exempt from reporting, payments and other benefits received as a bona fide employee of the employer must be attributable to work performed for, and subject to the control of, the employer.''

The Department also stated that the *LMRDA Manual* improperly focused on whether the employer feels the money is well-spent; the correct issue is whether or not the official is a bona fide employee of the payer-employer during the time for which payment was made. In making its proposal, the Department

endorsed the statement: ''Union-leave,'' and ''no-docking'' payments may pose a conflict of interest since there are ''union negotiators who may agree to reduced benefits for the employees in exchange for financial support for the union.'' *Caterpillar* v. *UAW,* 107 F.3d 1052, 1060 (3d Cir. 1997) (Mansmann, J., dissenting). The Department noted its view that such payments should be disclosed to union members to enable them to evaluate the effect such payments might have on an official's performance of his or her duties to the union.

The Department adopts a revised definition of ''bona fide employee,'' as set forth in the next paragraph. Under today's rule, payments to a union officer or employee under a union-leave or no-docking arrangements set forth in a collective bargaining agreement are exempt from reporting unless payment is for greater than 250 hours of union work during the filer's fiscal year. Payments for union work totaling greater than 250 hours over the course of the filer's fiscal year are reportable as are any payments that are not made pursuant to arrangements set forth in a collective bargaining agreement.

The revised definition of ''bona fide employee'' reads:

Bona fide employee is an individual who performs work for, and subject to the control of, the employer.

Note: A payment received as a bona fide employee includes wages and employment benefits received for work performed for, and subject to the control of, the employer making the payment, as well as compensation for work previously performed, such as earned or accrued wages, payments or benefits received under a bona fide health, welfare, pension, vacation, training or other benefit plan, leave for jury duty, and all payments required by law.

Compensation received under a ''union-leave,'' or ''no-docking'' policy is not received as a bona fide employee of the employer making the payment. Under a union-leave policy, the employer continues the pay and benefits of an individual who works full time for a union. Under a no-docking policy, the employer permits individuals to devote portions of their day or workweek to union business, such as processing grievances, with no loss of pay. Such payments are received as an employee of the union *and thus, such payment must be reported by the union officer or employee unless they (1) totaled 250 or fewer hours during the filer's fiscal year and (2) were paid pursuant to a bona fide collective bargaining agreement. If a filer must report payments for union-leave or no-docking arrangements, the filer must enter the actual amount of compensation received for each hour of union work. If union-leave/no-docking payments are received from multiple employers, each such payment is to be considered separately to determine if the 250 hour threshold has been met. For purposes of Form LM–30, stewards receiving union-leave/no-docking payments from an employer or lost time payments from a labor organization are considered employees of the labor organization.*

The filer will report, separately, for each such employer the total payments received from the employer during the filer's fiscal year for the work performed on the union's behalf. The filer must also calculate the hourly monetary value of any fringe benefits received, and include this figure in the total.

The Department sought comments about any problems (or their absence) that have arisen by not requiring the reporting of payments received for union-leave, no-docking, and similar situations where a union official was paid for unproductive time, and whether or not there should be quantitative and/or qualitative distinctions to the disclosure obligation. Numerous comments, mostly opposed to the Department's proposal, were received on this question.

A few commenters favored the Department's proposed definition of bona fide employee and the reporting of payments received by a filer in union-leave or no-docking situations. One commenter maintained that any payments made by an employer as part of no-docking or union-leave arrangements could result in union officials agreeing to trade off contract provisions that might benefit the entire bargaining unit in exchange for privileges that would benefit only union officials. Another commenter stated that union members may be unaware of such payments. His statement was based on his knowledge that one of his union's officers received payment from the employer for union-related work and that such payment was not provided for in the collective bargaining agreement. He stated that other members of his union did not know that the official received these payments from the employer.

A large majority of the comments argued in favor of retaining the no-docking and union-leave exception. One commenter argued that the Department was abandoning a ''long-standing position without adequate justification.'' This commenter cited a lack of statutory authority or legislative history of Congressional intent to require union officials to report such payments, adding that any benefit from such disclosure was outweighed by the increased burden on filers. One commenter cited the Senate subcommittee hearings on the LMRDA to support its position that bargained no-docking and union-leave provisions were ''not forbidden by the AFL–CIO Code of ethical practices.'' *Hearings on Union Financial and Administrative Practices and Procedures before the Subcommittee on Labor and Public Welfare* (1958) (''*1958 Senate Hearings*''), at 349. Many of these commenters stressed the ''long-standing nature'' of such practices by employers, and they particularly emphasized how ''commonplace'' it is to find these provisions in collective bargaining agreements. One commenter asserted that at the time the LMRDA was enacted, just over half of all collective bargaining agreements involving manufacturers contained no-docking provisions. Several comments focused upon the Labor Management Relations Act and its interaction with the LMRDA, and argued that national labor policy is to encourage collective bargaining and a ''productive and harmonious workplace.'' They noted that no-docking and union-leave provisions have been found lawful by the courts when they are part of a collective bargaining agreement. Some commenters maintained that sections 202(a)(1) and 202(a)(5) are parallel to section 302 of the Labor Management Relations Act because each is concerned with the same kind of employer payments to union officials. They further argued that because section 302 has been interpreted by the courts to provide that ''payments pursuant to union-leave or no-docking arrangements are payments 'by reason of' an officer or employee's service as an employee of an employer,'' sections 202(a)(1) and 202(a)(5) should be similarly interpreted to allow for the time union officers spend on union-related work to be considered the work of bona fide employees. *See Caterpillar, Inc.,* 107 F.3d at 1052.

Another commenter suggested that work performed under no-docking and union-leave scenarios is indirectly, if not directly, performed for the employer, and further stated that such pay by an employer is analogous to other employee benefits such as sick leave, military leave, jury leave, and similar fringe benefits. Many commentators argued that union-leave, no-docking, and similar payments are usually made under the terms of a collective bargaining agreement and that such payments are usually tied to the same rate of pay that the union representative would receive under the agreement for time worked at his or her trade. One commentator argued, in effect, that there was no conflict because the union would pay for the representative's time if it was not provided for under the parties'

negotiated agreement. Many argued that there is nothing private or secretive about such payments because the terms of the payments are disclosed by reading the negotiated agreement and that union members know that their representatives are paid for the time involved in contract administration. Many commenters explained that union stewards and other union representatives perform valuable tasks for the union and the employer; they expressed the concern that by imposing a reporting obligation on such payments future attempts to establish or continue these roles would ''be chilled'' which, in turn, could lead to ''a breakdown in labor-management relations.'' A few commenters were concerned that if the Department's proposal was adopted employees would be less likely to volunteer for such positions and that union officials would be less likely to engage in workplace activities that are mutually beneficial to employers and unions.

Some comments suggested that requiring reporting of payments included in collective bargaining agreements would burden employers. In this regard, a commenter stated that if the Department's proposal is adopted in the final rule, unions will ''inevitably want to negotiate a practice pursuant to which employers track and code any no-docking time on pay records of union officers and employees.'' Another commented that the filing of ''numerous pointless reports'' would defeat the purpose of uncovering conflicts of interest.

Two commenters offered possible alternative arrangements to the existing exception. One recommended that if the Department established a reporting obligation it should not require reports for activities that are less than two hours in length. This commenter explained that thirty minutes or less is usually required to resolve a question under a parties' agreement and that meetings only rarely extend beyond two hours. By modifying the proposal in this way, it argued, the reporting burden would be minimal. The second commenter recommended that no reports be required of any payments unless they totaled $10,000 per year, an amount, it suggested, approximates about one-quarter of a union steward's annual pay.

The LMRDA does not specifically address either the legality of payments made under union-leave or no-docking arrangements or the obligation, if any, for union officials to report such payments under section 202 of the Act. None of the commenters have identified any legislative history that would shed any light on this specific question, and the Department's own research has uncovered none. As noted in the comments, the practice whereby a union official employed by an employer would receive his or her regular compensation while engaged in contract administration on behalf of the union was commonplace at the time the LMRDA was enacted. Contrary to the view of some that the absence of any discussion in the legislative history about this common practice evinces an intention to foreclose the reporting of such payments, the Department believes that this silence suggests that Congress simply did not consider such practices to be prohibited under the LMRDA or the Labor Management Relations Act and it did not express a view one way or another on the question of reportability. Moreover, the logic of the ''intention by silence'' argument would require the exclusion of a myriad of payments and other financial benefits received by union officials, such as ''featherbedding'' or ''no show'' payments, that were not explicitly identified by the language of section 202 or its legislative history, notwithstanding their inclusion under any reasonable reading of the section's language.

The Department has reviewed the case law that has developed from employer challenges to the legality of employer payments to union officials for work performed on the union's behalf. Most courts that have considered the question have found that such payments are not subject to criminal sanctions. For example, one court has stated that: ''we see nothing in the language or logic of section 302(c)(1) [of the Labor Management Relations Act] to suggest that Congress did not intend to allow an employer to grant a bona fide employee who is a union official paid time off in order that he may attend to union duties.'' *BASF Wyandotte Corp.* v. *Local 237, International Chemical Workers Union, Local 227*, 791 F.2d 1046, 1050 (2d Cir. 1986). *See also NLRB* v. *BASF Wyandotte Corp.*, 798 F.2d 849 (5th Cir. 1986) *quoting* H.R.Rep. No. 245, 80th Cong., 1st Sess. 28–29 (1947), ''At the time of enactment of § 302, Congress was well aware that ''[e]mployers generally * * * allow representatives of the union, without losing pay, to confer not only with the employer but as well with employees, and to transact other union business in the plant.'' *See Caterpillar, Inc.* v. *United Auto Workers*, 107 F.3d 1052, 1056 (3d Cir. 1997) (''By paying production workers for the part-time hours when they leave their regular duties, the company is paying for services not actually rendered for it, since those employees are already receiving their regular hourly wages and benefits for their production line work. Yet, no-docking arrangements have been consistently upheld by the courts as not in violation of § 302''). *See also Herrera* v. *United Auto Workers*, 73 F.3d 1056 (10th Cir. 1996) (adopting the reasoning of *Herrera* v. *United Auto Workers*, 858 F. Supp. 1529, 1546 (D. Kan. 1994)); *NLRB* v. *BASF Wyandotte Corp.*, 798 at 855–57. At the same time, however, the courts have signaled that they may be less inclined to treat payments for union-leave as beyond criminal sanction. *See Toth* v. *USX Corp.*, 883 F.2d 1297, 1305; *NLRB* v. *BASF Wyandotte Corp.*, 798 F.2d at 856 n. 4; *BASF Wyandotte Corp.* v. *Local 227*, 791 F.2d at 1050. None of the cases, however, address the different, but immediate, question of whether such payments, without regard to their lawfulness, should be excepted from reporting under section 202 of the Act.

The Department believes it significant that Congress in enacting the LMRDA uses the term ''bona fide employee'' only in section 202. Elsewhere it simply uses the term ''employee'' to designate a duty or obligation. See, *e.g.*, section 203(a), 203(e), section 502(a), section 503, section 609. Thus, the Department concludes that Congress intended to limit the exception to individuals who, in fact, are receiving payment for activities performed on the payer-employer's behalf. The Department's reading also is consistent with the meaning generally given ''employee'' under the common law, where ''control'' over an individual's work is the essential component of this status. *See, e.g., Nationwide Mut. Ins. Co.* v. *Darden*, 503 U.S. 318, 322–24 (1992).

The position adopted by the Department better comports with the language of the statute, and its inferred intended application, as discussed above, than an alternative reading that would interpret the term ''bona fide employee'' to include payments made by an employer for work performed on behalf of the union. Members have an interest in knowing the amount paid to union officers or employees by the employer for time spent on union business. This information would be significant for members in assessing the effectiveness of union officers and employees and in evaluating candidates for union office. For example, during collective bargaining negotiations, an official who enjoys union-leave or no-docking payments may agree, or feel pressure to agree, to reduced benefits for employees in exchange for increases in his or her employer payments as a

union representative. Similarly, where the continuation of the no-docking or union-leave practice in the agreement becomes a possible issue in negotiations, the official might be motivated, for personal reasons and contrary to the union's best interest, to maintain what the official views as a meaningful and beneficial diversion from work at his or her trade. It also is conceivable that a union official may feel pressure to forego the zealous pursuit of a grievance on behalf of a union member for fear of alienating the employer and jeopardizing the continued availability of these payments. In such instances, the union official's personal financial interests pose a clear conflict with the official's duty to the union and its members.

The Department received a number of comments indicating that union members already know that some of their union officials are paid by their employer for union-related activities. At the same time, other comments indicated that such information is not as common or as complete as suggested. Other comments received by the Department indicate that some payments occur without members' knowledge and that members have incomplete information about the amount of such payments. The Department agrees that many union members are aware that some of their officials receive employer payments for union-related activities, especially where such payments are expressly provided for in a collective bargaining agreement, but it seems doubtful that such members are aware of the magnitude of such payments and other members are likely unaware that this practice exists. As noted by one commenter, it is unlikely that members will be aware of such payments where the collective bargaining agreement is silent about the practice Reporting such payments will allow union members to assess whether this arrangement could tempt a union official to put his personal interests in maintaining the arrangement above his or her duty to the union. A union official may well prefer to spend his or her time engaged in contract administration duties than, for example, performing manual work on a construction site or the shop floor, or processing insurance claims.

The Department recognizes that a reporting requirement may impose some burden on union officials and employers that have ''union-leave'' and ''no-docking'' practices. The Department acknowledges that payments by employers to union representatives often will benefit both union members and employers. Thus, the Department has considered carefully the comments suggesting that its reporting proposal would interfere with the effectiveness of such arrangements.

The Department concludes that its proposal will not have a significant effect on labor-management relations practices. No commenter claimed that any single employer, never mind employers generally, authorizes payments to union officials without accounting at least informally for the time expended by such individuals in conducting union business. Employers no doubt have a wide range of practices in tracking such payments, with varying levels of scrutiny, but the rule adopted requires no special procedures or expense, and nothing any more burdensome than keeping a log of the amount of time expended and compensation received while on union business paid by the employer. Moreover, by excepting any reporting where payments approved under a collective bargaining agreement do not exceed payment for over 250 hours, union officials can work for over 30 days with nothing to report. Additionally, the Department finds unpersuasive the comments that a reporting requirement will significantly impede the ability of unions to obtain members willing to perform the jobs of stewards or other union positions in which they receive compensation from their employer for union-related activities. As noted, the Department is not imposing any specific method of recordkeeping or accounting on union officials to comply with the disclosure obligation. Moreover, this practice will supplement the existing obligation of a union to report ''lost time payments'' it makes to officials and other members, either identified by a particular member (if he or she is paid more than $10,000 per annum by the union) or otherwise in aggregated form. *See* section 201(b)(3).

The Department took into consideration the various concerns about the effect of its proposal in arriving at the reporting threshold of 250 hours per year. Although union officers and employees will need to keep records to determine whether the 250-hour threshold is exceeded, there is no reporting burden for those who do not exceed this threshold. Further, the recordkeeping time needed to determine whether the threshold is exceeded consists of nothing more than keeping track of the time one spends performing union work, and the amount paid, with no need, for example, to consult with third parties or obtain records maintained by others. The threshold of 250 hours per year will help separate those who perform a significant amount of union work from those who do not. For example, a union officer who spends only four hours per week, or less than an hour per day, on union business would not have to report no-docking payments, because his union activities would correspond to 200 hours per year (subtracting two weeks for vacation), fewer than the 250-hour threshold. On the other hand, a steward, who is also a union officer or employee, who works 2 hours per day on union business must report the payments he or she receives. In a five-day work week this would convert to 10 hours of union work per week and 500 hours per year (subtracting two weeks for vacation). Here, the value of the officer's union-related work exceeds the 250-hour threshold and is reportable. The Department believes this approach to be better than one that would trigger a report if a particular meeting lasted longer than a prescribed amount of time or if an official's pay for union-related activities exceeded a particular dollar value, such as the $10,000 suggested by one commenter. (Based on the commenter's estimate of a typical steward's annual pay, the 250-hour rule requires less reporting than a flat $10,000 threshold.) The former would depend upon establishing an average for the amount of time taken to resolve a particular contract administration issue, a difficult task even if the data necessary to establish such a benchmark existed and an impossible task on the current rulemaking record. The latter would impose a burden on higher paid union officials without distinguishing between the amount of time they perform work for which they were hired and work for the union.

A commenter requested the Department to require union officials to report any ''super-seniority'' protection they receive by virtue of their union office. Some collective bargaining agreements provide layoff and similar benefits to union officials allowing them to continue on the employer's payroll, ahead of other more senior employees, in order to provide continued representation of union members. The Department believes that this request, in part, is beyond the scope of the Department's proposal, which, by its terms, is only concerned with employer payments for work performed on a union's behalf. Super-seniority, as commonly understood, allows a union official to remain on the employer's payroll for ''production purposes,'' not merely to receive payment for work undertaken on the union's behalf. A union official who receives pay from his

nominal employer for union activities is subject to the general requirements set forth above without regard to the official's super-seniority status.

H. What Payments and Other Financial Benefits, Received From an Employer or Business Whose Employees Are Not Represented by the Union and Which Does not Conduct Business With the Official's Union, Must Be Reported

In the NPRM, the Department described section 202(a)(6) as a ''catch-all'' for interests held in or payments to a union official (or his or her spouse or minor child) by an employer that would not otherwise be reportable under subsections 202(a)(1) through 202(a)(5). 70 FR 51192. Under the proposal, any such interest in or payment by any employer would have to be reported, except for those ''payments of the kind referred to in section 302(c) of the Labor Management Relations Act,'' the exception expressly provided in section 202(a)(6).

The NPRM thus proposed as a general rule that any payments by any employer to any union official would have to be reported except for payments expressly excepted under section 302(c) of the Labor Management Relations Act. A union official would have to report the payment without regard to whether a collective bargaining or other direct relationship existed between the official's union and the employer in question. In addition, the proposal identified some particular payments that would have to be reported: payments not to organize employees, to influence employees in any way with respect to their rights to organize, to take any action with respect to the status of employees or others as members of a labor organization, and to take any action with respect to bargaining or dealing with employers whose employees your organization represents or is actively seeking to represent. See 70 FR 51192.

In the NPRM, the Department invited comments on this proposal as a general matter and more particularly whether section 202(a)(6) limits the reporting obligation to only payments that present an actual conflict of interest, whether such an interpretation is a permissible reading of the statute, and, if so, how the instructions could be written to implement this interpretation, without granting impermissible discretion to the filer to determine which financial matters are reportable. The Department also requested comments regarding the reporting of ordinary payments of wages and salaries of the spouse and/or minor children of the officer/employee because section 202(a)(6) could be read to require a union official to report all employment compensation paid by any employer to his or her spouse or minor child.

After its review of the comments, the Department adopts a rule that is narrower than the proposal. Under today's rule, where a payment or financial interest is not reportable under subsections (a)(1) through (a)(5) of section 202, it is reportable as follows. A report must be filed for any payment of money or other thing of value (including reimbursed expenses) from (1) An employer that is in competition with an employer whose employees the filer's labor organization represents or is actively seeking to represent; (2) an employer that is a trust in which the filer's labor organization is interested as defined in section 3(l) of the LMRDA; (3) an employer that is a non-profit organization that receives or is actively and directly soliciting (other than by mass mail, telephone bank, or mass media) money, donations, or contributions from the filer's labor organization; (4) an employer that is a labor union that (a) Has employees represented by the filer's union, (b) has employees in the same occupation as those represented by the filer's union; (c) claims jurisdiction over work that is also claimed by the filer's union; (d) is a party to or will be affected by any proceeding in which the filer has voting authority or other ability to influence the outcome of the proceeding; or (e) has made a payment to the filer for the purpose of influencing the outcome of an internal union election; or (5) an employer whose interests are in actual or potential conflict with the interests of the filer's union or the filer's duties to his or her union. This rule recognizes that it is impossible to specifically identify all potential conflict-of-interest payments.

Today's rule also adopts the rule set forth in the NPRM and the instructions to the old Form LM–30, at Part C, requiring a report for any payment from any employer or a labor relations consultant to any union official for the following purposes:

- Not to organize employees;
- To influence employees in any way with respect to their rights to organize;
- To take any action with respect to the status of employees or others as members of a labor organization;
- To take any action with respect to bargaining or dealing with employers whose employees your organization represents or is actively seeking to represent.

Today's rule adds to this list the following: ''To influence the outcome of an internal union election.''

The discussion below addresses the principal comments submitted on this issue and the Department's response to those comments.

No comments were received on the Department's proposal to require reporting in the circumstances identified in the bulleted points above. As noted, these situations are included in the instructions to the old form and are retained. The additional point requiring disclosure where a union official receives a payment ''to influence the outcome of an internal union election'' has been added to clarify a point already encompassed by ''take any action with respect to the status of employees * * * as members of a labor organization.''

Two commenters supported an expansive reading of section 202(a)(6) to require a union official to report any and all interests in or payments from any employer. They argued that only by strictly limiting exceptions could the Department achieve the Act's goal of full disclosure. A third commenter asserted that only an expansive reading of section 202(a)(6) would provide union members and the public with the information necessary for them to determine whether an interest in or payment by an employer could pose a conflict of interest. This commenter stated that Congress did not intend section 202(a)(6) to be given such a limited reading and that even if such a gloss was added to the statutory language filers would likely be unable to ''honestly, fairly, and accurately'' determine whether a conflict exists.

Several commenters expressed a contrary point of view. They asserted that unless section 202(a)(6) was narrowly applied, the Department would be creating a ''general reporting'' mandate, something that Congress intended to avoid in crafting section 202 of the Act. As stated in one comment (citing to *Senate Report,* at 15, *reprinted in 1 Leg. History,* at 411): ''The bill requires only the disclosure of conflicts as defined therein. The other investments of union officials and their sources of income are left private because they are not matters of public concern.'' The same commenter saw evidence of a narrow construction from a statement in the *House Report* that section 202(a)(6) was intended to reach both ''the union official who may receive a payment from an employer not to organize the employees,'' *and* payments that may conflict with the official's ''fiduciary duties as a worker's representative.'' Other commenters relied on statements by Senator Goldwater as support for a narrow reading of section 202(a)(6). See 105

Cong. Rec. A5812 (daily ed. Oct. 2, 1959), *reprinted in 2 Leg. History,* at 1846) (the reporting requirements were directed at those transactions ''which would constitute a conflict of interest,'' such as ''holdings or interest in or the receipt of economic benefits from employers who deal or might deal with such union official's union'').

One commenter cited to testimony by Professor Archibald Cox before the Senate subcommittee that was considering this legislation: ''The bill is narrowly drawn to meet a specific evil. It requires only the disclosure of conflicts of interest. The other investments of union officials and their other sources of income are left private because they are not matters of public concern.'' *See Senate Report,* at 15, *reprinted in 1 Leg. History,* at 411. Cox was a Harvard law professor who played a pivotal role in drafting the legislation that ultimately became the LMRDA. Professor Cox also noted that the Kennedy bill that presaged the LMRDA was based, in part, upon the Ethical Practices Code formulated by the AFL–CIO. Professor Cox stated that an officer who followed this Code would have ''virtually nothing to disclose to the public.'' *Hearings on S. 505 before the Subcommittee on Labor of the Senate Committee on Labor and Public Welfare* (1959) (*''1959 Senate Hearings''*), at 123.

A few commenters conceded that the statute does not refer to ''conflicts of interest,'' but noted that forty years of Department enforcement have limited this section to conflict of interest situations. In this connection, they cited *LMRDA Manual* § 248.005 that states, in part: ''[Section] 202(a)(6) is designed for those situations which pose conflict of interest problems which are not covered in the previous five sections of 202.'' Other commenters argued that the inclusion of ''labor relations consultant'' and the reference to section 302(c) of the Labor Management Relations Act evince an intention to tie the reporting obligation to matters that directly involve labor-management activities. Two comments expressed opposition to the reporting of ordinary payments of wages and salaries to the spouse and/or minor children of the officer/employee.

The Department is persuaded that section 202(a)(6) is best read to require reporting by union officials only where such interests in or payments by employers have the evident potential to pose a conflict between the official's own financial interests and the official's duty to his or her union and which would not otherwise be captured by the other provisions of section 202(a). While the language of the statute can be read more broadly, the Department believes that a better reading is one which avoids redundant reporting of matters already included in the previous five subsections but ensures that all significant transactions and other payments to the official, his or her spouse, or minor children that may impact upon the responsibilities of a union official to the union he or she represents are reported. The Department believes that its construction of section 202(a)(6) hews to the accepted premise that Congress did not intend that union officials would have to disclose virtually all their financial affairs, while also ensuring that members receive information about situations other than those identified in sections 202(a)(1) through 202(a)(5) that may pose potential conflicts of interest for union officials. The Department's construction reasonably targets employers that could influence the conduct of union officers and employees and requires the disclosure of an official's financial information only in those situations.

Four of the first five subsections of section 202(a) have as their focus transactions and interests, on the one hand, between a union official (or indirectly through his or her spouse or minor child) and, on the other, the official's own union or an employer whose employees the union represents or seeks to represent. The other subsection (section 202(a)(3)) has a similar focus, but requires reporting on interests and payments involving a business that conducts a substantial part of its business with an employer whose employees the union represents or seeks to represent.

The Department believes that the focus of these provisions is instructive in discerning the scope of the reporting obligation encapsulated by section 202(a)(6). In each instance, the object of the reporting is the official's union status and an employer whose employees the union represents or seeks to represent. From this, the Department infers that section 202(a)(6) also has as its object the relationship between the official's union and a particular employer that could pose a conflict between the official's own personal interests and the obligation his or her union holds to employees it represents or is actively seeking to represent, or who provide a suitable target for representation. Thus, from this vantage section 202(a)(6) can be seen to target payments by or interests held in an employer only when the employer has a direct interest in the relationship between the official's union and an employer whose employees the union represents or would seek to represent. And by its terms, section 202(a)(6) only captures payments by ''employers.'' Thus, the Department cannot require a union official to report payments under section 202(a)(6) from an individual or an entity that is not an ''employer.''

A relationship between, on the one hand, a union official and, on the other hand, a section 3(l) trust, labor organization, and not-for-profit organization, including charities, along with ''competitors'' to employers whose employees the union represents or would seek to represent, may trigger a reporting obligation under today's rule. These entities usually are ''employers,'' but sometimes not. A union official is under no obligation to report these payments unless they are received from an employer. As noted, section 202(a)(6) excepts ''payments of the kinds referred to in section 302(c) of the Labor Management Relations Act.'' These payments notably include payments received as compensation for services as a current or former employee of the employer making the payment and *as a general rule* payments made to or received from a trust fund set up for the sole and exclusive benefit of employees and their dependents. *See* sections 302(c)(1) and (5) (note that the latter contains several provisions that could affect reportability in some specific circumstances). As implied by the section 302(c) proviso to section 202(a)(6), Congress presumed that a payment that arises from a bona fide employment relationship between an employer and its employee typically will be above board with little potential to pose a conflict between the union official's personal interests and the official's duty to his or her union. For the same reasons, a union official is not required under today's rule to report payments received by the official's spouse or minor child as regular compensation from their employer or as a benefit under the arrangements permitted under section 302(c).

Thus, under this interpretation of section 202(a)(6), a union official would have to report a payment received from an employer that competes with a company whose employees are represented by the official's union unless it was received by the official as regular compensation for his current or past employment. For example, if a union official receives a benefit such as a paid vacation or a gift of golf clubs from an employer that competes with an employer whose employees the official's union represents or is actively seeking to represent, the official must report the benefit. In this example, the union official would have to disclose the gift, even if the official is an employee of the donor, except in the unlikely event that

such benefit is part of the official's regular compensation as an employee of the donor. In this situation, the union official faces an obvious potential conflict between his personal finances and the duties he or she owes to the union and its members. Where, for example, the union's negotiations will set the going wage rate for particular work within the relevant market, an official may be more attuned to concerns about rising labor costs if he or she is receiving payments from a company whose operations are less efficient than those of the represented employer. Similarly, a union official may be less vigilant in challenging a represented employer's decision to withdraw employer-paid dental coverage if he or she holds an interest in or receives payments from a vendor that would provide alternative coverage sponsored by the official's union.

Similarly, a union official must report a payment he or she receives from a trust that is an employer unless it is a ''payment[ ] of the kind referred to in section 302(c) of the Labor Management Relations Act.'' As just discussed, a union official will not have to report compensation received as an employee of a trust or as a general rule payments received as a beneficiary of the trust. Any ''special payments'' or gifts, however, will have to be reported unless they are insubstantial as defined in today's rule.

Under today's rule, a union official will have to report a payment or other financial interest he or she receives from a not-for-profit employer that receives or is actively and directly soliciting (other than by mass mail, telephone bank, or mass media) money, donations, or contributions from the official's union. The potential conflict arises because such a payment could influence the official's activities in approving or overseeing the union's contribution to the charity.

The remaining situations for which a report will be required relating to an employer (other than one whose relationship is described by sections 202(a)(1) through 202(a)(5)) involve payments received by a union official from a union-employer (other than his or her own) where the official's personal financial situation poses a plain conflict with his or her duties to the union in which the official serves as an officer or employee. Payments must be reported where the payment received by the union official is made by a union-employer that

- Has employees represented by the official's union, e.g., the official's union represents the support and professional staff at the headquarters of a national or international union, or it actively seeks to represent;
- Has employees in the same occupation as those represented by the official's union;
- Claims jurisdiction over work that is also claimed by the official's union;
- Is a party to or will be affected by any proceeding in which the official has voting authority or other ability to influence the outcome of the proceeding;
- Has made the payment to the filer for the purpose of influencing the outcome of an internal union election.

In each of these situations, a payment could serve as an inducement to receive favorable treatment from a union whose interests are clearly adverse to the official's own union—either in their labor-management relationship, as actual or potential competitors for the same members or work for such members, or actual or potential protagonists on disputes or other inter-union matters. In the first situation, any payment could serve as an inducement to agree to lower negotiated wages for the members of the official's own union. In the second and third situations, the two unions are ''competitors'' for the same or potential members and the work they perform, thus placing them in an adversarial position. In the fourth situation, the payment could reflect an inducement for favorable treatment in the proceeding at the expense of the official's own union that may have an interest adverse to the party making the payment. In the last situation, the union official, either directly or indirectly, has received a personal benefit (gaining money to advance the official's own political agenda within his or her own organization) that could serve as an inducement to advance the interests of the party making the payment at the expense of the interests of the official's own union.

The Department has attempted to clarify the form by describing these situations that present actual or potential conflicts of interest. Union officials who receive payments in these situations can know, without ambiguity, of the need to file Form LM–30. It is impossible, however, to delineate with precision all potential conflict-of-interest payments. For that reason, the Department has chosen to retain its rule that, under section 202(a)(6), all payments from employers whose interests are in actual or potential conflict with the interests of a filer's labor organization or a filer's duties to his or her labor organization must be reported.

I. When Is a Union ''Actively Seeking To Represent'' Employees, Thereby Triggering a Union Official's Obligation To Report Payments and Other Financial Benefits Received From the Employer That Is the Subject of the Organizing Drive

The term ''actively seeking to represent'' appears several times in section 202; this term does not appear elsewhere in the LMRDA. The old instructions do not define this term. In the NPRM, the Department proposed to define ''actively seeking to represent'' to mean that a labor organization has taken steps during the filer's fiscal year to become the bargaining representative of the employees of an employer, including but not limited to:

- Sending an organizer to an employer's facility;
- Placing an individual in a position as an employee of an employer that is the subject of an organizing drive and paying that individual subsidies to assist in the union's organizing activities;
- Circulating a petition for representation among employees;
- Soliciting employees to sign membership cards;
- Handing out leaflets;
- Picketing; or
- Demanding recognition or bargaining rights or obtaining or requesting an employer to enter into a neutrality agreement (whereby the employer agrees not to take a position for or against union representation of its employees); or otherwise committing labor or financial resources to seek representation of employees working for the employer.

Comments were invited as to the merit and clarity of the listed activities and whether other examples would be helpful. 70 FR 51180. Comments were sought as to whether it is appropriate to trigger the reporting obligation on the decision to organize an employer's workforce distinct from taking the first concrete step to organize. After review and consideration of the comments, the Department has concluded that the definition should be modified to clarify that a report need only be filed where the active steps have occurred during the filer's fiscal year. As discussed below, this clarification partly addresses the concern of some commenters that such reporting may disclose prematurely a union's efforts to organize an employer. The Department has also modified the definition to clarify that leafleting and picketing by a union, though presumptive evidence of actively seeking to represent employees of an employer whose operations are

targeted by the union, will not trigger the reporting obligation with respect to the targeted employer if the union's activity is entirely without any organizational object. Otherwise, the definition of ''actively seeking to represent'' is identical to that proposed.

As noted in the NPRM, the proposed definition, in large part, is based on a statement from the legislative history. *See Senate Report,* at 15, *reprinted in 1 Leg. History,* at 411 (The phrase ''actively seeking to represent'' denotes ''more than that the union hopes some day to become the bargaining representative of a group of employees or claims jurisdiction to organize them. It requires specific organizational activities such as sending organizers into a community, handing out leaflets, picketing, or demanding recognition and bargaining rights''). *House Report,* at 11; *reprinted in 1 Leg. History,* at 769. As noted in the NPRM, the Department believes that the term ''actively seeking to represent'' is intended to distinguish between situations where a union has taken concrete steps to organize and those where the union merely has an interest in organizing employees of the employer in question. For example, a union may wish to represent employees of a certain employer, and may even have finalized an organizing plan, but has not yet begun to implement the plan. The Department explained that in such circumstances the union is not yet actively seeking to represent employees of this employer.

Commenters argued that the Department's proposal would improperly impede a union's organizing efforts. One commenter stated that Congress intended to limit this term to only those instances where the union had instituted some kind of organizational activity, either sending organizers into the plants or picketing or distributing leaflets within the plant. The Department disagrees with the suggestion that its proposal departs from the legislative history. The Department's proposal is consistent with the illustrations provided in the Houses and Senate reports on the LMRDA, as quoted in the NPRM. These reports explicitly recognize that this reporting obligation is not solely triggered by in-plant activity. Among the illustrated situations that would trigger a reporting obligation is where a union ''send[s] organizers out into the community.'' In context, it is plain that this term refers to a community in the sense of the geographic area within which an employer's facilities are located, not a limited application to employees comprising a community delimited by the employer's facilities.

Some commenters expressed concern about the difficulty of applying the general requirement to report payments that arise after a union ''otherwise commits labor or financial resources to seek representation of employees working for a particular employer.'' They also argue that this proviso may go beyond the asserted limitation intended by Congress in describing this aspect of the reporting obligation to ''specific organizational activities.'' The Department recognizes that this factor lacks the specificity of the other factors used to describe the reach of the term ''actively seeking to represent.'' Its wording, however, is deliberate in order to capture the general purpose of the test and reduce any prospect that a filer would read the list of factors as exhaustive. At the same time, this factor was designed to distinguish between general union strategizing or planning, which would not be reportable, and concrete activities that have been directed at a particular employer. In this connection, one commenter raised a concern that the test proposed by the Department failed to clearly indicate whether a decision by the union to undertake organizing activity in the future triggers the reporting obligation or whether the concrete, future action triggers the reporting requirement. The instructions have been clarified to make plain that the former does not trigger the reporting obligation.

Another commenter asserts that the Department should establish ''a bright line rule'' where the Department would define ''actively seeking to represent'' as (1) Having a pending election petition before the NLRB during the reporting period at issue, *or* (2) demanding voluntary recognition from the employer during the reporting period involved. The Department disagrees that the bright line suggested above would be beneficial. The suggested rule is unnecessarily narrow and would fail to effectuate the clearly expressed intention to include other concrete steps that evidence ''actively seeking to represent,'' including leafleting and picketing, as identified in the House and Senate reports discussed in the NPRM.

Commenters suggest that payments and activities relating to ''area standards'' picketing should not be considered as steps taken to actively represent an employer's workers. Instead, these commenters asserted leafleting and picketing often are used in area pay and benefit standards disputes, serving as just a preliminary step to determine whether or not to initiate an organizing campaign. Therefore, according to the commenter, such steps should not trigger a reporting obligation. The Department believes that there is a reasonable basis for treating leafleting and picketing by a union as evidence that a union is ''actively seeking to represent'' the employees of the targeted employer and for triggering a reporting obligation where there are other indicia of a union's effort to ''actively seeking to represent'' such employees. In this regard, the Department notes that there is no evidence that Congress intended a limited application of the reporting obligation to situations where the leafleting or picketing is solely undertaken for the object of organizing an employer's workforce. Moreover, although the commenter suggests otherwise, it is the Department's view that in many instances informational or standards picketing reflects a union's first concrete steps to organize an employer and, as such, is an action within the intended reach of ''actively seeking to represent.'' At the same time, the Department recognizes that there are instances where such picketing or leafleting is wholly unrelated to organizational or representational objectives. For example, if a union pickets a sporting goods retailer solely for the purpose of alerting the public that the retailer is selling goods that are made by children working in oppressive conditions in violation of accepted international labor standards, the picketing in these circumstances would not meet the ''actively seeking to represent'' standard. The revised Form LM–30 instructions in today's rule alert filers to this distinction.

A commenter endorses the inclusion of ''requesting an employer to enter into a neutrality agreement'' in the proposed definition as a concrete example of ''actively seeking to represent'' an employer's employees. It asserted that neutrality agreements have become the preferred method of organizing employees. No comments were received suggesting that entry into a neutrality agreement does not reflect an active step to represent the employer's employees. Thus, the Department will continue to recognize the execution of such agreements as evidence that a union is actively seeking to represent the employees of the employer with whom the agreement was reached.

Some commenters expressed the concern that exposing a union's use of ''salts'' in an organizing campaign would make the employer aware of the campaign and hinder organizing efforts and might target the official, his or her spouse, or minor child for dismissal by the employer if any of them are working as the ''salt.'' As reflected in the Department's proposal, the term ''salt''

refers to an individual who applies for a position with an employer that is the subject of an organizing drive intending to surreptitiously work on the ''inside'' in support of the union's organizing activities and as it directs.

The Department recognizes that some organizing activities are initiated without notice to the public or an employer, but there would appear to be few situations, where the disclosure of a reported interest on the Form LM–30 would be the first open acknowledgment of the union's active efforts to represent employees. In response to the concern that the disclosure of a reportable interest would alert an employer to the presence of a ''salt'' in the employer's workforce, the Department notes that payments from the employer for whom the salt performs the manufacturing or other work for which he was hired are payments to a bona fide employee; as such, these payments would not be reportable. Likewise, any payments by the union to the salt as an employee of the union also would not be reportable on the Form LM–30. The Department recognizes that there may be some instances, however, where an official would have to file a Form LM–30 because of the employment of salts by a particular employer. For example, if a union official owns a cleaning service that does substantial business with a company in which the official's union has placed ''salts,'' the union official would have to file a report, disclosing payments from the company to the official's cleaning service. Although this report if it came to the attention of the target employer would disclose the union's objective to organize its employees, if and when the employer becomes aware of such information, the employer likely would already have learned of the union's campaign. There would ordinarily be a substantial delay between the salt activity and the report's filing. Form LM–30s are filed annually and are due 90 days after the end of the filer's fiscal year. Thus, the definition of actively seeking to represent is not expected to significantly compromise the use of salts in organizing.

The Department acknowledges, however, that the timely submission of the Form LM–30, in some instances, may put at risk the secrecy of a union's organizing campaign and the relationship that gives rise to the reporting obligation. For this reason, the Department has carefully considered whether it would be appropriate to take steps to minimize the risks from such disclosure.

In crafting the Form LM–2, the Department, sensitive to union concerns about the premature disclosure of their organizing tactics, established reporting categories and itemization rules designed to minimize similar risks, while at the same time adhering to the requirements of section 202 of the Act, 29 U.S.C. 431. *See* 68 FR 58395–97. Although, for example, the Department chose to allow the disaggregated reporting of some organizing expenditures, it rejected the option to shield from disclosure all expenditures related to ''salts.'' The Department recognized that section 201(b)(3) expressly provided that unions annually report the ''salary, allowances, and other direct or indirect disbursements (including reimbursed expenses) to each officer and also to each employee who * * * received more than $10,000 in the aggregate from such labor organization and any other labor organization affiliated with it or with which it is affiliated * * *.'' 29 U.S.C. 431(b)(3). Thus, as recognized in the preamble to the Form LM–2: ''[I]f a ''salt'' is paid $10,000 or more per year as an employee of the union, the union is obliged by statute to list him by name on the Form LM–2 and to report the amount of his compensation.'' The statutory language added support to the policy determination in the Form LM–2 context that ''salt'' information was necessary for union members to be properly informed about their union's finances. In contrast, the same policy reasons did not, in the Department's view, compel that a union itemize organizational expenses (other than these payments to union officials). The Department reasoned that even without such itemization, the particular information would be available to union members upon request pursuant to section 201(c), 29 U.S.C. 431(c). See 68 FR 58397; see also 68 FR 58386–87. Thus, the Department decided to allow Form LM–2 filers the option to report such payments without itemization, recognizing that the information relating to these expenditures would be made available to union members under section 202(c) of the LMRDA.

With regard to the immediate Form LM–30 reporting issue, the Department is guided by the language of section 202(a)(1), (2) & (5) of the LMRDA, requiring union officials to disclose specified conflicts of interest, including ''any income or other benefit with monetary value * * * derived * * * from an employer whose employees such labor organization * * * is actively seeking to represent.'' 29 U.S.C. 432(a)(1), (2) & (5). In the Department's view, this language evinces a particular concern by Congress about conflicts that arise while a union is actively seeking to represent employees. The same concern is the basis for the Department's determination, as a matter of policy, that such payments pose serious questions regarding conflicted loyalties (including the possibility of collusion in some instances). As such this information is particularly important to union members, the Department, and the public. The need for transparency, thus outweighs, in the Department's view, any risk to a union's covert organizing activities by requiring the disclosure of any interests, transactions, and payment that arise while the filer's union is actively seeking to represent the targeted employees. Further, the statute authorizing the Form LM–30, 29 U.S.C. 432, contains no provision that would mitigate the lack of transparency caused by crafting a filing exemption for payments that would disclose the use of salts in organizing. Unlike the statute authorizing the Form LM–2, 29 U.S.C. 431, there is no statutory provision for union members to obtain records from union officers and employees necessary to verify the Form LM–30.

Two commenters argued that the proposed definition poses particular difficulties for a local official who may be unaware of organizing activities undertaken by his or her international union or an international official that is unaware of a local's efforts to organize a particular employer. Similarly, several officers from large construction unions felt that the reporting requirement was too broad since it would be difficult for officers and employees to know about all instances of picketing, billing and other initial organizing efforts that go on in a single reporting year. The Department recognizes that the expanded scope of reporting may pose some difficulties for particular union officials. In consideration of this concern, as reflected in the comments summarized above, the Department has narrowed the scope of the reporting obligation for local and intermediate officers from that proposed in the NPRM. They do not have to report on matters affecting higher levels within their union. Officers of a national or international union, however, remain responsible for reporting activities affected by picketing or leafleting by subordinate units of their organization. Further, union officers and employees voluntarily receive reportable payments from or hold reportable interests in employers. The union officer or employee is perfectly free to refrain from taking such payments or holding such interests. If there is a fear that an organizing campaign could possibly be

exposed by filing a Form LM–30 the union officer or employees does not have to take the payment or hold the reportable interest.

One commenter recommended that the Department clarify that payments from employers not to organize an employer, *i.e.*, attempts at ''labor peace,'' should be reported. Another suggested that neutrality agreements ''are especially ripe for sweetheart deals'' where union officers and union employees can benefit at the expense of bargaining unit employees as, without reporting requirements for these instances, ''it is nearly impossible'' for workers to learn what gifts an employer has given a union or the union's officials during an organizing drive. Apart from the asserted vulnerability of neutrality agreements to manipulation by employers and union officials, these commenters express a concern oft repeated in the comments that union officials should be required to report all payments they receive from employers. As discussed herein, Congress did not intend to impose such a sweeping obligation. Moreover, the Department is confident that today's final rule requires the disclosure of any payments that would impede the collective bargaining or internal union rights of a union's members.

J. How Union Officials Will Determine Whether an Entity From Which They Receive a Payment or Other Financial Benefit Does a ''A Substantial Part'' of its Business With an Employer Whose Employees Are Represented by the Official's Union or the Union It Is Actively Seeking To Represent

Section 202(a)(3) requires union officials to report any interests in and payments from, ''any business a *substantial part* of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees such labor organization represents or is actively seeking to represent'' (emphasis added). The old rule does not define ''substantial part.'' The Department proposed to define this term as 5% or more of the business's annual receipts. The Department requested comments on various aspects of this proposal, including whether a percentage threshold should be imposed, whether the percentage threshold should be higher or lower than 5%, whether a percentage of receipts is the appropriate consideration, and whether union officials with holdings in, or income from, a business would be able to determine the percentage of the business's income that comes from dealings with the employer. 70 FR 51186.

The Department did not receive many comments on this proposal. Most of the comments, as discussed below, either opposed the quantification of ''substantial'' or suggested that it be set at an amount higher than 5%. After review of the comments, the Department has determined that 10% or more of a business's annual receipts will be considered ''a substantial part'' of its business.

Two commenters recommended that the Department not define ''substantial part'' in quantitative terms. A labor educator stated that his study participants characterized the 5% threshold as too low; he also stated that the participants were concerned about the potential difficulty of obtaining information about the percentage of business a vendor conducts with a particular employer. Another commenter expressed the same concern, noting that information about a vendor's receipts is generally not publicly available and employers would be reluctant to provide such confidential information. The same commenter expressed the view that a 5% threshold likely would be too low for a union officer to be aware of a vendor-employer relationship that required reporting. Two commenters suggested that that the Department should define ''substantial part'' as a ''sufficient magnitude of business that its loss would materially affect the financial well-being of the business enterprise in question.'' While this statement may be helpful as a capsule view of the purpose underlying this particular reporting obligation, the statement does not provide filers a ready gauge to determine when a report must be filed. Further, such an approach would make relevant facts that would be difficult for union officials to ascertain. For a precarious business with overwhelming debt to service, the loss of 2% of revenue could be devastating. A different business, in an environment in which demand outstrips its production capacity, the loss of clients constituting a much higher percentage of its business may not be as much of a concern. It is difficult to imagine how a union official could learn the facts necessary to determine whether the loss of a client would materially affect the business enterprise. Thus, in the Department's view, the questions posed by its proposal are (1) What volume of business, expressed as a percentage of the vendor's annual receipts, is necessary to achieve the proper balance between insubstantial dealings and those that pose a risk of a conflict of interest, and thus, trigger the reporting obligation; and (2) whether a filer will be able, without undue burden, to obtain information needed to make the threshold determination.

In the NPRM, the Department explained that ''substantial part,'' as used in section 202(a)(3) and the instructions, refers to the magnitude of the business transacted between any business in which a union official holds an interest or receives payment from (referred to herein as ''the vendor'') and the employer whose employees the filer's labor organization represents or is actively seeking to represent, as a percentage of all business transacted by the business. 70 FR 51186. The purpose of the ''substantial part'' language is to relieve union officials from having to report income or transactions that do not have potential conflict-of-interest implications. In the NPRM, the Department expressed its view that an official who has an interest in, or receives income from, a vendor that receives 5% or more of its income from the employer of the union members may well face a conflict. The Department explained that a business with 5% of its receipts from a single client would have the opportunity and inclination to make demands or offer inducements to retain that business. In negotiations with the union, the employer could use its relationship with the business as a bargaining tool, either threatening to end the relationship or promising to provide additional business opportunities.

The Department is not persuaded that there is any benefit in leaving the term ''substantial part'' undefined. The Department acknowledges that, in other contexts, statutes and regulations leave ''substantial'' undefined or use qualitative factors to give content to the term, *e.g.*, 18 U.S.C. 1093 (defining substantial as ''such numerical significance,'' the loss of which would destroy the ''group as a viable entity''). For reporting purposes, however, the utility of a less subjective approach is obvious. A definition that pegs ''substantial'' to the volume of business conducted by a vendor with a particular entity as a percentage of all business provides a ready, easy to understand gauge to determine a union official's reporting obligation.

One commenter asserted that the 5% threshold represents a significant departure from the Department's earlier interpretation of ''substantial part.'' In support of this assertion, the commenter cited to a provision in the LMRDA Interpretative Manual (*''LMRDA Manual''*), which provides as follows:

245.200 Substantiality of Dealing

Union Officers A and B of a local union are co-owners of a building corporation. The corporation, through intermediaries who are regular meat wholesalers, sold meat to employers who bargain with the local union. In 1962, some 80% of the corporation's business of approximately $100,000 was with such employers. Both A and B owe reports for the year 1962 * * *, since both the interest and the income are ''derived from any business a *substantial* part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees such labor organization represents or is actively seeking to represent.''

LMRDA Manual § 245.200. (Emphasis in original). The commenter reads this provision to establish 80% as the threshold for reporting about a union official's interest in or payments from a vendor. He suggested that the Department should adopt the same quantitative threshold in the final rule. Noting his concerns about the difficulty a potential filer would face in obtaining information about the measure of a vendor's dealings with a target employer, he further proposed that no report need be filed unless the filer possesses actual knowledge that the vendor performs 80% or more its business for the target employer.

The Department rejects the suggestion that the above-quoted section of the *LMRDA Manual* can be fairly read to establish a reporting threshold. The Manual indicates only that an officer who receives a payment from a business that receives 80% of its receipts from the employer of the union members must file a report. It does not state that receipts of less than 80% from the employer would be unreportable. The 80% figure in the example reflects a rather obvious situation where a substantial business relationship exists thus requiring a report. The illustration provides no assistance in determining the minimum volume of business that would trigger the reporting obligation. Similarly, the Department finds no merit to the suggestion that a reporting obligation attaches only where a union official possesses actual knowledge that the vendor's volume of business with a relevant employer was greater than the reporting threshold. The folly of this approach is obvious where the reporting threshold is set at 80%; it would allow a union official to avoid a conspicuous reporting obligation and provide an incentive for a union official to remain willfully ignorant of the business relationship between a vendor in which he or she holds an interest or from which he or she receives a payment and an employer whose employees the official's union represents or is actively seeking to represent.

The Department does, however, accept the proposition that increasing the threshold decreases the burden on filers by reducing the number of reportable transactions. For that reason, the Department is persuaded that an upward adjustment is appropriate. As noted, the purposes served by section 202(a)(3) require a reporting threshold that balances the burden associated with reporting insubstantial matters and the benefit served by the disclosure of any potential conflicts between a union official's personal finances and the duties owed by him or her to the union and its members. To the extent there is some uncertainty as to where best to strike the balance, the Department believes that a lower threshold best ensures that disclosure will serve a prophylactic purpose. Based on the comments and a reassessment of the potential difficulties posed to filers in obtaining information from a vendor, the Department has decided to double the reporting threshold to 10%. The Department believes that setting the threshold level at 10% will achieve the balance required by the statute.

The Department recognizes that some union officials with a reportable interest or payment may encounter difficulty in obtaining information about the amount of business a vendor conducts with the employer whose employees are represented by the official's union. The Department, however, believes that the burden is overstated, especially where the union official holds an ownership or operating interest in the vendor. In those instances, there should be little trouble in obtaining the needed information. In instances where the union official is an employee of the vendor or receives an occasional payment, some problems are more likely to arise. In such instances, the union official should request such information in writing from the vendor. If the vendor refuses to provide the information, the official should contact the Department for assistance in obtaining the information. In the meanwhile, the union official should make a good faith estimate, based on the information reasonably available, whether the 10% threshold has been met. If such estimate exceeds the 10% threshold, then the union official should file the report and explain that the vendor failed to provide requested information. If the estimate yields a figure less than 10%, no report is required, but the union official should retain the written request for information he or she presented to the vendor and any work sheet used to arrive at the less than 10% figure. If an investigation is conducted, there is no risk of prosecution absent unusual circumstances calling into doubt the legitimacy of the good faith estimate.

K. Why Payments and Other Financial Benefits Received From Section 3(l) Trusts and Service Providers to Such Trusts Must be Reported

Numerous unions, law firms, and organizations representing financial service providers submitted comments urging the Department to modify or eliminate aspects of its proposed rule as it would affect a union official's obligation to report payments and other financial benefits received from section 3(l) trusts. In the NPRM, the Department stated that it had received compliance inquiries about whether payments from a union to a trust in which the union is interested constitute ''dealing[s]'' between the trust and the union under section 202(a)(4).

In the NPRM, the Department also invited comment on whether trusts set up by unions to provide benefits to their members, such as pension or welfare plans, constitute ''employers'' under section 202(a)(6) or ''business[es]'' under section 202(a)(3) and section 202(a)(4) so that payments from such organizations to union officials would be reportable. 70 FR 51182. Several commenters expressed the view that the Department was improperly extending the reporting obligation to payments received from service providers to trusts. In a similar vein, several commenters suggested that the Department was improperly requiring reports by labor union officials serving as employees or representatives of trusts on matters for which reporting already is required by ERISA. As part of their concerns, several commenters objected to the proposal on procedural grounds. In essence, they asserted that service providers and other potential Form LM–10 filers will be bound by the Department's final Form LM–30 rule, denying them the full opportunity for notice and comment.

A summary of the principal comments on these various points concerning a union official's obligation to report payments and other financial benefits received from section 3(l) trusts and the interplay between ERISA and the LMRDA and the Department's response to these comments follows. The Department first briefly addresses the contention that the Department's proposal is procedurally flawed because it prescribes rules that must be followed by employers under section 203 of the Act without providing that community the full opportunity for notice and comment. The Department next

discusses the concern that requiring union officials to report their interests in or payments by trusts as employers or vendors providing services to those trusts represents a departure from the Department's asserted longstanding policy excepting reports about payments by trusts and their vendors and the contention that the Department's position is contrary to ERISA or, at the least, impedes that Act's proper administration. The Department, in the final paragraphs of this section, discusses the issue whether trusts and other not-for-profit entities constitute businesses, followed by the separate, yet related question, whether trusts and other not-for-profit entities constitute ''employers.''

1. Alleged Procedural Shortcoming

Today's rule is specific to Form LM–30 filers. It does not amend or modify in any way the Department's current rules specific to the Form LM–10. Any interpretation or guidance issued on the Form LM–10 remains in effect unless later changed by the Department. Any interpretation, guidance or amendment to Form LM–10 will conform to legal requirements appropriate to the nature of any such changes, including notice and comment rulemaking where required. Thus, the Department finds that any concerns that the Department's proposal is procedurally flawed are misplaced.

2. Routine Exceptions

Many commenters urged the Department to not ''extend'' the reporting requirements to include payments to union officials by trusts or their service providers. Several asserted that the Department had never required union officials (or employers under Form LM–10) to report such payments. Numerous commenters objected generally to any reporting of gifts associated with the routine conduct of business, especially in connection with marketing by service providers to gain and maintain business with union-related trusts. Some objected generally, on the ground that Congress never intended that routine business expenses would be the subject of reporting. Some commenters offered a variation of this argument, asserting that Congress intended a general reporting exception for payments made in the regular course of business. A common theme in the comments is the claim that the affected community has understood that the LMRDA focuses solely on financial transactions involving unions and employers whose employees are represented by a union or a union has targeted for representation. In their view, the statute does not impose reporting obligations on financial institutions or service provider activities that have no connection to the union's labor-management relationship. A variant of the theme, unique to financial institutions, is that no reporting obligation exists for union officials who receive payments from financial institutions. Their position is based on the language of section 203, which excepts financial institutions from reporting ''payments or loans'' made to union officials. This issue is discussed below.

The suggestion that the Department is imposing a new reporting obligation on union officials for payments received by them from service providers to trusts is incorrect. A union official's obligation to report such payments has been plainly stated for over forty years in instructions to the Form LM–30. Indeed, the old Form LM–30 includes the explicit statement that ''every [union official] must file a detailed report describing certain financial transactions engaged in, and interests held by, the [official] or his/her spouse or minor child [including] * * * legal and equitable interests in, transactions with, and economic benefits from certain businesses * * * which deal[ ] with the union or a trust in which the [union] is interested.'' Instructions, Part III. The first Form LM–30 promulgated by the Department required filers to disclose ''An interest in or derived income or economic benefit with monetary value from a business * * * any part of which consists of buying from or selling or leasing directly or indirectly to, or otherwise dealing with your labor organization or with *a trust in which your labor organization is interested.*'' *See* BNA, *Daily Labor Report,* No. 192: A–6, E–1 (Oct. 2, 1963). (Emphasis added). Similarly, the *LMRDA Manual* specifically identifies payments from insurance companies to union officials as matters reportable on Form LM–30. As there stated: ''A union officer, who is an employee of an insurance company from which the union welfare fund procures insurance, is required to report that money which he receives as an employee of the insurance company, inasmuch as he derives income from a business which sells to or otherwise deals with a labor organization of which he is an officer.'' *LMRDA Manual* § 246.600.

The commenters cite no authority for their broad claim that the Department's position is a departure from a longstanding policy, nor do they provide a well-reasoned argument for how the statute would permit the Department the discretion to except from reporting payments from employers and businesses that have such extensive and ongoing activities with unions and section 3(l) trusts. Given the continuity in the Department's interpretation, a more accurate characterization might be the longstanding inattention to reporting such payments received from trusts and their service providers. Many unions and their section 3(l) trusts manage benefit plans for their members, maintaining close business relationships with financial service providers such as insurance companies and investment firms. As discussed in greater detail herein, contemporary business and financial practices increase the prospect that union officials may receive payments from or hold financial interests in these businesses. Given these practices, the Department believes that disclosure is critical to promoting good union governance and fostering ethical behavior. Thus, the Department disagrees, on both legal and policy grounds, with the notion that payments from service providers or financial institutions should be excepted from reporting. Such payments carry with them a particular potential for conflict and as such warrant particular scrutiny by union members and the public.

The asserted historical grounds for excepting payments by service providers and financial institutions from reporting are unpersuasive. The legislative history establishes that Congress intended that union officials report any gifts or payments from employers seeking to profit from their relationship with a union or its officials. Congress understood that the bill that became the LMRDA ''is drawn broadly enough * * * to require disclosure of any personal gain which an officer or employee may be securing at the expense of the union members.'' *Senate. Report, at 15, reprinted in 1 Leg. History,* at 411. As stated by Professor Cox, ''the basic theory [underlying the Act's conflict of interest provisions] is [that all] payments made by employers to labor organizations or union officials are prima facie questionable. Some may be justified. The bill does not forbid the payments. [The bill] simply requires that they be covered by public reports so that the employees affected and the public may know what has occurred.'' *1959 Senate Hearings,* at 127. The legislative history illustrates how Congress believed the LMRDA would operate. The principal focus of the McClellan Committee was on the activities of the Teamsters Union and the conduct of three of its highest ranking officials: Dave Beck, Frank

Brewster, and Jimmy Hoffa. Each official engaged in unlawful activities that could not have been accomplished without the complicity of banks and insurance companies. Banks and insurance companies were used by these officials, often to the mutual benefit of the officials and the commercial entities, to carry out such activities and to otherwise provide unlawful gain to the officials. As explained by Senator Kennedy: ''Mr. Hoffa would be required to disclose all of his business dealings with insurance agents handling the union's welfare funds, his private arrangements with employers, his hidden partnerships in business ventures foisted upon his members, and all other possible conflicts of interest.'' 105 Cong. Rec. S817 (daily ed. Jan. 20, 1959), *reprinted in 2 Leg. History,* at 969.

The AFL–CIO Ethical Practices Codes, which served as the foundation for the LMRDA conflict of interest reporting provisions, contained a specific code for union ''health and welfare funds.'' *See* 105 Cong. Rec.*16379 (daily ed. Sept. 3, 1959) *reprinted in 2 Leg. History*, at 1406–07. It expressly stated: ''No union official who already receives full-time pay from his union shall receive fees or salaries of any kind from a fund established for the provision of a health, welfare, and retirement program. Where a salaried union official serves as employee representative or trustee * * * such service * * *should not [be considered] an extra function requiring further compensation from the welfare fund.'' *2 Leg. History*, at 1406. Of particular import, it states: ''No union official, employee, or other person acting as agent or representative of a union, who exercises responsibilities or influence in the administration of welfare programs or in the placement of insurance contracts, should have any compromising personal ties, direct or indirect, with outside agencies such as insurance carriers, brokers, or consultants doing business with the welfare plan. Such ties cannot be reconciled with the duty of a union official to be guided solely by the best interests of the membership in any transaction with such agencies. Any agency official found to have such ties to his own [substantial] personal advantage or to have accepted fees, inducements, benefits, or favors of any kind from any such outside agency, should be removed [from office].'' *Id.* Where Congress, in effect, established a disclosure regime in section 202 for matters addressed by the AFL–CIO Ethical Practices Codes, it would make no sense to exclude reports on activities specifically identified as improper in those codes. Against this backdrop, the argument that the legislative history supports the contention that the Department's view of reporting is both novel and unintended by Congress fails.

While most commenters appeared to recognize the obvious potential of circumvention and evasion of the Act's reporting requirements if union officials did not report any payments they received from trusts, some argued that the relationship between the official's union and the trust did not allow for that possibility. The commenters appear to argue that because the relationship between a section 3(l) trust and a participating union should be symbiotic, there is no conflict of interest presented by such payments and thus no circumvention or evasion is possible. This argument overlooks that the focus of section 202 is conflict between a union official's personal financial interests and the duties he or she owes to the union and its members, one that exists without regard to the often congruent interests of a trust and its participating unions. Moreover, this argument overlooks that the money a participating union pays into a trust, either directly from the union or indirectly by an employer on the union's behalf, is money that otherwise would be maintained in the union's own account and, as such, any proceeds paid to a union official would be disclosed in reports filed by the union. Without requiring a union official to report payments he or she receives from a trust, an official would be able to circumvent and evade the disclosure that would have occurred if the funds had remained in the union's coffers. By requiring a union official to report payments from the trust, the Department is simply ''following the money,'' ensuring that disclosure of such payments cannot be avoided. Further, since the union official's obligation to submit a Form LM–30 overlaps with the congruent responsibility of a union to disclose payments received by the official from a section 3(l) trust if certain conditions are met, the prospect that one party may report the payment increases the risk that a failure by the other party to report the payment will be detected. Thus, the reporting obligation helps check the evasion of reporting under the Act and, in some instances, may deter the primary conduct that would trigger the reporting obligation.

As noted above, some financial institutions have argued that section 203(a)(1) excepts ''payments or loans made by any national or State bank, credit union, insurance company, savings and loan association or other credit institution * * *.'' These commenters assert that all payments received by union officials from banks, including lunches and dinners to meet with clients, and marketing and promotional expenses incurred to keep or to secure business, among other expenses, are excepted from reporting.

The Department disagrees. Section 203(a)(1) cannot be read as a limitation on a union official's obligation to report interests in or payments from any particular segment of employers. In both sections 202 and 203, Congress set forth specific, distinct rules including distinct exceptions to those rules, particular, on the one hand, to union officials and, on the other hand, to employers. Neither the statute nor its legislative history evinces an intention to create a completely uniform system of reports for all filers, union officials and employers alike, and neither infers that an exception unique to a particular provision was intended as a general exception to other reporting requirements. As discussed herein the Department acknowledges that its interpretation requires union officials to report a loan or payment made by a financial institution, but that the financial institution is not required to file a report. Although generally the Act establishes a reciprocal reporting obligation on union officials and employers—both the payer and the payee report on a covered payment—in this instance, the language of the two sections calls for a different result. Although today's rule does not interpret section 203(a), the Department notes that Congress may have held the belief that banks would be constrained to report these payments under laws regulating financial institutions and wished to avoid redundant reporting. The Department takes no position in today's rule on the separate question as to whether the breadth of the exception provided financial institutions from reporting obligations under section 203 is as expansive as suggested by some commenters.

The *LMRDA Manual* specifically identifies payments from financial institutions to union officials as matters reportable on Form LM–30: ''If a credit union grants loans to a labor union, a report would be required from an officer of that labor union who is also an employee of the credit union.'' *LMRDA Manual* § 246.800. Further, a 1961 ''Guide for Employer Reporting'' issued by the Department provides the following examples of reportable payments (italics in original):

A. Loans made to union representatives *not* employed by you, *unless* made in the regular course of business as a bank or other credit institution.

B. Loans to employees, who are also union representatives, on terms more favorable than those available to other employees, *unless* made in the regular course of business as a bank or other credit institution.

C. Loans to labor organizations, *unless* made in the regular course of business as a bank or other credit institution.

Although today's rule does not affect any current reporting obligation of any Form LM–10 filers, the language quoted belies any suggestion that the Department is imposing a novel reporting obligation on Form LM–30 filers by requiring them to report the receipt of such payments.

The LMRDA is a reporting statute directed at unions, union officials, and employers and businesses whose interests intersect with each other's interests; as such, it is obviously not intended to broadly regulate the affairs of financial institutions. The fact that financial institutions are regulated by government agencies other than this Department and that these institutions may be required to disclose information under those laws does not mean that the disclosure purposes of the LMRDA conflict with those laws or that those laws supersede the LMRDA's reporting provisions. The purpose of LMRDA reporting is to give union members information about financial transactions between union officials and employers. Reporting under securities and other laws serves other purposes; while some of these purposes may complement the LMRDA's disclosure provisions, none supplant the purpose of the LMRDA to provide relevant, readily available information to union members, the public, and the Department about potential conflicts between the financial circumstances of a union official, his or her spouse, or minor child and the official's duty to the union and its members.

As noted, many commenters took the tack that even if the Department possessed the authority to require union officials to report payments received from trusts and vendors, it would be bad policy to do so. One commenter opined that the Form LM–30 reporting requirements will deter union trustees from attending educational or other conferences that may be required for the union trustee to properly discharge his or her duties under ERISA's standard of care and to be informed about the services available to the trusts from the financial services community. One commenter points out that ''anything that makes it more difficult or risky to obtain the knowledge and experience needed to be a fiduciary * * * is contrary to the interests of union members.'' Several commenters expressed concern that publishing information for only union officers gives union members the impression they can influence an employee benefits plan's operation as part of the governance of union affairs, which is contrary to ERISA's requirement that a fiduciary act independent of union affairs. Other commenters stated that it was unfair to single out union officials for disclosing payments from a trust since management officials associated with the trust receiving the same payments have no reporting obligation.

In the Department's experience, union members are savvy enough to ascertain whether a union official's payments from or interests in a business pose conflicts of interest and to realize that trustees may need to obtain education and training to properly fulfill their roles as trustees. Thus, the Department believes that the concerns over reporting such matters are overstated and that reporting will not impede trustees in attending educational and training seminars. The Department believes that union members already understand or will understand with minimal explanation that an official's role as a trustee is distinct from his position with the union and requires that the official act in the best interests of the trust and its beneficiaries; as such, the official cannot put his personal political concerns or his union office or employment ahead of his fiduciary obligation to the trust. At the same time, the disclosure of such payments to the union official allows the union's members to determine whether the payments may tempt the official to put his or her own financial interests above the official's duties to the union, duties distinct from those owed by the official to the trust. The Department disagrees that it is unfairly singling out union-appointed trustees for reporting payments while allowing their management counterparts to refrain from doing so. Section 202 extends to reports by union officials, but not to all individuals who have a role in section 3(l) trusts. Thus, the Department is not able to consider such an extension to management trustees, whether or not it might have merit. The Department also believes that union members will understand this principle and not view the act of reporting by union officials as evidence of culpable conduct or the absence of reports by management trustees as proof of conduct beyond reproach. At the same time, however, by requiring union officials to report such payments, union members may determine for themselves whether some payments are excessive or unnecessary or arise in circumstances where the payments invite scrutiny to determine whether the official's personal benefits from the arrangement have impeded or may impede the official's duty to the union.

One commenter argued that firms are concerned that if Form LM–30 filers must report payments and gifts from vendors to a section 3(l) trust, these filers will demand that the firms assume the burden to keep records of such payments. The Department acknowledges that this may create a customer relations challenge to some vendors, but, just as the decision to make a payment, or accept a payment, is voluntary, so too is any decision by a vendor to keep ''gift records'' for a union official. The vendor may freely choose to demur from assuming such a burden, just as it may choose to change its practice of making gifts to union officials. The Form LM–30 reporting and recordkeeping obligations remain squarely on the union official who holds an interest or receives a payment for which reporting is required.

One commenter suggests that the Department should change its proposal to include a general exception for reporting payments associated with an *unsuccessful* effort to obtain new or further business. Two commenters would exclude reporting where any payments were made to both union and management appointed trustees. One commenter, acknowledging that marketing benefits were provided by all service providers seeking new business, argues that the Department should provide guidance as to where to draw the line between routine matters and payments intended as bribes.

The commenter who would except from reporting any unsuccessful efforts to garner business by courting a union official acknowledged that union members have a legitimate interest in knowing whether the businesses that are buying from or selling to their union are also engaged in private transactions with union officers or employees. But in his view, where no transaction actually takes place between the business and the union, a union member would have no interest in the payment. In the commenter's view, up until an actual transaction occurs, the business should not be considered to be ''dealing with'' the labor organization. The logic behind this position is not apparent. Other comments disagree. A commenter explained that such payments to a union official should be reportable to

the extent that the business was ''dealing with'' the union or employer by attempting to convince the union or employer to enter into commercial relations with a competitor. This view also has support in the legislative history. In an analysis of section 202(a), Senator Goldwater states, ''Briefly, what must be reported are holdings of interest in or the receipt of economic benefits from employers who deal *or might deal* with such union official's union.'' 62 Cong. Rec. 19,759 (1959), *reprinted in* 1 DOL, *Legislative History of the Labor-Management Reporting and Disclosure Act of 1959* (emphasis added). Furthermore, to the extent the commenter may be suggesting that many payments would be picked up if a business relationship is later consummated, the commenter fails to recognize that unless payments from potential vendors are reported in the fiscal year in which they occur, a union officer could avoid disclosure by simply accepting payments in one fiscal year and awarding the union business to the vendor in a later year.

One commenter pointed out that the proposed rulemaking has no examples related to trust funds reimbursing union officers. Such examples have been added to the instructions.

3. Relationship With Other Statutes

Although the Department notes that it did not receive a comment stating that any of its Form LM–30 proposals conflicts with an obligation under ERISA, many commenters oppose reporting on some or all of the trust-related activities because the same matters are subject to ERISA and other Federal reporting requirements relating to security and business taxes. A typical comment was that ERISA already regulates transactions that would be reported on Form LM–30. This commenter also argued that the IRS already oversees business expenses under the tax laws; it similarly argues that the IRS also oversees payments by tax exempt organizations that are made for improper private benefit. 26 U.S.C. 501(c).

Two commenters submit that the LMRDA was never intended to regulate multiemployer plans. They asserted that the Welfare and Pension Plans Disclosure Act (''WPPDA''), P.L. 85–836 (1958), which predated the LMRDA, was enacted for this purpose. They assert that the WPPDA implemented reporting and disclosure requirements for pension plans similar to the LMRDA's requirements for unions. When WPPDA proved inadequate to regulate trusts, Congress passed ERISA, which exceeded and expanded WPPDA's requirements.

There is no merit to the implicit claim that ERISA was intended to supplant the LMRDA insofar as payments to union officials are concerned. Section 514 of ERISA states: ''Nothing in this subchapter shall be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States [with exceptions not here pertinent] or any rule or regulation issued under any such law.'' 29 U.S.C. 1144(d). The WPPDA contained a similar provision, undermining any attempt to use that statute to constrain the Department's authority under the LMRDA. *See* Pub. L. 85–836, § 10(b) (1958) (this act does not exempt any person from any duty under any present or future law affecting the administration of employee welfare or pension benefit plans). In the Department's view, the LMRDA and the ERISA serve complementary purposes, particularly insofar as their disclosure provisions overlap. There also is an evident similarity between the duty union officials owe to their union and the duty trust officials owe to their trust. Today's rule is not intended as an interpretation of ERISA and it should not be construed as such. It does not alter any statutory or regulatory obligations that now exist under that statute.

The Department has determined that Form LM–30 reporting and recordkeeping requirements do not interfere with or unnecessarily duplicate ERISA financial disclosure requirements. Thus, the Department is requiring union officials to report certain payments they receive from trusts, notwithstanding any ERISA reporting requirements that may apply to trusts. On many occasions, the Department has discovered during an audit or investigation that a union officer or employee was engaged in a reportable situation with a trust but had not filed the required Form LM–30 until the Department became involved. For example, the spouse of a union officer owned a company that provided cleaning and maintenance services to the union and its trust. In one year, the company received over $94,000 from the union and the trust. Although this information might or might not be reported on a Form 5500, depending on the surrounding circumstances, this information can be disseminated more readily to union members on the Form LM–30 than through the Form 5500 alone. The Form LM–30, since its inception more than 45 years ago, has been the source for union members to learn of potential conflicts of interest between union officers and employees and vendors to their union's trusts.

Contrary to an implicit premise underlying many of the comments that the ERISA and the LMRDA are co-extensive insofar as union-related trusts are concerned, ERISA applies to only a subset of the section 3(l) trusts. Some section 3(l) trusts are not covered at all by ERISA. ERISA covers only pension and ''employee welfare benefit plans.'' 29 U.S.C. 1002. While there is considerable overlap between section 3(l) trusts and ERISA ''employee welfare benefit plans,'' some funds in which unions participate fall outside ERISA coverage, including strike funds, recreation plans, hiring hall arrangements, and unfunded scholarship programs. 29 CFR 2510.3–1. Other section 3(l) trusts that are subject to ERISA are not required to file the Form 5500 or file only abbreviated schedules. *See* 29 CFR 2520.104–20 welfare (plans with fewer than 100 participants); 29 CFR 2520.104–26 (unfunded dues financed welfare plans); 29 CFR 2520.104–27 (unfunded dues financed pension plans). *See also* Reporting and Disclosure Guide for Employee Benefit Plans, U.S. Department of Labor (reprinted 2004), available at *http://www.dol.gov/ebsa/pdf/rdguide.pdf*.

The Department received several comments that raise concerns with asserted duplicative reporting that would exist if union officials had to report payments received from trusts or vendors and that the burden to keep track of such payments likely would fall upon the trusts and vendors. Most of the commenters expressing concerns about these matters asserted that party-in-interest transactions (which they argue encompass all potential conflict of interest disclosures that may arise under the LMRDA), are already covered by ERISA reporting and auditing requirements. Some commenters submit that because ERISA identified those transactions which Congress determined were conflicts of interest, ERISA should be the standard against which all transactions involving jointly administered plans are judged.

Among the suggestions on this point, the commenters requested the Department to except union officials from reporting a payment from a trust if the trust files a Form 5500. The commenters appear to argue that no payments associated with a union-related trust covered by ERISA need be reported by Form LM–30 or Form LM–10 filers if the trust files a Form 5500. Two commenters pointed out that, in a prior rulemaking, the Department recognized the merit of Form 5500 for

purposes of trust disclosure. These commenters apparently refer to the Form T–1 rule that was published in 2003 as part of the ''Form LM–2 rulemaking.'' *See* 68 FR 58374, 58524–25(Oct. 9, 2003). This same exception is contained in the Form T–1 final rule published in the **Federal Register**, at 71 FR 57716 (Sept. 29, 2006). Several commenters recommended as an alternative that the Department expand Schedule C on Form 5500 to list by company all payments, loans, or gratuities from service providers to trustees and add a schedule that lists all trustees who served during the year and their expenses, similar to the Form LM–2.

As noted by many commenters, the Department has previously recognized the merit of filing a timely and complete Form 5500 in lieu of a Form T–1. The Form 5500 as a ''surrogate Form T–1,'' however, only partially overlaps with the Form LM–30, and is therefore not a reliable substitute for the Form LM–30. The alternative suggested also presents problems. Expanding the Form 5500 would require all covered entities, not just those engaged in reportable transactions with labor union officers and employees to shoulder an LMRDA-driven higher reporting burden. The LMRDA addresses disclosure for labor organizations and labor organization officers and employees; it does not impose general disclosure requirements on the larger ERISA reporting universe. As such the Department's efforts here in clarifying the Form LM–30 better fulfill the full reporting mandate of the LMRDA without imposing additional burden on those entities and persons outside the scope of the LMRDA.

Practical concerns also could impede the use of the Form 5500 to capture some of the information subject to today's rule. Form 5500s are not required to be filed until seven months after the close of a plan's fiscal year, and extensions are freely available, and there is a substantial lag time between the submission of a Form 5500 and its availability for public review. Thus, there now exists no way for a union member to timely access such information, unless it is obtained via Form LM–30. By collecting such information pertinent to a section 3(l) trust, including payments by the trust to union officials, and making it available at a single site, however, union members are afforded the means to properly oversee their union's operations and monitor any potential conflicts between an official's personal monetary interests and the official's duty to the union. Moreover, even if these problems could be overcome, there would be no disclosure relating to those section 3(l) trusts that are not subject to ERISA.

As noted, a few commenters suggested that the purposes served by the reporting requirements for payments made in the routine course of business are already met by the IRS rules on business expenses. The Department disagrees. The IRS rules on ''business expenses'' are not designed to disclose potential conflicts of interest; section 202 is precisely designed for this purpose. *See* IRS Publication 535. Many of the expenditures that qualify as ''business expenses'' for IRS purposes would potentially create a conflict of interest for union officers and employees. For instance, entertainment expenses incurred in seeking new business may be deductible in part under IRS rules. Further, the IRS considers certain below market loans and transfers of property as ''business expenses.'' Such a loan or property transfer made to a union officer or employee is exactly the type of payment the LMRDA was designed to disclose. Moreover, the commenters offer no explanation how this approach would benefit union members who typically would never have access to such tax filings or the underlying expense documentation. Without such access, the prophylactic purposes served by disclosure cannot be achieved. As such, the Department rejects this approach.

4. Trusts as Employers and Businesses

As noted above, the NPRM sought comment on whether a section 3(l) trust may constitute an ''employer'' under section 202(a)(6) or a ''business'' under sections 202(a)(3) and 202(a)(4) so that payments from such organizations to union officials would be reportable. 70 FR 51182. After considering the comments received on this point, the Department has concluded that a section 3(l) trust or other not-for-profit organization with employees must be treated as an ''employer'' under the Act, but that they should not be treated as a ''business'' under the Act.

As noted above, commenters were divided on the question whether a trust or other not-for-profit entity, including a labor organization, should be treated as an ''employer'' for reporting purposes. One commenter argued that trusts should not be regarded as ''employers'' because Congress only intended reporting to ''reach the union officials who may receive payment from an employer not to organize the employees,'' *citing Senate Report*, at 16. According to the commenter, trust funds in which the union is interested do not fall into this category. Another commenter argued: ''although some large trust funds happen to have employees—many do not—the statute was intended to cover employers whose potential relationship with a union raises the risk of a conflict of interest in some sense relevant to the union's function as a collective bargaining representative.'' One commenter argued that ''while [section 203] is precise in its applicability only to an employer whose employees are either represented by or a target of a union, Congress chose to use the additional terms 'businesses' and 'trust' rather than ''employer'' in [section 202] dealing with the reporting obligation of a union official. Nothing in the statute reflects a Congressional intent to subsume these broader terms within the subset of employers subject to [section 203].''

Other commenters stated that a trust should not be considered an employer because any union officials involved with such funds do not negotiate with such funds or their representatives, but rather serve as trustees or shared employees in providing benefits or enforcing collective bargaining agreements. Another commenter agreed, noting that any improper payment from a trust to a union officer who is acting as a trustee would be considered a fiduciary breach of the trustee and not a breach of the officer's responsibilities to the union.

Several commenters argued that treating a trust as an employer adds further administrative burdens on trust funds, which are already subject to numerous reporting and regulatory requirements. One commenter pointed out that some Taft-Hartley trusts are self-administered, in which case the trust itself may be an employer, while other trusts employ third-party administrators to administer the trust, denying employer status to the trust. He implicitly suggests that given what he characterizes as an artificial distinction between third-party and self-administered trusts Congress could not have intended that payments by any trust would be covered. This commenter, like several others, further contended that trusts are not ''businesses'' for purposes of the Act.

The LMRDA expressly defines ''employer'' in broad terms. Included in that definition, at section 3(e) of the Act, are employers that are ''with respect to employees engaged in an industry affecting commerce, *an employer within the meaning of any law of the United States relating to the employment of any employees* or which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or

conditions of work * * *.'' 29 U.S.C. 402(e) (emphasis added). The statute contains no indication that Congress intended a narrower application of that term in any of the Act's provisions. Indeed, the breadth of the term is illustrated not only by the italicized language of section 3(e) but by the careful parsing of the remaining language in the provision to except governmental entities from the Act's application. See 29 U.S.C. 402(e) (the Act's sole exceptions for entities is for the ''United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.'') For these reasons, the Department is persuaded to give ''employer'' its full and natural construction, thus bringing within its reach any entity, including any section 3(l) trust and service providers to such trusts, that is an ''employer.''

Commenters were divided on the question whether trusts and other not-for-profit entities constitute businesses within the meaning of the LMRDA. One commenter noted that leaving trusts outside the reporting requirements would minimize transparency and undermine the intent of the reforms. This commenter alleged that union officials have long utilized ''off the books'' accounting procedures for these programs. Most commenters, however, asserted that trusts do not constitute ''businesses.'' One commenter argued that interpreting a trust in which a labor organization is interested as a ''business'' is incongruous with the Department's establishment of a reporting obligation by union officials who hold interests in or receive payments from ''businesses that deal with a trust in which the labor organization is interested.'' In this commenter's view, it would make no sense to consider the trust as a ''business'' at the same time as payments by either the labor organization or the trust to a union official must be reported by the official. In effect, the commenter argues that the union and the trust operate as one for reporting purposes and thus dealings by the trust with the union cannot be viewed as business dealings for reporting purposes.

Other commenters argued that since trusts do not operate with a profit motive, they cannot be considered ''businesses.'' Several commenters echoed the sentiment that an entity can be a ''business'' only if it is a commercial enterprise carried on for profit; they infer support for this argument from their understanding of the term as guided by the language in sections 202(a)(3) and 202(a)(4), which equates ''business'' with the terms ''buying,'' ''selling,'' ''leasing,'' and so forth. They argued that the phrase ''otherwise dealing with'' takes its meaning from these terms, citing to the Act's legislative history (*Senate Report,* at 90, *reprinted in 1 Leg. History,* at 486). If Congress had intended to cover entities that have non-business dealings with a labor organization, they argue, it would have drafted sections 202(a)(3) and 202(a)(4) to include ''any entity,'' not simply ''a business.''

The LMRDA does not define ''business,'' leaving the Department to apply the term's ordinary meaning unless the context in which it is used indicates that Congress intended a unique or special meaning. *See Brower* v. *Evans,* 257 F.3d 1058, 1065 (9th Cir. 2001). The *American Heritage Dictionary* (2000) defines ''business,'' in part, as ''Commercial, industrial, or professional dealings'' and ''Volume or amount of commercial trade'' and ''commercial dealings.'' Under *Black's Law Dictionary (8th ed. 2004),* a ''business'' is generally defined as ''a commercial enterprise carried on for profit.'' Black's illustrates the term's usage to distinguish between ''commercial enterprises'' and non-businesses, using academia as an example of the latter. Moreover, the IRS case law interpreting ''trade or business,'' has consistently held that a profit motive is a basic criterion of a ''business.'' *Nickeson* v. *Commissioner,* 962 F.2d 973 (10th Cir. 1992). Based on these interpretations, the Department believes it appropriate to treat trusts and other not-for-profit entities as distinct from entities treated as businesses for Form LM–30 purposes.

L. When Payments and Other Financial Benefits Received From a Union Other Than an Official's Own Union Must Be Reported

In the NPRM, the Department asked for comment on the question whether ''labor organizations'' constitute ''businesses'' under sections 202(a)(3) and 202(a)(4), or constitute ''employers'' under section 202(a)(6). The Department received only a few comments on this question. Today's rule clarifies that a ''labor organization'' that has employees is an ''employer'' for purposes of Form LM–30. As just discussed, there is no indication that Congress intended to except any entities other than government agencies from the application of the Act's provisions if they occupy the status of ''employer'' under any law of the United States. The Department reaches this conclusion for essentially the same reasons as discussed above in connection with the status of trusts and other not-for-profit entities.

One commenter asserts that Congress intended that businesses would consist only of entities that are likely organizing targets of a union. Another commenter states that the Department ''should continue its current practice of not requiring payments to a union official or employee from affiliated unions (including multi-trade councils such as building trades or metal trades councils) to be reported on the LM–30.''

Two commenters argued that ''labor organizations'' are not ''businesses'' because the latter term refers only to ''commercial enterprises that engage in commercial transactions with unions or unionized employers.'' However, they add: ''To the extent a labor organization has employees who are represented by another union, payments from the labor organization to officials of the union representing its employees would be reportable under [sections] 202(a)(1) & (5).'' Each of these sections provides that a union official should report payments from an employer whose employees the official's union represents or is actively seeking to represent. Another asserted that ''[t]he risk of a union official obtaining special favors from an affiliated labor organization or labor-management committee in return for his or her not discharging his [or her] obligations as a union leader is simply not present.''

The Department has decided that for reporting purposes a union may constitute an ''employer'' under section 202, if the union meets the statutory definition of the term. 29 U.S.C. 402(c). The Department's reasoning is basically the same as discussed above in connection with the ''employer'' question posed with regard to trusts and other not-for-profit entities. Additionally, the Department rejects the proposition that ''labor organization'' and ''employer'' are mutually exclusive terms for all purposes of the Act. This proposition is inconsistent with the settled view that a ''labor organization'' that is also an ''employer'' will be held to the same obligation as other employers unless Congress otherwise provides. As noted, the Act provides that the term ''employer'' is to be given the same application for all its purposes. If a ''labor organization'' cannot be an ''employer,'' then the various prohibitions relating to employer interference in union elections would be unavailable where employees of a union are themselves represented by an autonomous staff union. There is no evidence that Congress intended to deny LMRDA rights to these workers simply because their employer is a labor

organization. This Department's longstanding position to treat unions as employers vis-a-vis staff unions is congruent with the similar treatment accorded such relationships under the Labor Management Relations Act. *See National Education Ass'n,* 206 N.L.R.B. 893 (1973).

However, in the rule today, the Department clarifies when a payment from a labor organization would be reportable under section 202(a)(6). No reports will be required where the payment is received from a union that is affiliated with the union which the officer or employee serves as an officer or employee; *i.e.*, locals, intermediate bodies, and their parent national or international union. To use a fictitious example, an officer or employee of Local 1, National Union of Reporters (''NUR''), would not report a payment received from either the New England Council, NUR, Local 2, NUR, or the NUR, even if they were employers. Similarly, no payment from the local to an NUR national officer would be reported. Any such payment already will be reported on the payer union's Form LM–2, LM–3, or LM–4, albeit sometimes aggregated with other payments. Moreover, in instances where the union's payment(s) to a particular official exceed $5,000, alone or in the aggregate over a one-year period, the reporting union's payments will specifically identify the payee official on the Form LM–2. However, a union officer or employee unaffiliated with the union that makes the payment must report the payment if the payer-union is an employer. For example, an officer or employee of a regional council of multi-trade unions that receives a payment from NUR or one of its locals would have to report the payment if the NUR entity is an employer.

The Department has created a reporting rule for unions: A union official will have to report payments from a labor union other than his or her own if that union (1) Has employees represented by the official's union; (2) has employees in the same occupation as those represented by the official's union; (3) claims jurisdiction over work that is also claimed by the official's union; (4) is a party to or will be affected by any proceeding in which the official has voting authority or other ability to influence the outcome of the proceeding; or (5) has made a payment to the filer for the purpose of influencing the outcome of an internal union election. This rule, coupled with the general provisions relating to section 202(a)(6), will capture for reporting any payments that could reasonably be perceived as presenting a conflict with the official's duty to their own union and its members. Readers are cautioned that the obligation to report or not report payments in the situations described above does not affect the legality of such payments under the election provisions of the LMRDA or other laws, such as the Labor Management Relations Act, which may regulate such matters.

M. How the Proposed Definitions Have Been Clarified To Ease a Filer's Completion of the Form LM–30

As explained in the NPRM, the old regulations and instructions for the Form LM–30 failed to define or incompletely defined several terms whose meaning must be properly understood for a union official to correctly complete the Form LM–30. The Department therefore proposed several new or revised definitions. The terms defined included: *Actively seeking to represent, arrangement, benefit with monetary value, bona fide employee, bona fide investment, dealing, directly or indirectly, filer/reporting person/you, income, labor organization, labor organization employee, labor organization officer, legal or equitable interest, minor child, payer, publicly-traded securities, substantial part,* and *trust in which a labor organization is interested.* All of the proposed definitions with the exception of ''publicly-traded securities'' have been adopted, some in revised form, in today's rule. As discussed earlier in the preamble, the Department has determined that it is unnecessary to include a definition for ''publicly-traded securities'' or an equivalent term in the rule. Comments were received on only some of the definitions. To assist filers, however, all the definitions, as adopted by today's rule, are set out below in italics. Where comments have been received on a proposed definition, the comments are summarized and the Department's responses are discussed below. A number of the terms already have been discussed in this preamble.

1. Definitions Adopted by Today's Rule

Actively seeking to represent means that a labor organization has taken steps during the filer's fiscal year to become the bargaining representative of the employees of an employer, including but not limited to:

- *Sending an organizer to an employer's facility;*
- *Placing an individual in a position as an employee of an employer that is the subject of an organizing drive and paying that individual subsidies to assist in the union's organizing activities;*
- *Circulating a petition for representation among employees;*
- *Soliciting employees to sign membership cards;*
- *Handing out leaflets;*
- *Picketing; or*
- *Demanding recognition or bargaining rights or obtaining or requesting an employer to enter into a neutrality agreement (whereby the employer agrees not to take a position for or against union representation of its employees), or otherwise committing labor or financial resources to seek representation of employees working for the employer.*

Where a filer's union has taken any of the foregoing steps, the filer is required to report a payment or interest received, or transaction conducted, during that reporting period.

Note: *Leafleting or picketing, such as purely ''informational'' or ''area standards'' picketing, that is wholly without the object of organizing the employees of a targeted employer will not alone trigger a reporting obligation. For example, if a union pickets a sporting goods retailer solely for the purpose of alerting the public that the retailer is selling goods that are made by children working in oppressive conditions in violation of accepted international standards, the picketing would not meet the ''actively seeking to represent'' standard.*

As discussed, the definition was modified by the addition of the note to inform filers that leafleting or picketing wholly without the object of organizing the employees of a targeted employer will not trigger a reporting obligation and make plain that a report need only be filed where a union official receives a payment during the year in which the official's union takes a concrete step to actively represent the employees of an employer that transacts business with the union or other businesses for which reports are required because of their relationship to such employer.

Arrangement means any agreement or understanding, tacit or express, or any plan or undertaking, commercial or personal, by which the filer, spouse, or minor child will obtain a benefit, directly or indirectly, with an actual or potential monetary value.

Note: The term ''arrangement'' is very broad and covers both personal and business transactions, including an unwritten understanding. For example, if during the reporting period an employer's representative offered a union officer a job with the employer, the officer must report the offer unless he or she rejected it. A standing job offer must be reported because it carries the potential of monetary value to the filer. Another example of a situation requiring a report is when an employer provided insider information about a stock or other investment opportunity, unless the filer rejected the advice and took no steps to act on it.

No comments were received on the proposed definition. This definition is adopted as proposed. As discussed in the NPRM, the term encompasses both personal and business transactions, including an unwritten understanding. For example, if an employer's representative during the reporting period solicits a union officer to accept a job with the employer, the filer must report the solicitation, unless the filer rejects the offer. A standing job offer must be reported because it carries the potential of monetary value to the filer. Another example of a situation requiring a report would be one in which a covered employer provides insider information about a stock or other investment opportunity, unless the filer rejects the advice and takes no steps to act on it.

Benefit with monetary value means anything of value, tangible or intangible. It includes any interest in personal or real property, gift, insurance, retirement, pension, license, copyright, forbearance, bequest or other form of inheritance, office, options, agreement for employment or property, or property of any kind. You do not need to report pension, health, or other benefit payments from a trust to you, your spouse, or minor child that are provided pursuant to a written specific agreement covering such payments.

This definition has been revised by adding the new third sentence in the instructions to clarify that benefits received by a union official, his or her spouse, or minor child as a participant in a trust or benefit plan will generally not be reportable on Form LM–30. The same definition, with only a slight change in the wording of the third sentence, is adopted as section 404.1(a) of the Department's regulations (to be codified as 29 CFR 404.1(a)).

A commenter voiced support for the Department's proposed definition of this term and the related definitions proposed for ''*benefit with monetary value,*'' ''*income,*'' and '' *directly* or *indirectly*,'' arguing that the Department has broadly construed these terms to capture anything of value received by the filer, his or her spouse, or minor child, including any payment or benefit held or received by a third party for their benefit. This commenter noted that the proposed definition is properly drawn from disclosure rules applicable to Federal employees. Another commenter criticized the proposal because it appears to include pension benefits that an officer receives from a jointly administered trust as a result of prior service for an employer participating in the trust. The commenter argues that the statute does not require disclosure of such payments and that an officer's receipt of such payments does not present a conflict of interest. The commenter recommends the Department either amend the definition or modify the instructions to clarify that such payments do not have to be reported under any of the sections. The Department agrees that benefits received as an employee of an employer, such as pension benefits, are generally not reportable. This point is clarified by the new third sentence added to the definition.

Bona fide employee is an individual who performs work for, and subject to the control of, the employer.

Note: *A payment received as a bona fide employee includes wages and employment benefits received for work performed for, and subject to the control of, the employer making the payment, as well as compensation for work previously performed, such as earned or accrued wages, payments or benefits received under a bona fide health, welfare, pension, vacation, training or other benefit plan, leave for jury duty, and all payments required by law.*

Compensation received under a ''union-leave,'' or ''no-docking'' policy is not received as a bona fide employee of the employer making the payment. Under a union-leave policy, the employer continues the pay and benefits of an individual who works full time for a union. Under a no-docking policy, the employer permits individuals to devote portions of their day or workweek to union business, such as processing grievances, with no loss of pay. Such payments are received as an employee of the union and thus, such payment must be reported by the union officer or employee unless they (1) totaled 250 or fewer hours during the filer's fiscal year and (2) were paid pursuant to a bona fide collective bargaining agreement. If a filer must report payments for union-leave or no-docking arrangements, the filer must enter the actual amount of compensation received for each hour of union work. If union-leave/no-docking payments are received from multiple employers, each should be considered separately to determine if the 250-hour threshold has been met. For purposes of Form LM–30, stewards receiving union-leave/no-docking payments from an employer or lost time payments from a labor organization are considered employees of the labor organization.

Any individual working at the control and direction of a labor organization will be an employee of the organization. A union steward or union official while acting on behalf of the union is not acting as a bona fide employee of the employer whose employees are represented by the steward's union. Of particular import, however, today's rule, as discussed herein, modifies the proposed instruction to except from reporting on the Form LM–30 compensation received from an employer for whom the official works for the time he or she is engaged in certain union activities provided it is made pursuant to a collective bargaining agreement and the compensation reflects payment for union activities of 250 hours or less during the reporting year.

Bona fide investment means personal assets of an individual held to generate profit not acquired by improper means or as a gift from (1) an employer, (2) a business that deals with the filer's union or a trust in which the filer's union is interested, (3) a business a substantial part of which consists of dealing with an employer whose employees the filer's union represents or is actively seeking to represent, or (4) a labor relations consultant to an employer.

No comments were received on this proposal. The primary purpose of this definition is to alert filers that stock or other securities received as a gift will not constitute a ''bona fide investment,'' under the provision that exempts from reporting bona fide investments in securities when the gift is received from specified employers, businesses, or labor relations consultants. The only changes from the NPRM are the numbering of the different sources of reportable payments and the elimination of the cross-reference to the term ''publicly-traded securities.''

Dealing means to engage in a transaction (bargain, sell, purchase, agree, contract) or to in any way traffic or trade, including solicitation for business.

Note: *The term ''traffic or trade'' includes not only financial transactions that have occurred but also the act of soliciting such business. Thus, for example, potential vendors or service providers attempting to win business with a union will be considered to be ''dealing'' with the union to the same extent as vendors who are already doing business with the union. Potential vendors must engage in the active and direct solicitation of business (other than by mass mail, telephone bank, or mass media). A business that passively advertises its services generally and would provide services consumed by, for example, a union would not meet this test. The potential vendor must be actively seeking the commercial relationship. Under certain circumstances, the payment itself will be evidence of the solicitation of business, such as a potential vendor who treats a union official to a golf outing and dinner to discuss the vendor's products.*

The definition of this term has been revised slightly from the proposal by adding the phrase ''including solicitation for business'' and adding the explanatory note to the instructions. The same definition, but without the note, is adopted as section 404.1(b) of

the Department's regulations (to be codified as 29 CFR 404.1(b))

Most of the comments on the proposed term have been discussed already in connection with the meaning to be given the terms ''employer'' and ''business.'' *See* discussion herein. The new phrase and note were added to make clear that payments to union officials must be reported even if they do not lead to a consummated business transaction. The Department notes, as discussed herein, that some commentators suggested that the term ''dealing'' should only encompass payments made to union officials in connection with marketing efforts that lead to a completed business transaction. For the reasons discussed herein the Department is not persuaded that there is anything in the language of section 202 or its legislative history to suggest that either ''routine marketing expenses'' or the subset of those that do not lead to a business agreement should be excepted from the reporting obligation.

The Department believes that the definition it adopts for ''dealing'' is consistent with the intended meaning given it by Congress. Neither its use in the statute nor the legislative history of the Act's ''dealing'' provisions suggest that the term should be given a unique meaning. As defined today, the term accords with the meaning given the term in the *American Heritage Dictionary* and *Black's Law Dictionary.* In the *American Heritage Dictionary* ''deal'' is defined, in part, as ''[t]o sell'' and ''[t]o do business; trade.'' In *Black's,* ''deal'' is defined as ''an act of buying and selling'' such as ''the purchase and exchange of something for profit.''

Directly or indirectly means by any course, avenue, or method. Directly encompasses holdings and transactions in which the filer, spouse, or minor child receives a payment or other benefit without the intervention or involvement of another party. Indirectly includes any payment or benefit which is intended for the filer, spouse, or minor child or on whose behalf a transaction or arrangement is undertaken, even though the interest is held by a third party, or was received through a third party, including instances in which the third party is acting on the behalf, or at the behest, of an employer or business and the interest would have to be reported if made directly to the filer, his or her spouse, or minor child . The following examples show the difference between ''direct'' and ''indirect'':

You are employed by XYZ Widgets and also serve as the president of the local union representing XYZ Widgets employees. In a recent conversation with the XYZ Widgets human resources manager, you mention that you are placing your 15 year-old daughter in a private school. XYZ Widgets sends you a check for $1,000 with a note saying ''Good luck with the new school!'' You have received a direct benefit.

You are employed by XYZ Widgets and also serve as the president of the local union representing XYZ Widgets employees. In a recent conversation with the XYZ Widgets human resources manager, you mention that you are placing your daughter in a private school. You receive a letter from your daughter's new school stating that she has received a $1,000 scholarship through a donation by XYZ Widgets. You have received an indirect benefit.

The definition of this term, as discussed above, has been revised from the proposal by including two examples. The examples have been added in response to a comment by a labor educator who suggested that the Department should include some examples to demonstrate the difference between ''direct'' and ''indirect.'' As noted in the NPRM, the purpose of the definition is to clarify that filers must disclose any benefits received by them (or their spouse or minor child) from a third party where the third party is acting on the behalf, or at the behest, of an employer or business where the benefit would have to be reported if made by the employer or business directly to the filer (or his or her spouse or minor child). Benefits received from an employee, agent, or representative of an employer or business, or other entity acting on behalf of the employer or business should be considered received from the employer or business. Payments to a third party to be held for the use or benefit of the filer are also reportable. The definition is deliberately drawn broadly, consistent with the legislative history, ''to require disclosure of any personal gain which an officer or employee may be securing at the expense of union members.'' As also noted in the NPRM, the legislative history draws from the AFL–CIO Ethical Practices Code: ''The ethical principles apply not only where the investments are made by union officials, but also where third parties are used as blinds or covers to conceal the financial interests of union officials.''

Filer/Reporting Person/You mean any officer or employee of a labor organization who is required to file Form LM–30.

Note: *These terms are used synonymously and interchangeably throughout the instructions, and, when referring to reportable interests, income, or transactions, these terms include interests, income, or transactions involving the union officer's or employee's spouse or minor child.*

No comments were received on the proposed definition. This definition is adopted as proposed.

Income means all income from whatever source derived, including, but not limited to, compensation for services, fees, commissions, wages, salaries, interest, rents, royalties, copyrights, licenses, dividends, annuities, honorarium, income and interest from insurance and endowment contracts, capital gains, discharge of indebtedness, share of partnership income, bequests or other forms of inheritance, and gifts, prizes or awards.

The Department adopts the definition of ''income,'' as proposed, both in the instructions and as section 404.1(e) of the Department's regulations (to be codified at 29 CFR 404.1(e)).

Labor organization, means the local, intermediate, or national or international labor organization that employed the filer, or in which the filer held office, during the reporting period, and, in the case of a national or international union officer or an intermediate union officer, any subordinate labor organization of the officer's labor organization. Item 6 of the Form LM–30 identifies the relationships between employers and ''your labor organization'' or ''your union'' that trigger a reporting requirement. Item 7 of the Form LM–30 identifies the direct and indirect relationships between a business (such as a goods vendor or a service provider) and ''your labor organization'' that trigger a reporting requirement. The terms ''your labor organization'' and ''your union'' mean:

a. *For officers and employees of a local labor organization.*

Your local labor organization.

b. *For officers of an international or national labor organization*

Your national or international labor organization and all of its affiliated intermediate bodies and all of its affiliated local labor organizations.

But note: A national or international union officer does not have to report payments from or interests in businesses that deal with employers represented by, or actively being organized by, any lower level of the officer's labor organization. Such officers are also not required to report payments and other financial benefits received by their spouses or minor children as bona fide employees of a business or employer involved with a lower level of the officer's labor organization.

c. *For employees of a national or international labor organization.*

Your national or international labor organization.

d. *For officers of intermediate bodies.*

Your intermediate body and all of its affiliated local labor organizations.

But note: An officer of an intermediate body does not have to report payments from

or interests in businesses that deal with employers represented by, or actively being organized by, any lower level of the officer's labor organization. Such officers are also not required to report payments and other financial benefits received by their spouses or minor children as bona fide employees of a business or employer involved with a lower level of the officer's labor organization.

e. *For employees of an intermediate body.* Your intermediate body.

As discussed at length herein, the definition of ''labor organization'' for purposes of completing Form LM–30 has been modified from that proposed, narrowing its scope consistent with the Department's existing ''top down'' approach and limiting the obligation of officers of local and intermediate unions. The first sentence of the quoted material is adopted as section 404.1(f) of the Department's regulations (to be codified at 29 CFR 404.1(f)).

Labor organization employee means any individual (other than an individual performing exclusively custodial or clerical services) employed by a labor organization within the meaning of any law of the United States relating to the employment of employees.

Note: *An individual who is paid by the employer to perform union work, either under a ''union-leave'' or ''no-docking'' policy, is an employee of the union for reporting purposes if the individual performs services for, and under the control of, the union. See definition of ''bona fide employee.''*

For purposes of Form LM–30, stewards receiving union-leave/no-docking payments from an employer or lost time payments from a labor organization are considered employees of the labor organization.

Numerous comments were received about the wisdom of requiring union officials to report payments they received under union-leave or no-docking policies. As discussed above, in today's rule, the Department adopts a limited reporting obligation for such payments. Concerns regarding the reporting burden of labor organization employees under the ''union-leave'' and ''no-docking requirements'' are addressed separately in this final rule. In addition to comments on that aspect of the proposed definition, the Department also received comments inquiring about the application of the definition to union stewards.

One commenter, a labor educator, stated that his study's participants found the definition for ''labor organization employee'' to be confusing. He explained that many participants viewed the proposed definition as a major shift from existing practice as a number of individuals, including stewards, bargaining committee members, and volunteer organizers, would now have reportable transactions when doing union work such as serving on a negotiating committee, serving as an arbitration witness, or organizing. The commenter identified as a specific problem the definition's failure to address how a filer should report the receipt of payments where he or she has multiple employers, each with a different practice or language with respect to lost wages and to the payment of benefits to part-time union officers, stewards, negotiating committee members, and so forth.

In general, where a union steward receives union-leave/no-docking payments from an employer or lost time payments from the union, the steward will be regarded as an employee of the labor organization as the individual has received compensation for performance of services for the union. The Department recognizes that some stewards and other representatives have multiple employers, each with a different practice or language with respect to lost wages and payment of benefits of part-time union officers, stewards, or negotiating committee members. Thus, each employer is considered separately for reporting purposes.

Finally, unlike the proposed definition, today's rule does not outline the factors that distinguish between the status of individuals working for a union as independent contractors and those working as employees of the union. As explained in the NPRM, independent contractors of the union are not required to file a Form LM–30. In the Department's view, the inclusion of these factors in the definition of ''labor organization employee'' added unnecessary length and possible confusion to the definition. If needed, the Department will provided guidance, separate from the instructions, to assist individuals unsure of their status as employees or independent contractors. The same definition, but without the note, modifies section 404.1(g) of the Department's regulations (to be codified at 29 CFR 404.1(g))

Labor organization officer means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body. An officer is (1) a person identified as an officer by the constitution and bylaws of the labor organization; (2) any person authorized to perform the functions of president, vice president, secretary, or treasurer; (3) any person who in fact has executive or policy-making authority or responsibility; and (4) a member of a group identified as an executive board or a body which is vested with functions normally performed by an executive board.

Note: *Under this definition, an officer includes a trustee appointed by the national or international union to administer a local union in trusteeship. If you are a trustee elected or appointed by the local union to audit and/or hold the assets of the union, you may or may not be a union officer, depending on your union's constitution and other factors. If you serve in your union in any capacity and you are unsure if your position is an officer position, you are likely an officer of a labor organization if any one of the following applies:*

- *Your union's constitution or bylaws refers to your position as an officer of the union;*
- *Your union's constitution or bylaws states that your position has the authority to make executive decisions for the union or that you are authorized to perform the functions of president, vice-president, secretary, treasurer, or other constitutionally designated officer;*
- *Your union's annual Form LM–2 or Form LM–3 lists your position as an officer of the union;*
- *In your position, you serve on your union's executive board or similar governing body.*

This definition adopted in today's rule has been revised from that proposed by adding the above note in the instructions. The same definition, but without the note, is adopted as a modification of the existing definition at section 404.1(b) of the Department's regulations (to be codified as redesignated at 29 CFR 404.1(h)). As explained in the NPRM, the definition, as proposed, tracks the definition of ''officer'' at section 3(n) of the LMRDA, 29 U.S.C. 402(n), and adds a new second sentence to the old regulation's definition, 29 CFR 404.1(b). The *LMRDA Manual* applies the definition to trustees appointed to oversee a labor organization. *See LMRDA Manual,* 241.200.

One commenter agreed with the Department's view that the group of union officials subject to section 202's reporting requirements only partially overlaps with the larger group of individuals subject to the Act's Title V fiduciary duties. See 29 U.S.C. 501(a) (''officers, agents, shop stewards, and other representatives''). The commenter noted that nevertheless the overlap was substantial. A labor educator stated that participants in his study group found the definition unclear, adding that the explanatory notes to the definition were unhelpful. He mentioned that some participants were unsure whether ''trustee'' applied to the positions in some local unions which hold auditing

and other responsibilities over the local's assets or to an individual appointed by the national or international union to administer a local's affairs, or both. The commenter explained that local union trustees do not see themselves as union officers and are not de facto or de jure members of the executive board. The commenter also explained that participants were unsure whether stewards would be considered union officers. The Department has concluded that the proposed definition, along with the addition of the note, clarifies that the term ''trustee,'' as used in this definition, does not apply to those with auditing responsibility in the union. This definition also provides a test for determining whether any individual is a union officer.

Legal or equitable interest means any property or benefit, tangible or intangible, that has an actual or potential monetary value for the filer, spouse, or minor child without regard to whether the filer, spouse, or minor child holds possession or title to the interest. See definition of income and benefit with monetary value. For example:

- *You are an officer of a union. You and your spouse jointly own an accounting business that provides tax services to a number of clients, including your union. You hold a legal interest in the company providing services to your union.*
- *You are an officer of a union. You form a tax preparation business with two partners and put your share of the business in your wife's name. The business prepares tax returns and LM reports for your union. You hold an equitable interest in the business that deals with your union.*

This definition has been modified from that proposed by adding the examples set forth in the above bullets. This change was suggested by the labor educator whose study participants had difficulty understanding the meaning of the term.

Minor child, means a son, daughter, stepson, or stepdaughter less than 21 years of age.

This definition is adopted as proposed as part of the instructions and as section 404.1(i) of the Department's regulations (to be codified at 29 CFR 404.1(i)). As the Department noted in the NPRM, the old instructions, like the LMRDA, are silent about the age at which a child reaches his or her majority. As explained in the NPRM, state law definitions for the legal concept of childhood and age of majority differ from state to state but also may differ widely from legal context to legal context within the same state. In the Department's view, there is a need for a uniform, nationwide meaning of ''minor child'' under the LMRDA and without such a uniform definition the objective of the LMRDA will be frustrated. Both filers and union members who view filed reports require a known and easily applied single standard regarding when reports are required, and what a disclosure or its absence represents.

The Department only received a few comments about the proposed definition of ''minor child.'' One commenter noted that the Department should exclude from its definition a ''child who has married and moved away from the parental home.'' Another suggested that 18 should be the cut off age unless the child is still claimed as a dependent for Federal income tax purposes. The Department agrees that the commenters offer valid alternatives to the Department's proposal. Nevertheless, the Department believes that the proposed definition solely tied to a child's age offers the advantage of simplicity and ease of application, particularly because a child's status may remain in a state of flux during his or her late teens and early twenties. In 1959 when the LMRDA was enacted, it was well established that at common law the age at which a person reached his or her majority in the states was twenty-one years. See, *e.g.*, 5 Samuel Williston and Richard A. Lord, *A Treatise on the Law of Contracts* § 9:3 n.15 (4th ed. 1993 & Supp. 1999). As explained in the NPRM, the Department believes that in 1959 when Congress used the term ''minor child'' in section 202(a), it intended a uniform Federal standard to apply and referred to the general common law meaning at that time, *i.e.*, twenty-one years. The Department also believes that twenty-one is more suitable than an earlier age to distinguish between a child's relative dependence upon, and independence from, the finances of a parent. For these reasons, the Department adopts the definition of ''minor'' as proposed.

Substantial part means 10% or more. Where a business's receipts from an employer whose employees the filer's labor organization represents or is actively seeking to represent constitute 10% or more of its annual receipts, a substantial part of the business consists of dealing with this employer.

As discussed herein, this term has been changed by increasing the reporting threshold from 5% to 10% in order to ease the burden on a filer to determine the percentage of a vendor's business that consists of dealing with an employer whose employees the official's union represents or is actively seeking to represent.

Trust in which a labor organization is interested means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries. The term ''section 3(l) trust'' is used in the instructions as a shorthand reference to such trusts.

No comments were received on the Department's proposed definition of this term. This definition is provided by section 3(l) of the LMRDA. 29 U.S.C. 402(l). The only change is the inclusion of the second sentence to make plain that the term ''section 3(l) trust '' is a shorthand reference to ''trust in which a labor organization is interested.'' The same definition is adopted as section 404.1(j) of the Department's regulations (to be codified at 29 CFR 404.1(j)).

2. Other Issues Related to Definitions

A commenter suggested the inclusion of a definition for ''transaction,'' another term used in the Form LM–30 instructions. The Department believes that the term has a plain meaning that applies across various contexts and therefore its inclusion in the instructions is unnecessary.

The Department had proposed to use the term ''*payer*'' to describe the employer, business, or labor relations consultant that is the source of a reported payment on the Form LM–30. As explained in the NPRM, the Department recognized that the term was imperfect, because in common parlance a business in which a filer holds an interest would not ordinarily be considered a ''payer'' of the filer. Upon further consideration, the Department has determined that the use of the term, defined specifically for Form LM–30 reporting, is unnecessary and potentially confusing. For these reasons, the Department has withdrawn the proposed definition. For similar reasons, as discussed above, the Department has withdrawn the proposed definition of ''publicly-traded securities.''

N. Details Relating To Proposed and Revised Form and Instructions

As explained in the NPRM, the broad purpose of Form LM–30 is to disclose payments and other financial interests of a union official that may pose a conflict between those personal interests and his or her duty to the

union and its members. 70 FR 51166. In the NPRM, the Department identified the difficulty in developing a self-explanatory form to accomplish this result. While the old Form LM–30 has a deceptively simple design, it fails to fully capture information that Congress wanted disclosed. Filers often failed to complete the form and, when they did file, they seldom provided the detail called for in the instructions.

1. Comparison of the ''Old'' and Proposed Forms

Items 1–4 of the old Form LM–30 remained on the proposed form with only minor changes. Item 3 was modified to require an e-mail address of the filer. Item 4 of the proposed form combined Items 4 and 5 of the old form and it also required filers to report whether they held their position in the union at the end of the reporting period. Item 5 on the proposed form was the signature box, which was otherwise the same as the old form.

The proposed Form LM–30 included a Payer Detail Page to provide an itemized list of all payments, by payer. The proposed form included three schedules, and it organized the reportable matters by tables instead of the narrative boxes on the old form. The old form also displays reportable information in a three section format: Part A, Part B, and Part C. The filer must report payments from employers in Part A, Items 6, 7a, and 7b; from businesses in Part B, Items 8–12; and from other employers and labor relations consultants in Part C, Items 13–14.

The proposed form contained various continuation pages for information supplementing required entries on other pages or otherwise as overflow space. Some of these pages existed in a different format in the old form and some were new pages.

The NPRM noted that the diversity of financial transactions made reportable by section 202 of the Act requires detailed instructions. The NPRM invited comments as to the layout of the instructions, their clarity, and suggestions about how to better explain the reporting obligations. The NPRM also noted that the first heading of the proposed instructions, ''Why File,'' was largely unchanged from the old form: it addressed the basic reporting obligations.

2. Comments on Proposed Form

In an attempt to better inform potential filers about the purposes served by the Form LM–30, the proposed form included an expanded discussion of the LMRDA, placing the official's reporting obligation in the context of the other rights and obligations established by the Act. The proposed form also clarified that no form need be filed unless the filer, his or her spouse, or minor child held a covered interest, received a covered payment, or engaged in a covered transaction or arrangement during the reporting period.

The NPRM also requested comments about the layout and clarity of the form, including: ''Would the form benefit from adding additional text and, if so, what additions are recommended? Does the form have an intuitive feel to it? Does the form request information in logical progression? How can the form be improved?'' The next paragraph discusses the general comments received on the proposed form and the Department's response. The following paragraphs summarize comments received on particular aspects of the proposed form and the Department's response to those comments. Comments and responses are grouped by the numbered items and schedules of the proposed form.

General Comments: Several commenters applauded the inclusion of definitions and examples; some commenters, however, expressed concern about some of the definitions and argued that some of the examples were incorrect. As discussed, the Department has clarified some of the definitions, modified some of the examples, and added others where requested. These changes are discussed in other sections of this document.

One commenter stated that the proposed form is more confusing to filers and the public than the old form, adding burden but no compensating benefit. The commenter recommended that the Department should ''leave well enough alone'' and that instead of revising the form it should provide guidance that would ''clarify[ ] and simplify[ ] the reporting requirement itself.'' The Department disagrees with this recommendation. As noted in the NPRM, flaws in the form itself and the instructions to the form provided impetus for the proposed rule. Further, as discussed throughout this document, many of the modifications to the form correspond to changes/clarifications in the reporting requirements themselves. Although under the revised form a filer no longer needs to record the statutory subsection under which a payment or other financial interest is received, the Department has nevertheless conformed the form to the reporting requirements of section 202 and the limited exceptions to such requirements. Finally, much of the asserted confusion will clear when filers familiarize themselves with the revised form and instructions and avail themselves of the compliance assistance readily available from this Department.

A labor educator stated that several of his study participants found the language in the instructions to be too ''legalistic.'' He suggested that the Department should wait to see what problems arose in connection with the historic upsurge in Form LM–30 filings, particularly in light of his observation that the biggest problem may actually be ''false positives'' and not ''false negatives'' (i.e., individuals who have nothing to report are nonetheless filing reports). The commenter's point about the old form is valid. However, the revised form and instructions will resolve this problem.

Item 2—Period Covered: One individual suggested that the instructions should make clear that the filer's fiscal year should be the fiscal year used by his union in filing its Form LM–2, and another expressed confusion about whether reports should be based on the official's fiscal year or his union's fiscal year. The Department cannot dictate to a filer his or her fiscal year. The language of the statute states: ''[the filer] shall file with the Secretary a signed report listing and describing for *his* preceding fiscal year * * *.'' 29 U.S.C. 432(a). The instructions as proposed appear to leave some ambiguity as to what fiscal year should be utilized by the filer. As such, the Department has added language to Part IX of the revised instructions indicating that the fiscal year is that of the filer, which may differ from the fiscal year utilized by the filer's union for filing its annual financial report, Form LM–2, LM–3, or LM–4.

Item 3(I)—Contact Information of Reporting Person: E-mail Address: One commenter expressed support for the added contact information required by Item 3. Other commenters voiced opposition to the addition of the filer's e-mail address. The concern over e-mail addresses was that they are private and that their disclosure may lead to harassing e-mail, spam, unwanted solicitation, and viruses. Further, the commenters argued that the reporting of a filer's office telephone number eliminates the need for the e-mail address.

Although several commenters voiced concerns over the required inclusion of a filer's e-mail address, none explained how this would violate the Privacy Act. No violation of such Act is apparent; there does not appear to be any greater privacy interest in a personal e-mail address than in a personal mailing address or phone number and such

information has long been required by Form LM–30 filers without any challenge on privacy grounds. The old Form LM–30 requires the address of the filer and the telephone number where the filer conducts official business, although a private, unlisted telephone number is not required to be reported.

At the same time, the Department is sensitive to a filer's concerns that by disclosing his or her e-mail address, the official may become the target of unsolicited e-mails or otherwise impeded in the use and enjoyment of his or her e-mail account. For this reason, the Department has decided that the filer has the option to disclose or not disclose his or her e-mail address.

Summary: The Department received one comment supporting the addition of a summary schedule to Form LM–30. Other commenters opposed this schedule, asserting that the summary adds unnecessary burden, without adding any ''significant value,'' and creates confusion due to the lack of a readily apparent relationship between the payer and employer/union on the summary. One commenter noted that summarizing all payments in this manner leads to the conclusion that the total value is a ''payment'' when not all of the interests, such as share holdings, can be characterized as such.

This summary enables viewers to quickly ascertain the payments and interests held in employers and businesses that may constitute a potential conflict of interest. This function is the essence of Form LM–30, and thus the summary is a significant improvement over the old form. The comments express concern over the confusion that would ensue from aggregating different types of interests and payments, and the Department has addressed this concern with the creation of the categories of ''income or other payments'' and ''assets'' on the summary section of the form.

Part B—Schedule 1: Employer or Business Identifying Information: One commenter voiced general support for the new schedules and applauded the new contact information. Other commenters expressed opposition to the changes, in particular the business ID number and incorporation information. One commenter argued that the new payer identifying information was ''unduly burdensome,'' requiring filers to conduct extensive research to compile such information, and with little value to the members and other viewers. Another stated that only the payer telephone number was justified, along with the payer name and address and the transactional information. Further, a union commented that it will be extremely difficult for a filer to locate payer information such as the state of incorporation/registration and state business ID number.

This schedule will no longer combine data from all ''payers'' regardless of its classification as an employer, labor relations consultant, or business. The latter terms appear in the Act, unlike ''payer,'' and the Department has restructured Part II of the instructions to detail the reporting requirements with these distinctions in mind.

The Department has also eliminated Items K and L (State of Incorporation/Registration and State Business ID number) of Schedule 1, as proposed. The commenters' assertions that the inclusion of the business ID number and incorporation information will add significant burden to the reporting requirements appear valid. A filer must report all transactions in an accurate and clear manner, as well as provide basic contact and reference information; the filer should not also be required to perform research on the employer or business for information beyond what is needed to meet the statutory requirements. Further, viewers of these forms may be able to acquire such information on their own initiative if it is of interest to them; they will have the employer's or business' name and contact information to assist them in obtaining any desired additional information.

Part B—Schedule 2: A labor educator presented some specific suggestions for this Schedule. He suggested that the form spell out the coding ''O/E/S/C'' under Item B, Schedule 2, *i.e.*, ''officer,'' ''employee,'' ''spouse,'' and ''[minor] child.'' Two other commenters expressed a similar concern. The Department has modified the form to meet these concerns.

This commenter also suggested that the Department could use the Itemization Sheets and Schedules 15–19 in the Form LM–2, with a standardized itemization sheet for all reportable transactions that roll-up into a single-summary sheet. The itemization sheets for Schedules 15–19 of the Form LM–2 are not appropriate or necessary for purposes of the Form LM–30. A filer using the electronic Form LM–30 will be able to create as many copies of Schedules 2 and 4 and of the additional information schedule as needed to complete the form.

Instructions—Categories A1–A6: The most critical comments concerned the subsection-by-subsection layout of the proposed form. One commenter described it in hyperbolic terms, as ''requiring an encyclopedic knowledge of the Act.'' Others simply suggested it was more difficult than necessary. The Department believed that the subsection-by-subsection approach had the value of showing the filer, by reference to the statutory language, exactly what he or she must report. While the Department continues to believe that this approach has value and may have been preferable for use by some filers, the Department is persuaded that this approach may lead to the perception that the Form LM–30 is unnecessarily difficult to complete.

Two commenters asserted that the proposed form, unlike the old form, ''fail[s] to collect interests and transactions into coherent categories. The proposed format, dependent on a complicated coding system, adds unnecessary complexity for filers.'' Another commenter, a labor educator, generally opposed the use of the ''codes'' A1–A6, because in his view it is possible to have more than one code for a payment. He also stated that he had found that potential filers had difficulty synchronizing the sections of the form with the instructions. For example, he stated that filers had to continually ''flip back and forth'' from the instructions to the form. He believes that this diminishes the effectiveness of the instructions.

The Department has carefully considered the concerns expressed about the subsection-by-subsection approach of the proposed form. In place of this approach, the Department has decided instead to organize the form in a way that requests each filer to identify by employer and business the reportable interest, payment, loan, or transaction, and to identify whether it was held by or involved the filer, his or her spouse, or minor child. This approach, similar to the approach used in the old form, adopts the targeted approach used by Congress to identify the types of relationships from which a conflict between a filer's personal interests and his or her duty to the union arises. Moreover, the classification of each payer as an employer, labor consultant, or business provides necessary context for a member or other viewer to properly analyze the potential conflict. Except for this change, the revised definitions and examples, the addition of some new examples, and the enlarged exception for reporting insubstantial payments, there have been no significant changes to the proposed form or instructions.

The Department has also reduced the necessity to ''flip back and forth'' from the instructions to the form by putting more instructions and examples on the form itself (following the example of SF–278 required of Federal employees),

and by providing cross references, by page number of the instructions, for the definition of any terms needed to complete a particular section of the form. Also, to help alleviate this problem, the revised form utilizes Items 6 and 7 to add clarity for both the filer and the reviewer of the form by listing the conditions under which arrangements, transactions, income or other payments, interests, and loans must be reported. These items help the filer, in particular, by focusing him or her on the pertinent provision in the instructions.

Instructions Part II—Who must file and what must be reported: One commenter suggested that the ''Do I have to file the LM–30'' section of the instructions should be revised to allow an individual to more easily identify himself or herself as a Form LM–30 filer. The Department has addressed this concern by removing the A1–A6 categories, restructuring Part II of the instructions around the reporting requirements, exceptions, and examples of payments from employers and businesses; by revising some of the definitions, and by adding page citations to the cross-references. Another commenter acknowledged that the proposed form assisted potential filers by highlighting that no union official needs to file unless there has been reportable activity. The revised form contains the same statement.

A commenter noted that the definition of ''substantial'' should include the word ''employer'' and not ''labor organization'' at the end of the second sentence of the definition. The Department has corrected this error by indicating that the end of the second sentence of that definition should read ''employer'' and not ''labor organization,'' as ''substantial part'' is found in the language of 202(a)(3) (a business that deals with the employer) and not in 202(a)(4) (a business that deals with a labor organization).

Instructions—Examples and Definitions: A commenter opposed some of the examples, suggesting that they are unreal ''lawyer'' hypotheticals, better used to establish the bounds of the Department's authority than to provide practical assistance to filers. Another commenter stated that fewer, better examples should be developed. He provided information to support his view that the definitions were confusing. He also suggested that the form should be redesigned to eliminate the need for filers to refer to different places in the instructions in order to complete the form, and that the instructions should include a section that brings together all the transaction criteria in each of the six subsection categories. Another commenter characterized the revised instructions as an improvement over the old ones, describing the examples as ''particularly useful.''

Many of the specific comments directed at examples have already been addressed in other sections of the preamble. The Department believes that these examples address typical reporting scenarios that will guide filers in their effort to comply with the reporting requirements. Nevertheless, the Department has carefully reviewed all the examples, and in several cases has added or modified language in an effort to clarify or simplify the guidance presented in them. Other examples, although reflecting a correct statement of a filer's obligations (with the exception of example 1, at 70 FR 51217, which omitted a key fact), have been eliminated as redundant.

Commenters expressed concern about the absence of examples involving transactions between, on the one hand, union officials and on the other section 3(l) trusts or service providers to such trusts. The Department has added Example 3 under ''(2) Payments of Money or Other Thing of Value from Certain Other Employers or a Labor Relations Consultant to Such an Employer'' in Part II of the instructions, which relates to payments to a union official from a trust in which that official's union is interested. Further, Part II of the instructions, ''Reportable Payments and Interests from Businesses,'' contains Examples 15 and 17, which each deals with payments to a union official from service providers to trusts.

Instructions—General Stylistic Comments: An individual offered several specific recommendations in regard to the instructions. He proposed that the Department utilize a single column rather than the double columns in the proposed form; the ''Note on Definitions'' should be indented below each definition; and the examples should be placed within graphic text boxes. He also suggested that the Department should either include a discussion of the Act's legislative history in the instructions or separately publish such information to assist filers in understanding what is to be reported on the form.

The Department has made several minor changes that add some clarity to the instructions. As to changing the two-column format, the Department disagrees. All the old Form LM instructions utilize two columns, and no other commenter expressed concern over this format. The Department believes that it is easier for readers to process information in a two-column format than by alternative presentation.

The examples already stand out as they are numbered in bold type, so boxes around them are not needed. The Department has also consolidated many of the examples, based on its departure from the A1–A6 format in the proposed form. The Department has indented the ''Note on the Definitions'' sections to aid the filer; created a new part of the instructions for definitions (Part III); numbered the definitions; and cited them with page number references in Part II of the instructions.

The Department disagrees with the suggestion that the instructions should include a discussion of the Act's legislative history. The instructions are intended to be straightforward and directed solely at the completion of the form. A discussion of legislative history, the language of the statute, and legal and policy questions would add additional, unnecessary length to the instructions. A filer desiring additional background information of this nature can easily obtain it by reviewing this preamble, the preamble to the proposed rule as published in the **Federal Register**, or through the Department's own Web site and other governmental and publicly-accessible electronic information portals.

The Department acknowledges that the revised form, like the proposed form, may ''feel less intuitive'' than the old form; however, it believes that the revised form will better meet the goals of the LMRDA than the old form. Moreover, to address the concerns of the commenters, the Department has made several changes to the form to facilitate its completion and use by union members and the general public.

3. Completion of the Revised Form

The first seven items on the revised Form LM–30, as published in today's rule, provide basic information about the filer and his or her labor union; the number of employers and labor relations consultants and the number of businesses with which the filer engaged in reportable activity; and the total reported income and the total reported assets of the filer involving those employers, labor relations consultants, and/or businesses. Item 8 is for the signature, date, and telephone number of the filer. Items 1–8 have been designated as Part A of Form LM–30 for ease of reference.

Both the proposed and revised forms provide a plain notice to filers that they should carefully review the instructions to the form before completing it. The revised form contains the notice on the

first page: ''You are not required to file this report unless you * * * have received a payment, engaged in any transactions or arrangements, or held an interest of the types described in * * * the instructions.'' The revised instructions include, on the second page, a discussion of the reporting exception for insubstantial payments and gifts to enable potential filers to more quickly determine whether they have a reporting obligation. To simplify the form's completion, the instructions identify particular terms that must be understood for completing particular items. Page references are provided for these terms, which are now defined near the end of the instructions. By relocating the terms, a filer is able to more quickly start completing the form and focus only on those terms that affect the filer's circumstances.

The remainder of the form consists of Schedules 1 through 4 and is designated as Part B. The filer must complete a separate Part B in accordance with the instructions for each of the employers, labor relations consultants, or businesses with which the filer engaged in reportable activity.

Item 1—File Number: No changes were proposed for this item, which is included in the old and revised forms.

Item 2—Period Covered: No changes were proposed for this item, which is included in the old and revised forms.

Item 3—Contact Information of Reporting Person: The addition of the filer's e-mail address was proposed. However, the Department has decided to allow filers the option to disclose or not disclose his or her e-mail address.

Item 4—Labor Organization Identifying Information: Both the proposed form and today's form combine two items of the old form. Items 4F, 4G, and 4H on the revised form ask for information about the filer's position in the union, whether it is an officer or employee position, and whether the filer held this position at the end of the reporting period. As noted in the NPRM, it is important as an enforcement matter to know whether the filer can still be reached at the union, and whether the filer may need to file Form LM–30 the following year.

Item 5—Summary: The revised form adopted the concept of a summary schedule of reported payments and interests contained in the proposed form, but the proposed summary has been simplified in response to comments. The revised summary (now Item 5) shows total reported income or other payments and total reported assets. The summary no longer requires the filer to list each individual payer (employers, businesses, and labor relations consultants) and give a total value of all dealings with that payer as had been proposed. As discussed herein in greater detail, the aggregation of all types of dealings such as payments, share holdings, loans, and so forth was determined to be confusing. Instead, the filer now totals the amounts in Schedule 2, Item F, Column (1) (value of income or other payments) of all the Part Bs and enters the total in Item 5A. The filer likewise totals the amounts in Schedule 2, Item F, Column (2) (value of asset) of all the Part Bs and enters the total in Item 5B.

Items 6 and 7—Employer Relationships and Business Relationships: To simplify reporting, Item 6 on the revised form identifies the relationships between, on the one hand, a filer's union and, on the other hand, an employer or a labor relations consultant to an employer that will trigger a reporting requirement. Its counterpart, Item 7, identifies the types of relationships, direct and indirect, between a business and the filer's union that will trigger a reporting requirement. These relationships are culled from the provisions of sections 202(a)(1) through 202(a)(5), supplemented by particular relationships that trigger a report under section 202(a)(6). Filers no longer have to extract these relationships from the statutory language. If the filer has received a payment from or held an interest in such an employer or business, the language on the form directs the filer to review Part II of the instructions to determine whether or not any of the exemptions apply to the filer's situation. Items 6(a) and 7(a) each contain a box for the filer to indicate whether or not he or she had any of the listed relationships. If the filer answers ''Yes'' to Item 6(a) or 7(a), Items 6(b) and 7(b) ask for the number of employers (and consultants) or the number of businesses with which the filer had a listed relationship. Items 6 and 7 clarify for both the filer and the reviewer of the form the entities from which payments and interests must be reported.

Item 8—Signature: The signature box has been renumbered as Item 8, but it has not otherwise changed from the old or proposed forms.

Part B: The ''Payer Detail Page'' from the proposed form is now called Part B and has four schedules. Schedules 1 and 2 will be completed for both employers and businesses. Schedule 3 will be completed for employers only and Schedule 4 will be completed for businesses only, so only three schedules will be completed on each Part B, just as in the NPRM. Instructions and examples have been added to the schedules on the form to enable the filer to more easily complete the form. A separate Part B must be completed for each employer, business, or labor relations consultant from which the filer received a reportable payment or in which he or she had a reportable interest.

Part B—Schedule 1: Employer or Business Identifying Information: All filers must complete this schedule. The schedule's title has been changed from the proposed form's ''Payer Identifying Information.'' The proposed form combined three items on the old form (Items 6, 8, and 13) that helped identify the source of a payment or the specific interest held by the filer, his or her spouse, or minor child. The proposed form also required the filer to provide contact information for each ''payer,'' including the telephone number, Web site address, state of incorporation or registration, and state business identification number. As noted in the NPRM, the additional contact information would make it easier for a person reviewing the report to identify the payer. The filer also would have to indicate whether he or she was associated with the payer at the end of the reporting period, information that would be helpful to the Department in determining whether the filer may be required to file a report the following year, thereby allowing the Department to conduct effective compliance assistance. The revised form no longer requests the filer to provide for each payer the state of incorporation/registration or state business identification number. The Department has determined that filers may not have this information at hand and that asking them to obtain such information would impose an unnecessary burden. The Department has retained new items such as the entity's telephone number (Item I) and Web site address (Item J). The schedule also requires the information that would be found in the old form. The Department has also preserved the proposed form's requirement for the filers to indicate whether the union official (or spouse or minor child) had a continuing relationship with the employer, business, or labor relations consultant at the end of the reporting period.

Part B—Schedule 2: Interests in, Payments From, Loans to or From, and Transactions or Arrangements with Employer or Business and Payments from a Labor Relations Consultant: All filers must complete this schedule. This schedule replaces and renames Schedule 2 on the ''Payer Detail Page'' of the proposed form. The term ''payer,'' as noted in the NPRM, was an awkward phrase; it is no longer needed in the

revised form. The proposed form required filers to identify reportable interests, payments, loans, transactions, and arrangements by the specific provisions of section 202 of the LMRDA.

As in the proposed form, the revised Schedule 2 requires the reporting of the date of each reportable payment and interest and whether it was received or held by the filer, his or her spouse, or his or her minor child; this information was not always reported on the old form. Language on this schedule clarifies the information that must be reported, the format in which the information must be reported, and references the instructions for further review of filing criteria. The layout of the schedule itself remains largely unchanged from the proposal, which in turn is derived from Items 7, 12, and 14 of the old form. The most significant change in the revised form's Schedule 2 is the deletion of Item C of the proposed form, which required the filer to indicate the subsection of section 202 of the LMRDA (A1–A6) that required the disclosure of each reported payment or interest. As explained in greater detail elsewhere in this preamble, this requirement was deleted in response to comments. Item C ''Description of Interest, Payment, Loan, Transaction, or Arrangement'' on the revised form is identical to Item D on the proposed form. Item D, ''Value'' on the revised form (Item E on the proposed form), has been divided to include separate columns for ''Value of Income or Other Payments'' and ''Value of Asset.'' The instructions for this item in Part IX clarify what must be reported in each column of Item D. The filer must add the data in the income column and in the asset column, and record these totals in Item F.

Part B—Schedule 3: Employer's Relationship with Your Labor Organization: This schedule must be completed only by filers who are completing Part B for payments from, or interests in, an employer (or a labor relations consultant to an employer). It replaces Schedule 3 from the proposed form, ''Payer's Dealings with Union(s), Trust(s), or Employer(s)'' with respect to employers. This schedule, unlike the old or proposed forms, provides a checklist of relationships between the filer's union and employers and businesses that will trigger a reportable interest. The relationships are culled from the language of sections 202(a)(1) through (a)(5) and from the Department's interpretation of section 202(a)(6).

In Item A the filer will check the appropriate box(s) describing the relationship between the employer and the filer's labor organization. This will clarify the exact nature of the relationship for both the filer and the reviewer of the form. Item B of the schedule asks for a detailed description of the dealings between the two entities. Item B(1) requests a dollar value of the transactions between the entities. If the employer's relationship with the filer's labor organization is based on the labor organization's representation of the employer's employees or actively seeking to represent the employees or if the relationship cannot otherwise be readily assigned a monetary value, the filer should enter ''N/A.'' The need for this schedule derives from the changes in the Department's interpretation and implementation of section 202(a)(6) as discussed elsewhere in this preamble.

Together with Schedule 4 that compiles similar information for reportable interests that arise from business relationships with a filer's union, this schedule, like the proposed Schedule 2, combines and simplifies information that is now collected in multiple items of the old form. Both the proposed form and the revision in today's rule asks filers to provide for each reportable matter the source of the payment or the specific interest, its recipient or holder (filer, spouse, or minor child), a description of the reportable matter, and its value. The schedule, as revised, also includes examples of reportable items, which should assist filers in determining the manner and detail in which reportable items should be identified and described.

Part B—Schedule 4: Business's Dealings with Union(s), Trust(s), or Employer(s): This schedule must be completed only by filers who are completing Part B for payments from, or interests in, a business that deals with the filer's labor organization, a trust in which the filer's labor organization is interested, or an employer whose employees the filer's labor organization represents or is actively seeking to represent. This schedule replaces the proposed Schedule 3, ''Payer's Dealings with Unions(s), Trusts(s), or Employer(s),'' with respect to businesses. The new Schedule 4 largely resembles its predecessor Schedule 3 in the proposed form, which combined and simplified information reported in Items 9, 10, and 11 of the old form. Item B now reads ''Union/Trust/Employer,'' rather than ''U/T/E.'' Filers are no longer required to compute and enter a total on the form for the value reported.

As noted above, this schedule, combined with Schedule 3 that compiles similar information for reportable interests and payments from employers, asks filers to identify for each reportable matter the source of the payment or the specific interest, its recipient or holder (filer, spouse, or minor child), a description of the reportable matter, and its value. Although the proposed form asked the filer to designate for each reportable matter the subsection under which the report was triggered, the revised form does not ask for such information. The schedule, as revised, also includes examples of reportable items, which should assist filers in determining the manner and detail in which reportable items should be identified and described.

Labor Organizations in Which the Reporting Person is an Officer or Employee—Continuation Page: This page is a continuation of, and is identical to, Item 4 on the revised Form LM–30. It is for use by a filer who is an officer or employee of more than one labor organization.

Additional Information Schedule: This schedule is identical in both the proposed and revised forms. It allows filers to provide additional information or explanations about other items in the form. This is similar to additional information items found on other OLMS forms, but the old Form LM–30 does not contain such an item.

Summary Schedule Continuation Page: The Department has eliminated this continuation page that was part of the proposed form, as the revisions to Item 5, the Summary, have removed the necessity for it.

Schedule 2 Continuation Page: The Department has retained a continuation page for the new Schedule 2.

Schedule 4 Continuation Page: The Department has added a continuation page for the new Schedule 4.

Instructions Part I, Why File: This part of the instructions is largely unchanged from the old and proposed forms.

Instructions Part II, Who Must File and What Must Be Reported and Part III, Definitions: Part II of the instructions has been amended in several significant ways from the proposed form. The Department has abandoned the layout of the instructions in the ''A1–A6'' format, and it has adopted an arrangement in which the instructions guide the filer according to the reporting requirements for payments from and interests in employers (and labor relations consultants) and businesses. Further, the Department has removed the definitions from Part II of the instructions, numbered them, and placed them in a new Part III. The reporting requirements in Part II cite the number and page of each of the definitions in Part III. Finally, the

Department has modified some of the definitions as earlier discussed in the preamble.

Instructions Part IV, When to File: This part has been renumbered from the old form, but no substantive changes have been made.

Instructions Part V, Where to File: This part has been renumbered from the old form, but no substantive changes have been made.

Instructions Part VI, Public Disclosure: This part has been renumbered from the old form and updated information, including the Internet Public Disclosure Room, has been added.

Instructions Part VII, Officer or Employee Responsibilities and Penalties: This part has been renumbered from the old form, but it is identical to the proposed form.

Instructions Part VIII, Recordkeeping: This part has been renumbered from the old form and a reference has been added to retaining electronic documents. A similarly worded statement is adopted as section 404.7 of the Department's regulations (to be codified at 29 CFR 404.7)). This represents a clarification of existing recordkeeping requirements, and is not intended as any change in the law governing the maintenance and retention of records.

Instructions Part IX, Completing Form LM–30: The Department has modified this part of the instructions, the former Part VIII of the proposed instructions, to correspond to the changes made to the revised Form LM–30.

III. Regulatory Procedures

A. Executive Order 12866

This final rule has been drafted and reviewed in accordance with Executive Order 12866. The Department has determined that this rule is not an ''economically significant'' regulatory action under section 3(f)(1) of Executive Order 12866. Because compliance with the rule can be achieved at a reasonable cost to covered union officers and employees, the rule is not likely to meet the 3(f)(1) definition of having an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities. As a result, the Department has concluded that a full economic impact and cost/benefit analysis is not required for the rule under Section 6(a)(3) of the Order. However, the Department determined because of its importance to the public that this final rule is a significant regulatory action under the Executive Order and therefore, it was reviewed by the Office of Management and Budget.

The burden imposed by the revision of the Form LM–30 is addressed in the Paperwork Reduction Act section, below.

The Department believes that increased transparency for union officers and employees will provide substantial benefits to union members and the union itself, as well as to outside academic researchers, members of the public, and other stakeholders. Transparency promotes the unions' own interests as democratic institutions. By these improvements, union members will obtain a more accurate picture of the personal financial interests of their union's officers and employees, as those interests may bear upon their actions on behalf of the union and its members. With this information, union members will be better able to understand any financial incentives or disincentives faced by their union's officers and employees and to make more informed choices about the leadership of their union and its management of its affairs. Through these actions, the Department effectuates the reporting obligation established by section 202 of the LMRDA and advances the Act's declared purpose ''that labor organizations, employers, and their officials adhere to the highest standards of responsibility and ethical conduct in administering the affairs of their organizations.'' Section 2(a) of the LMRDA, 29 U.S.C. 401.

B. Small Business Regulatory Enforcement Fairness Act

For similar reasons as those discussed in section A, the Department has concluded that this final rule is not a ''major'' rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). It will not likely result in (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

C. Unfunded Mandates Reform

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include a Federal mandate that might result in increased expenditures by State, local, and tribal governments, or increased expenditures by the private sector of more than $100 million (adjusted for inflation) in any one year.

D. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism and has determined that the rule does not have ''federalism implications.'' The economic effects of the rule are not substantial and the rule does not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

E. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, requires agencies to prepare regulatory flexibility analyses, and to develop alternatives wherever possible, in drafting regulations that will have a significant impact on a substantial number of small entities, including ''small businesses,'' ''small organizations,'' and ''small governmental jurisdictions.'' Today's rule revises the reporting obligations of union officers and employees, who, as individuals, do not constitute small business entities. Accordingly, the final rule will not have a significant economic impact on a substantial number of small business entities. Therefore, under the Regulatory Flexibility Act, 5 U.S.C. 605(b), a regulatory flexibility analysis is not required.

F. Paperwork Reduction Act

This statement is prepared in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 (''PRA''). *See* 5 CFR 1320.9. As discussed in the preamble to this final rule and the analysis that follows below, the rule implements an information collection that meets the requirements of the PRA in that: (1) The information collection has practical utility to labor organizations, their members, other members of the public, and the Department; (2) the rule does not require the collection of information that is duplicative of other reasonably accessible information to the extent practicable; (3) the provisions reduce to the extent practicable and appropriate the burden on union officials who must provide the information; (4) the form, instructions, and explanatory information in the eamble are written in plain language that will be understandable by reporting officials; (5) the disclosure requirements are implemented in ways consistent and

compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of union officials who must comply with them; (6) the preamble and the instructions to the Form LM–30 inform union officials of the reasons that the information will be collected, the way in which it will be used, the Department's estimate of the average burden of compliance, which is mandatory for officials with reportable interests, the fact that all information collected will be made public, and the fact that officials need not respond unless the form displays a currently valid OMB control number; (7) the Department has explained its plans for the efficient and effective management and use of the information to be collected, to enhance its utility to the Department and the public; (8) the Department has explained why the method of collecting information is ''appropriate to the purpose for which the information is to be collected''; and (9) the changes implemented by this rule make extensive, appropriate use of information technology ''to reduce burden and improve data quality, agency efficiency and responsiveness to the public.'' *See* 5 CFR 1320.9; 44 U.S.C. 3506(c).

As discussed throughout the preamble, today's rule provides various benefits to unions, union members, this Department, and the public. The information has obvious utility for these groups, among other reasons, by ensuring more complete compliance by labor union officials with the LMRDA's reporting obligations. The rule provides for the collection of information in a way that is compatible with electronic reporting and the dissemination of this information to the interested community of users. In so doing, it better achieves the public disclosure purposes served by the Act's reporting provisions than the existing rule.

Although the effectiveness of today's rule depends, in large part, on a set of instructions for the Form LM–30 that is longer than the instructions for the old form, the additional length is largely the result of the inclusion of numerous definitions and examples, designed to assist filers in understanding their reporting obligations. The absence of this information in the instructions to the old form was a significant impediment to compliance by filers and the utility of reported data. The inclusion of this information in today's rule benefits filers and the public; any additional time required to read the instructions is a small burden in comparison to the knowledge provided filers and the predicted gains in the numbers and completeness of the forms submitted to the Department.

The final rule more closely resembles the format of the old form than the form proposed by the Department. Unlike the proposed form, the form embodied in today's rule may be completed without need for the filer to identify the statutory provision that triggers a reportable interest. This change eliminates a concern by many commenters that the proposed form imposed unnecessary burdens on filers. Various other changes have been made to the form that was proposed and its accompanying instructions. The Department has achieved its goal of designing a rule that meets the disclosure purposes intended by Congress—the complete and meaningful reporting of information about actual or potential conflicts of interest between a union official's personal financial interests and the official's duty to his or her union and its members. Moreover, this goal has been achieved without imposing any unnecessary burden on union officials. While the Department believes that the form and instructions provide ready answers to typical questions that may rise in completing the form, the Department has a robust compliance assistance program in place to assist filers in timely and correctly fulfilling their reporting obligations.

Most of the information collected by the form is unavailable in any other public document; to the extent there may be some overlap with reports required by fiduciaries under other laws, the duplication, albeit minimal, is unavoidable. The rule's recordkeeping requirements are identical to the old rule with the exception of the requirement that filers preserve any electronic information used to complete the form. This requirement is consistent with contemporary recordkeeping standards and elicited no unfavorable comment.

The Department's NPRM in this rulemaking contained initial Regulatory Flexibility Act and PRA analyses, which were submitted to and reviewed by OMB. Based upon careful consideration of the comments and the changes made to the Department's proposal in this final rule, the Department has made significant adjustments to its burden estimates. The costs to the Department for administering the reporting requirements of the LMRDA also were adjusted.

Pursuant to the PRA, the information collection requirements contained in this final rule have been submitted to OMB for approval. Within 30 days of the date of publication of this final rule, you may direct comments by fax (202–395–6974) to: Desk Officer for the Department of Labor/ESA, Office of Management and Budget.

Summary: This final rule modifies the public financial disclosure reports that section 202 of the LMRDA requires to be filed by labor union officers and employees for any fiscal year in which they have certain holdings, receive certain payments or income, or engage in certain financial transactions or arrangements. The revised paperwork requirements are necessary to reduce the errors and deficiencies in the reports, raise the number of union officials that comply with the reporting requirements, and increase the transparency of the financial practices of such officials. More accurate reports and increased transparency will allow union members to view the information needed by them to monitor their union's affairs and to make informed choices about the leadership of their union and its direction. Such improvements promote the unions' own interests as democratic institutions and the interests of the public and the government. Financial disclosure deters fraud and self-dealing, and facilitates the discovery of such misconduct when it does occur. Increased compliance will be achieved by clarifying the form and instructions, offering numerous examples to guide filers, deleting or limiting exceptions that allowed some financial matters that posed conflicts of interest to go unreported, and organizing the information in a more useful format. For a more detailed discussion of the purposes served, and benefits achieved, by the changes to the Form LM–30, its instructions, and related Department regulations, see the discussion above at Section I.C.1.

The revised Form LM–30 and instructions that will implement the new reporting requirements are published as an appendix to today's final rule. The electronic versions of the revised Form LM–30 and instructions are now available on the OLMS Web site at *http://www.olms.dol.gov*.

Background: The Form LM–30 is used by officials of labor unions to comply with the Act's requirement that such a union official annually disclose specified payments or other financial benefits received by the official, his or her spouse, or minor children from employers and businesses where such payments or other financial benefits pose actual or potential conflicts between an official's personal financial interests and the interests of the official's union and its members. Subject to specified exceptions, the interests, incomes, transactions, and arrangements subject to reporting

comprise: (1) Payments or benefits from, or interests in, an employer whose employees the filer's union represents or is actively seeking to represent; (2) transactions involving interests in, or loans to or from, an employer whose employees the filer's union represents or is actively seeking to represent; (3) interests in, income from, or transactions with a business a substantial part of which consists of dealing with an employer whose employees the filer's union represents or is actively seeking to represent; (4) interests in, income from, or transactions with a business that deals with the filer's union or a trust in which the filer's union is interested; (5) transactions or arrangements with an employer whose employees the filer's union represents or is actively seeking to represent; and (6) payments from an employer or labor relations consultant. *See* section 202(a)(1)–(6).

Overview of Changes to Form LM–30 and Summary of the Need for the Rule: The revised Form LM–30 and instructions define terms used in the form, provide examples to assist the filer in identifying reportable financial events, and remove or limit certain exceptions that allowed financial matters of interest to union members to go unreported under the current reporting scheme. A detailed discussion of the proposed and revised forms and instructions is set forth at Section II.N. herein.

Estimated Universe of Filers: The Department initially estimated that it would receive 2,046 Form LM–30 reports per year as a result of the final rule. This figure was based on the then current estimated filing rate of 0.03% of all union officers and employees plus an expected increase in the Form LM–30 filing rate to 1% as a result of the proposal. *See* 70 FR 51199. For the final rule, a revised estimate, based on the public comment and the number of Form LM–30s filed with the Department during fiscal year 2006 has been used. During fiscal year 2006, the Department received 4,348 Form LM–30 reports, 882 of which did not contain information on any transaction or interest, i.e., blank reports, resulting in a total of 3,466 valid Form LM–30 reports filed during fiscal year 2006.[1] As explained in the following paragraphs, the Department considered key aspects of the final rule and assessed the impact of the revised reporting provisions by estimating the relative frequency that such provisions would result in filings. In making these estimates, the Department relied upon information it has previously used in determining paperwork estimates: the number of unions filing annual financial reports (21,792) and the number of officials (204,634) serving these unions.[2] *See* 70 FR 51171. Applying this methodology as discussed below, the Department estimates that under today's rule, it will receive 3,450 additional Form LM–30 reports. Thus, the Department estimates that a total of 6,916 revised Form LM–30 reports will be filed annually.

In the NPRM, the Department estimated that the clarification of the Form LM–30, the defined terms, the addition of examples that illustrate reportable and nonreportable transactions, and the removal of administrative filing exemptions would increase the number of individuals who file the Form LM–30. *See* 70 FR 51199. Using the best data available, the Department estimated that there are 204,634 union officers and employees. Further, based on the Department's receipt of approximately 61 reports annually (the annual average for fiscal years 2001–2005), the Department estimated a current filing rate of 0.03% ($61/204{,}634 \times 100 = 0.03\%$). Due to the proposed reforms, as well as increased compliance assistance and enforcement initiatives, the Department estimated that the filing rate would increase to approximately 1%, or 2,046 reports filed annually. The NPRM estimate was based on the opinion of some stakeholders that relatively few union officers and employees would be engaged in covered transactions. *Id.* The Department acknowledged the considerable uncertainty in this estimate and requested comment on the number of reports that should be filed under the old requirements and that may be filed as a result of the new requirements. *Id.* The comments received on the proposed rule have proven only marginally helpful in predicting how today's rule will affect the future number of Forms LM–30 filed annually.

Review of Public Comments on the Estimated Universe of Filers and Resulting Changes:

One commenter questioned the Department's estimate of the proposed universe of filers, arguing that the Department does not have relevant historic data on which to base its estimates, but is rather basing its expectations on the limited study discussed in the NPRM. Both for the proposed rule and today's rule, the Department has forecast the number of expected filers as accurately as possible based on available data. The Department has revised its initial estimates of the number of expected filers by using data on the number of reports filed with OLMS during fiscal year 2006. During that time, the Department received 4,348 Form LM–30 reports, 882 of which were blank. As demonstrated below, the Department has adjusted its estimated universe of filers based on this figure and input received from commenters.

A number of commenters argued that the proposed universe of filers and the corresponding reporting and recordkeeping burdens, as discussed in the NPRM, were too low given that the proposed de minimis exception, *i.e.*, the threshold below which a payment would not be reportable, was limited to payments of $25 or less. Commenters suggested that a de minimis level set at that amount would lead to a much higher incidence of filings than anticipated by the Department. One commenter pointed out that a $250 de minimis level, especially with a two-tiered approach, would result in a reduced compliance burden. In response to comments received on this point, the Department has replaced the proposed $25 de minimis test with a two-tiered approach. Under this approach, a filer must report aggregated payments or other financial benefits received from a single source that exceed $250. Payments of $20 or less are excluded from this computation. Further, union officials will not have to report hospitality benefits received while attending certain widely attended gatherings. As noted herein at Section II.C of the preamble, after the comment period for this rule closed, the Department issued guidance alerting filers, in effect, that they need report only payments that exceeded $250. This guidance was posted on the OLMS Web site on November 7, 2005 and disseminated through the OLMS e-mail listserv. Consequently, the Department has had a full year to gauge the impact of a $250 filing threshold. Not surprisingly, as a result of the implementation of the $250 de minimis

[1] Through increased compliance assistance efforts explaining that a report need only be filed to report certain transactions and that filing blank forms is unnecessary, the Department intends to eliminate or minimize the filing of blank reports.

[2] Both figures have been obtained from the Department's Electronic Labor Organization Reporting System database (''eLORS''), which stores and automatically culls certain information, such as union officer and employee salaries, from annual reports submitted by labor organizations. The total number of labor organizations has been used in the Department's submission to OMB for continuing PRA approval of OLMS forms. This information is based on FY 2005 data. The number of union officials was based on a query of applicable data in the eLORS system. This same figure was used in the NPRM's PRA analysis. *See* 70 FR 51199.

approach, there have been fewer filers reporting payments between $25 and $250. Thus, contrary to the suggestion of some commenters, no upward adjustment to the recordkeeping and reporting burden need be made for reasons associated with the de minimis level, as proposed. Moreover, the $250 threshold and the exclusion of payments of $20 or less from this threshold will lead to fewer filings than expected by commenters.

In the NPRM, the Department proposed that union officials must report all payments received from any employer or vendor with a relationship with any level of his or her union or with any trust in which any level of his or her union is interested. This would require, for example, that a local union president report payments received from a vendor that does business with the official's parent or intermediate union. The rule proposed to achieve this result by defining the term ''labor organization'' broadly. Several commenters submitted that the ramifications of implementing the proposed definition of ''labor organization'' could lead to requiring filers to account for transactions vastly exceeding the estimated burden in the NPRM. One of these commenters presented a hypothetical scenario that would result in a union official having to account for possible transactions with over 10,000 employers or businesses for not only himself or herself, but for a spouse and minor children as well.

This comment appeared to be premised on the belief that all businesses and employers associated with any entity within a union's hierarchy will need to be tracked by the officer or employee. This is not the case. The union official does not need to research and maintain records with all involved businesses or employers, but only those with which he or she is in a reportable relationship or from which he or she has received a reportable payment. The maximum burden on an officer or employee, in this regard, is to check the identity of these employers and businesses. Further, some commenters submitted that compliance burdens would be substantially lessened by modifying the proposed definition of ''labor organization'' to eliminate the language ''and any parent or subordinate labor organization of the filer's labor organization.'' In response to comments received on this issue, the final rule has reduced the reporting obligations from that proposed. The rule requires that a local union official track and report payments from only businesses that deal with their local union, trusts of their local union, and employers represented by, or actively being organized by, their local union. This tracks the reporting obligations under the old rule, and does not increase the reporting burden based on a broader definition of ''labor organization.'' See discussion at Section II.F of the preamble.

Officers of international unions and intermediate unions (but not employees) will also have to report any payments they receive from (1) An employer whose employees any subordinate labor union represents or is actively seeking to represent; (2) a business that buys from, sells to, or otherwise deals with any subordinate labor union; and (3) a business that buys from, sells to, or otherwise deals with a trust in which any subordinate labor union is interested, such as a pension or welfare plan or training fund. Employees of national, international, and intermediate labor unions do not have to track and report payments resulting from actions involving subordinate levels of the union.

As for the reporting impact of this provision, the Department estimates a slight increase in the number of reports. The largest portion of this increase is most likely to come from officers of intermediate labor unions. For these officers, the rule is new. Since 1962 international officers have been required to report on Form LM–30 income from businesses dealing with subordinate unions of that international. Therefore, increased filing under this provision by officers of international unions will be attributable to increased compliance assistance and enforcement efforts, and not to the final rule.

Many of the same commenters asserted that the NPRM did not address compliance costs and time for businesses to enact internal controls, which could entail substantial costs. Employers, including service providers, have been under the same reporting requirements since 1963 and no changes are being made to these requirements. Employer reporting requirements are governed by section 203 of the LMRDA. This rulemaking adjusts union officer and employee reporting under section 202 of the LMRDA. Therefore, not only is there no need to raise PRA estimates for employer recordkeeping, such estimates are not within the scope of this rulemaking.

One commenter submits that compliance burdens will be substantially lessened by determining that trusts are not ''businesses'' or ''employers.'' As explained in the preamble, trusts with employees are considered to be employers. The Department's views on whether the LMRDA requires disclosure of payments from trusts to union officials have evolved over time. In correspondence issued in 1967, a high ranking Department official responded to an inquiry concerning whether reporting is required of officers of labor unions who receive payments from union and employer established pension and welfare plans. The letter concluded that no report was required. On June 27, 2005, OLMS placed on its Web site a document titled ''Trusts and Form LM–30 and Form LM–10.'' In this guidance, OLMS indicated that payments from trusts to union officers and employees are reportable on Form LM–30 if the trust is an employer or business. As part of this rulemaking, the Department sought comments on whether a trust is, or can constitute, an ''employer'' or a ''business,'' making such payments reportable on the Form LM–30. These comments, and the determination that a trust or similar entity with employees is an employer for purposes of the Act, are addressed in depth in the preamble at section II.K.

No commenters provided estimates for the number of trusts that constitute ''employers'' and make reportable payments. Although the comments provided some anecdotal information particular to some unions, no information was provided that would allow the Department to estimate the total number of trusts that would be employers and none that would allow an estimate of the numbers of union officials now receiving payments from such entities. For example, one international union stated that there are ''380 Local or Council * * * Pension, Annuity, Health and Welfare, and training trusts in the U.S.'' Another commenter identified four trusts it co-sponsored. Another international union indicated that ''although some large trust funds happen to have employees, many do not.'' Finally, yet another international union explained that it and its affiliated district councils and local unions participate in ''numerous benefit funds.'' There is no basis to believe that other unions have trusts in the same proportion as theses unions. Moreover, no information was received that would enable an estimate as to what fraction of these trusts have employees or the number of union officials to whom reportable payments are made.

Payments received by an officer or employee of a labor union from the employer of the union's members for work performed by the union officer or union employee for the union will now be reportable unless they are made pursuant to a collective bargaining

agreement and total 250 hours or less per year. For the proposition that such provisions are common, a federation of labor organizations submitted a study, Major Collective Bargaining Agreements: Employer Pay and Leave for Union Business, U.S. Dept. of Labor, Bureau of Labor Statistics (October 1980) (''*BLS Study*''). Notwithstanding the significant period of time that has passed since the study's publication, it represents the most recent compilation of data on the union-leave/no-docking question. Furthermore, more recent papers on this issue focus on public sector unions, which, as previously noted, are generally not subject to the LMRDA, and thus such information is not readily transferable to the particular circumstances addressed by today's rule. The *BLS Study* (at pages indicated in parentheses) provides the following information:

- Of 1,765 agreements reviewed, 803, or 45 percent, granted pay for grievance time (6)
- Of 430 sample agreements examined in detail, 206 established pay for at least some grievance work (6)
- Of 206 sample clauses, 188 limited pay to either specific union representatives or to a fixed number of representatives (7)
- A substantial number of the 206 sample pay clauses limited the amount of paid time available for grievance activity by type of activity or eligible personnel (7) or by the amount of time one could spend on union work (7–9)
- Of the 1,765 agreements in the study, arbitration provisions appeared in 95 percent, but pay to union representatives for time spent appeared in only 3% (11)
- Of 1,765 agreements, 139 established time off with pay for union negotiators (7.8%) (12)
- Of 618 safety and health committee provisions reviewed, 281 referred to paid time for the activity (45%) (13)
- Of 1,765 agreements, 93 referred to training related to union business; half of these provide company pay (93/2 = 46.5) (46.5/1,765 = 2.6%) (17)

While it is clear from the *BLS Study* that the collective bargaining agreements under review contained a high number of union-leave/no-docking provisions, neither the study nor the comments provide a basis for estimating how many of these agreements will result in the filing of a Form LM–30.

The study demonstrates that 45% of these collective bargaining agreements grant union leave in at least one category (as outlined, 45% of provisions provided union leave for grievances and health and safety). However, a substantial but unspecified number of the clauses reviewed in 1980 by BLS limited the amount of paid time available (*Id.*, at 7–9). The *BLS Study*, however, does not discuss provisions representative of such limitations or otherwise indicate typical limits on the amount of time allowed for these purposes. As there was no information in the study or from commenters pertaining to the average amount of time that an individual would be engaged in union-leave or no-docking activity, the Department has no benchmark to gauge the number of filers that will submit reports under today's rule, *i.e.*, those who receive employer compensation for more than 250 hours of union activity under a collective bargaining agreement or who receive compensation, in any amount, for such activity, where it is not authorized by such agreement. It is the Department's belief that with this reporting threshold only a small fraction of union officials receiving such payments will have to file reports. Such officials likely will be serving in local or intermediate union positions; again, however, the Department lacks data to predict a percentage of such officials that receive such compensation or the smaller number that will receive compensation in excess of 250 hours.

Similarly, as discussed in the preamble, union members who receive payments from an employer for work performed on behalf of the union will now be considered union employees for Form LM–30 reporting purposes. A federation of labor organizations submitted that 100,000 union stewards out of 5.5 million members belonging to affiliated unions currently receive union-leave or no-docking payments. This comment appears to have overstated the number of affected stewards as it included unions representing state and local government employees that are not subject to the LMRDA. Another federation of labor organizations, while not directly commenting on the potential universe of filers, stated that this provision could result in ''tens of thousands'' of reports. Further, while both federations submit that there are many stewards who receive payments for union activity, the Department is unable to deduce from these comments how many stewards would already be subject to Form LM–30 reporting requirements because they currently meet the definition of union officer or employee. Therefore, the Department is unable to use information provided in these comments to derive an estimate of the number of individuals who will now be union employees because they receive union-leave or no-docking payments, much less how many of these payments are made outside of a collective bargaining agreement or total more than 250 hours per year.

As discussed in the preamble, certain exceptions are no longer applicable to all provisions of the revised Form LM–30; specifically, the ''bona fide employee'' exception for reports due under section 202(a)(2) and the ''employee discount-regular course of business'' exception for reports due under sections 202(a)(1) and (2). Based on the low number of comments received on the removal of these exceptions, which are addressed above, and the absence of any comments estimating the number of reports this change would result in, the Department does not foresee a substantial increase resulting from the removal of these exceptions. As explained in the preamble, sales and purchases of ownership interest in the employer, in particular, are unlikely to constitute payments received as a bona fide employee and thus the exception in the current form for reports filed under section 202(a)(1) is all but superfluous in the context of ownership interests. *See* Section II. D.2. Bona fide employees typically do not routinely engage in transactions involving holdings or loans that could be characterized as a payment or benefit received as a bona fide employee of the employer, and, as a result, the filing burden will not be onerous. The lack of comments objecting to this change seems to support these points.

Similarly, only three comments were received on the proposed removal of the ''employee discount-regular course of business'' exception, for reports due under sections 202(a)(1) and (2), one of which was supportive of the removal. As discussed earlier in the preamble, section 202(a)(5) of the LMRDA requires union officers and employees to report any ''business transaction or arrangement'' with an employer whose employees the union represents or is actively seeking to represent. This section exempts from reporting two categories of transactions and arrangements: (1) Payments and benefits received as a bona fide employee of an employer whose employees are represented by the official's union or the union actively seeks to represent; and (2) ''purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer.'' The current instructions apply this ''employee discount—regular course of business'' exception to the requirement that union officers and employees report (1) Holdings, (2) transactions in holdings, (3) loans, and (4) income or

any other benefit with monetary value (including reimbursed expenses). In so doing, the instructions exempt from reporting certain matters that otherwise would be reported under section 202(a)(1) or 202(a)(2). These sections do not contain this ''regular course of business'' exception, but the prior instructions made it applicable. Again, given the lack of comments regarding these changes, the Department anticipates only a slight increase in the number of reports received as a result of this revision.

In summary, as discussed previously, in the NPRM the Department estimated a then current filing rate of .03% based on the receipt of 61 Form LM–30 reports (the average for fiscal years 2001 to 2004) per 204,634 union officers and employees. Due to the proposed reforms as well as increased compliance assistance and enforcement initiatives, the Department estimated that the filing rate would increase to approximately 1%, or 2,046 reports filed annually. Subsequent to the NPRM, the Department engaged in increased compliance assistance and enforcement, and the number of valid reports received in fiscal year 2006 reached 3,466. This results in an estimated current filing rate of 1.69% (3,466 / 204,634 × 100 = 1.69%).

Taking the concerns of commenters into account in regard to the implementation of substantive reporting requirements which were not previously applicable, specifically union-leave/no-docking, expanded obligations for intermediate officers, removal of the two administrative exceptions, reporting by union stewards paid by employers for union work, and considering trusts, labor organizations, and other groups as employers in certain circumstances, the Department estimates that the Form LM–30 filing rate will increase to as much as 3.38%, or 6,916 reports filed annually, double the current filing rate. It is worth noting that the implementation of the $20 tiered *de minimis* threshold, under which no transaction, including aggregated transactions (subject only to the exception for a tacit or express agreement for the transfer of money, as discussed in section II.C of the preamble), militates against an even higher estimated number of overall filers.

Review of Public Comments Regarding the Hour and Cost Burden Estimates for the Revised Form and Resulting Changes:

In the NPRM, the Department proposed five minutes as the estimated amount of time for filers to report the employer's or business's name, address, name of contact at the employer or business, telephone number, Web site address, State of incorporation or registration, State business ID number, and whether the filer had an association with the business, employer, or labor relations consultant at the end of the reporting period. A number of commenters submitted that it would be especially burdensome, and possibly needless, to obtain the State of incorporation and State employer identification number. As such, these commenters suggested that the time allotted to gather the required information on an employer or business was insufficient. One commenter submitted that providing a telephone number and Web site address would not add any substantial reporting burden. Based on comments received on this issue, the Department has removed the requirement that filers report an employer's or business's State of incorporation and State employer identification number. With these items removed, there is no need to provide for corresponding additional recordkeeping and reporting time.

One commenter submitted that 90 minutes for completion of the Form LM–30 is not an accurate estimate. Another submitted that allowing 45 minutes for reading the instructions is insufficient time as the filer must refer back to earlier provisions in the instructions and the instructions have increased from 9 pages to 17. While this commenter argued that the proposed burden hour estimates were too low for the proposed requirements, no alternative burden hour estimates were submitted for any area of the rulemaking. The Department has changed the Form LM–30 from the NPRM proposal to add more instructions to the form itself. Because the form itself will be clearer, the amount of time a filer must spend studying the separate instructions will be reduced. Prior to this final rule, Form LM–30 was estimated to take filers roughly 30 minutes while the proposed revised form was estimated to require 90 minutes for completion, which is a 300% increase in the allotted time.

One commenter submitted that expanding the form to provide for six categories instead of three would add compliance burdens that are not accounted for in the NPRM. The Department has not implemented this proposed change; the six categories have been eliminated from the form itself. Rather, the Form LM–30 will utilize one schedule, Schedule 2, to detail ''interests in, payments from, loans to or from, and transactions or arrangements with an employer or business and payments from a labor relations consultant.'' No new information is required as a result of the format change; instead of reporting information in one of three categories, filers will report the same information in one schedule, but with greater clarity as to the nature of the transaction. Therefore, there is no corresponding additional burden.

It is also worth noting the implementation of the $20 tiered *de minimis* threshold, under which records need not be maintained for holdings or transactions, including aggregated transactions, of $20 and under. While this provision did not appear in the NPRM, commenters, as discussed above, nearly universally suggested that a tiered *de minimis* threshold would reduce the recordkeeping burden, or alternatively, prevent the need for increased recordkeeping estimates. The Department agrees with the latter opinion.

The following table describes the information sought by the revised form and instructions and the amount of time estimated for completion of each item of information. The time estimates include the additional time burdens associated with the Department's curtailment of administrative exceptions, and the implementation of the revised definitions.[3]

[3] These figures assume that a filer will choose to use an electronic form, which provides greater efficiency than completion by hand. The Department estimates that a filer who chooses to file by hand will need about ten additional minutes to complete the form.

Burden description	Time
Maintaining and gathering records	20 minutes.
Reading the instructions to determine whether filer must complete the form	15 minutes.[4]
Additional reading of the instructions to determine how to complete the form	40 minutes.[5]
Reporting filer's file number in Item 1	30 seconds.
Reporting filer's fiscal year in Item 2	30 seconds.
Reporting filer's name, address, and contact information in Item 3 (A–I)	2 minutes.
Reporting name, file number, and address of filer's union or unions as well as filer's current position in the union in Item 4 (A–H)	2 minutes.
Adding the total value of all assets and the value of all income or other payments in all Schedules 2 (as described below) and reporting the two totals in Item 5, Summary.	2 minutes.
Indicating whether there was a reportable involvement with an employer or labor relations consultant during the fiscal year, and if so, recording the number of employer(s) and consultant(s), in Item 6.	2 minutes.
Indicating whether there was a reportable involvement with a business during the fiscal year, and if so, recording the number of businesses in Item 7.	2 minutes.
Reporting name and address of the employer or business which the filer received a payment from or held an interest in, providing the contact name, telephone number, Web site address, and whether filer has an association with the business, employer, or labor relations consultant at the end of the reporting period in Schedule 1.	5 minutes.
Reporting the nature and value of interests in, payments from, loans to or from, and transactions with an employer or business and payments from a labor relations consultant (includes date, whether the party to the transaction is a union officer or employee or spouse or minor child thereof, and a description and value of the interest or payment) in Schedule 2.	5 minutes.
Completing *either* Schedule 3 if an employer or labor relations consultant is reported in Schedule 1, providing details of the employer's relationship with the filer's labor union; *or* Schedule 4 if a business is reported in Schedule 1, providing details regarding the entity the business dealt with (union, trust, or employer) and a description of those dealings.	8 minutes.
Filer's signature, date and telephone number in Item 8	1 minute.
Checking responses	5 minutes.
Total Burden Hour Estimate Per Filer	120 minutes.

The recordkeeping estimate of 20 minutes reflects that the majority of financial books and records required to complete the report are those that filers would maintain in the normal course of conducting business, personal, and union affairs, and thus should only take five minutes to maintain and gather. The other 15 minutes have been estimated to be necessary to maintain and gather the books and records that would not ordinarily be maintained, including those concerning the dealings between a business and the filer's union, a trust in which the filer's union is interested, or an employer whose employees the union represents or is actively seeking to represent. The estimated times are for the average filer: the Department assumes that an individual who partially owns or receives income from a company will know that company's Web address. Where a filer does not have a web address immediately accessible, the Department estimates that a filer will need to obtain this information either by telephone or Internet search; however if a union officer receives a gift like sporting event tickets, the gift is likely an effort to obtain business, therefore, the giver will likely make his or her business known to the recipient through a business card, e-mail, etc.

The resulting annualized reporting and recordkeeping burden for all Form LM–30 filings is 829,920 minutes (6,916 × 120) or 13,832 hours (829,920/60).

While annual salary information for labor union officers and employees is available on annual financial reports filed with the Department (Forms LM–2, LM–3, and LM–4), hourly rates are not reported. Further, officers and employees receiving less than $10,000 do not appear on every form; therefore, only the roughest estimates could be made using these forms to determine the average hourly rate for covered officers and employees. Instead, the Department used the $22.34 mean hourly earnings of those engaged in white collar occupations as defined and published in the National Compensation Survey: Occupational Wages in the United States (July 2004, Bureau of Labor Statistics, U.S. Department of Labor, August 2005). Using this figure, the Department estimates that the annual reporting and recordkeeping cost burden for all filers will be $309,007 (10,374 × $22.34), or $44.68 per filer (309,007/6,916).

In addition, the Department estimates that all union officers and employees will spend 15 minutes reading the revised form and instructions to determine whether they are required to file a report and 25 minutes reviewing any applicable receipts and determining that aggregated payments from an employer or business did not exceed the $250 *de minimis* threshold. By deducting the 6,916 estimated filers whose preliminary review of the form has already been counted from the estimated 204,634 union officers and employees, 197,718 officers and employees remain who will review the form and their records but determine that they are not required to file a report. The annual reporting and recordkeeping hour burden for these officers and employees will be 5,931,540 minutes (30 × 197,718) or 98,859 hours (5,931,540/60). Using the $22.34 hourly wage, the Department estimates that the annual reporting and recordkeeping cost burden for non-filing union officers and employees will be $2,208,510 (98,859 × $22.34), or $11.17 per non-filing union officer or employee ($2,208,510/197,718).

The resulting total annual reporting and recordkeeping hour burden for both filers and those who review the form and determine that a report need not be filed will be 112,691 hours (13,832 (hours for filers) + 98,859 (hours for non-filers)). The total annual reporting and recordkeeping cost burden will be $2,517,517 (112.69 × $22.34).

Federal Costs Associated with the Rule:

The estimated annualized Federal cost of the Form LM–30 is $1,025,837. This represents estimated operational expenses such as equipment, overhead,

[4] This estimate is for all filers, including first time filers and subsequent filers. While the Department considered reducing this estimate by about one-third for filers submitting reports in subsequent years following a first-time filing, the nature of Form LM–30 reporting militated against such a decision. Where the Department has previously made reductions for subsequent year filings, it generally applied to organizational reporting and not individual reporting. LMRDA organizational reporting, such as the Form LM–2 or Form LM–3, is a required annual event whereas an individual may not necessarily engage in Form LM–30 reportable transactions on an annual basis. Where an organization files required annual reports, a certain amount of ''institutional memory'' is present which may not be applicable to a filer who is only required to file a report when certain criteria are met.

[5] *See* preceding note 4.

and printing as well as salaries and benefits for the OLMS staff in the National Office and field offices who are involved with reporting and disclosure activities. These estimates include time devoted to: (a) Receipt and processing of reports; (b) disclosing reports to the public; (c) obtaining delinquent reports; (d) obtaining amended reports if reports are determined to be deficient; (e) auditing reports; and (f) providing compliance assistance training on recordkeeping and reporting requirements.

G. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, the Department has evaluated the environmental safety and health effects of the final rule on children. The Department has determined that the final rule will have no effect on children.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

The Department has reviewed this final rule in accordance with Executive Order 13175, and has determined that it does not have ''tribal implications.'' The rule does not ''have substantial direct effects 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.''

I. Executive Order 12630 (Governmental Actions and Interference With Constitutionally Protected Property Rights)

This final rule is not subject to Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, because it does not involve implementation of a policy with takings implications.

J. Executive Order 12988 (Civil Justice Reform)

This regulation has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and will not unduly burden the Federal court system. The regulation has been written so as to minimize litigation and provide a clear legal standard for affected conduct, and has been reviewed carefully to eliminate drafting errors and ambiguities.

K. Environmental Impact Assessment

The Department has reviewed the final rule in accordance with the requirements of the National Environmental Policy Act (''NEPA'') of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (40 U.S.C. part 1500), and the Department's NEPA procedures (29 CFR part 11). The final rule will not have a significant impact on the quality of the human environment, and, thus, the Department has not conducted an environmental assessment or an environmental impact statement.

L. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

This final rule is not subject to Executive Order 13211, because it will not have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 29 CFR Part 404

Labor union officer and employees, Recordkeeping and reporting.

IV. Text of Final Rule

■ In consideration of the foregoing, the Office of Labor-Management Standards, Employment Standards Administration, Department of Labor hereby amends part 404 of title 29 of the Code of Federal Regulations as set forth below.

PART 404—LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORTS

■ 1. The authority citation for part 404 is revised to read as follows:

Authority: Secs. 202, 207, 208, 73 Stat. 525, 529 (29 U.S.C. 432, 437, 438); Secretary's Order No. 4–2001, 66 FR 29656 (May 31, 2001).

§ 404.1 [Amended]

■ 2. Section 404.1 is amended by:
■ a. Redesignating existing paragraph (b) as new paragraph (h) and adding the phrase ''An officer is:'' at the end thereof;
■ b. Adding new paragraphs (h)(1) through (h)(4) to read as set forth below;
■ c. Adding a new paragraph (b) to read as set forth below;
■ d. Redesignating existing paragraph (c) as new paragraph (g) and adding the phrase ''within the meaning of any law of the United States relating to the employment of employees'' to the end of newly designated paragraph (g);
■ e. Redesignating existing paragraph (d) as new paragraph (c);
■ f. Redesignating existing paragraph (a) as new paragraph (d);
■ g. Adding a new paragraph (a) to read as set forth below;
■ h. Adding new paragraphs (e), (f), (i) and (j) to read as set forth below.

The additions and revision read as follows:

§ 404.1 Definitions.

(a) Benefit with monetary value means anything of value, tangible or intangible, including any interest in personal or real property, gift, insurance, retirement, pension, license, copyright, forbearance, bequest or other form of inheritance, office, options, agreement for employment or property, or property of any kind. For reporting purposes, the following are excepted: pension, health, or other benefit payments from a trust that are provided pursuant to a written specific agreement covering such payments.

(b) Dealing means to engage in a transaction (bargain, sell, purchase, agree, contract) or to in any way traffic or trade, including solicitation of business.

* * * * *

(e) Income means all income from whatever source derived, including, but not limited to, compensation for services, fees, commissions, wages, salaries, interest, rents, royalties, copyrights, licenses, dividends, annuities, honorarium, income and interest from insurance and endowment contracts, capital gains, discharge of indebtedness, share of partnership income, bequests or other forms of inheritance, and gifts, prizes or awards.

(f) Labor organization means the local, intermediate, or national or international labor organization that employed the filer of the Form LM–30, or in which the filer held office, during the reporting period, and, in the case of a national or international union officer or an intermediate union officer, any subordinate labor organization of the officer's labor organization.

* * * * *

(h) * * *

(1) A person identified as an officer by the constitution and bylaws of the labor organization;

(2) Any person authorized to perform the functions of president, vice president, secretary, or treasurer;

(3) Any person who in fact has executive or policy-making authority or responsibility; and

(4) A member of a group identified as an executive board or a body which is vested with functions normally performed by an executive board.

(i) Minor child means a son, daughter, stepson, or stepdaughter under 21 years of age.

(j) Trust in which a labor organization is interested means a trust or other fund or organization:

(1) Which was created or established by a labor organization, or one or more

of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and

(2) A primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

§ 404.4 [Removed and reserved]

■ 3. Section 404.4 is removed and reserved.

§ 404.7 [Amended]

■ 4. Section 404.7 is revised to read as follows:

§ 404.7 Maintenance and retention of records.

Every person required to file any report under this part shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Office of Labor-Management Standards may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, financial and investment statements, contracts, correspondence, and applicable resolutions, in their original electronic and paper formats, and any electronic programs by which they are maintained, available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

Signed at Washington, DC, this 22nd day of June, 2007.

Victoria A. Lipnic,

Assistant Secretary for Employment Standards.

Signed at Washington, DC, this 22nd day of June, 2007.

Don Todd,

Deputy Assistant Secretary for Labor-Management Programs.

Note: The following appendix will not appear in the Code of Federal Regulations:

Appendix—Form LM–30 and Instructions

BILLING CODE 4510–CP–P

U.S. Department of Labor
Employment Standards Administration
Office of Labor-Management Standards
Washington, DC 20210

FORM LM-30 LABOR ORGANIZATION OFFICER AND EMPLOYEE ANNUAL REPORT

Form Approved
Office of Management and Budget
No. 1215-0188
Expires xx-xx-xxxx

This report is mandatory under P.L. 86-257, as amended. Failure to comply may result in criminal prosecution, fines, or civil penalties as provided by 29 U.S.C. 439 or 440.

For Official Use Only
E

PLEASE READ THE INSTRUCTIONS CAREFULLY, ESPECIALLY PART IX (PAGES 14 - 18), BEFORE PREPARING THIS REPORT. YOU ARE NOT REQUIRED TO FILE THIS REPORT UNLESS YOU, YOUR SPOUSE, OR MINOR CHILD HAVE RECEIVED A PAYMENT, ENGAGED IN ANY TRANSACTIONS OR ARRANGEMENTS OR HELD AN INTEREST OF THE TYPES DESCRIBED IN PART II OF THE INSTRUCTIONS (PAGES 1 - 9).

PART A

1. LM-30 FILE NUMBER: **U** - _____

2. PERIOD COVERED:

	Month/Day/Year (mm/dd/yyyy)		Month/Day/Year (mm/dd/yyyy)
FROM	/ /	THROUGH	/ /

3. CONTACT INFORMATION OF REPORTING PERSON:

A. FIRST NAME	B. MIDDLE NAME	C. LAST NAME
D. MAILING ADDRESS (LINE 1)		
E. MAILING ADDRESS (LINE 2)		
F. CITY	G. STATE	H. ZIP CODE
I. EMAIL ADDRESS (optional)		

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME		
B. MAILING ADDRESS (LINE 1)		
C. MAILING ADDRESS (LINE 2)		
D. CITY	STATE	ZIP CODE
E. FILE NUMBER		
F. OFFICER ☐ EMPLOYEE ☐		
G. YOUR OFFICER POSITION OR JOB TITLE		
H. DID YOU HOLD THIS POSITION OR JOB TITLE AT THE END OF THE REPORTING PERIOD? YES ☐ NO ☐		

5. SUMMARY (FROM ATTACHED PART B)

A. TOTAL REPORTED INCOME OR OTHER PAYMENTS (total from Schedule 2, Item F, Column (1) of each Part B)	$
B. TOTAL REPORTED ASSETS (total from Schedule 2, Item F, Column (2) of each Part B)	$

THE UNDERSIGNED DECLARES, UNDER PENALTY OF PERJURY AND OTHER APPLICABLE PENALTIES OF LAW, THAT ALL OF THE INFORMATION SUBMITTED IN THIS REPORT (INCLUDING THE INFORMATION CONTAINED IN ANY ACCOMPANYING DOCUMENTS) HAS BEEN EXAMINED BY THE SIGNATORY AND IS, TO THE BEST OF THE UNDERSIGNED'S KNOWLEDGE AND BELIEF, TRUE, CORRECT AND COMPLETE.

8. SIGNED _____ ON / / _____ _____
Date (mm/dd/yyyy) Telephone Number

LM-30 File Number **U** - _____

EMPLOYER or BUSINESS RELATIONSHIPS

6. EMPLOYER RELATIONSHIPS

Generally, you must complete Schedules 1, 2, and 3 of Part B, as fully explained in the instructions, if you, your spouse, or minor child had an arrangement or engaged in a transaction with, or held an interest in, or received income or other payment from (including any reimbursed expenses), or made loans to or received loans from, an employer or a labor relations consultant to an employer that meets any of the following conditions:

- An employer whose employees your labor organization represents or is actively seeking to represent; or
- An employer in competition with an employer whose employees your labor organization represents or is actively seeking to represent; or
- An employer that is a trust in which your labor organization is interested as defined in section 3(l) of the LMRDA; or
- An employer that is a non-profit organization that receives or is actively and directly soliciting (other than by mass mail, telephone bank, or mass media) money, donations or contributions from your labor organization; or
- An employer that is a labor organization that (1) has employees your union represents or is actively seeking to represent, (2) has employees in the same occupation as those represented by your union; (3) claims jurisdiction over work that is also claimed by your union; (4) is a party to or will be affected by any proceeding in which you have voting authority or other ability to influence the outcome of the proceeding; or (5) has made a payment to you for the purpose of influencing the outcome of an internal union election; or
- An employer that has made a payment to you for any of the following purposes: (1) not to organize employees; (2) to influence employees in any way with respect to their rights to organize; (3) to take any action with respect to the status of employees or others as members of a labor organization; (4) to take any action with respect to bargaining or dealing with employers whose employees your organization represents or is actively seeking to represent; or (5) to influence the outcome of an internal union election; or
- An employer whose interests are in actual or potential conflict with the interests of your labor organization or your duties to your labor organization.

Before proceeding, review Part II of the instructions (pages 1-9) to determine if any reporting exceptions apply to your situation. If the above conditions exist and none of the exceptions apply, then you must complete a separate Part B for each employer or labor relations consultant to an employer.

a. DO YOU HAVE ANY OF THESE RELATIONSHIPS WITH EMPLOYERS OR LABOR RELATIONS CONSULTANTS? YES ☐ NO ☐

b. If yes, record the number of employers and consultants: _____

7. BUSINESS RELATIONSHIPS

Generally, you must complete Schedules 1, 2, and 4 of Part B, as fully explained in the instructions, if you, your spouse, or minor child had an arrangement or engaged in a transaction with, or held an interest in, or received income or other payment from (including any reimbursed expenses), or made loans to or received loans from, a business, such as a goods vendor or service provider, that meets any of the following conditions:

- A substantial part of its business consists of buying or selling or otherwise dealing with an employer whose employees your labor organization represents or is actively seeking to represent; or
- Any part of its business consists of buying or selling or otherwise dealing with your labor organization; or
- Any part of its business consists of buying or selling or otherwise dealing with a trust in which your labor organization is interested.

Before proceeding, review Part II of the instructions (pages 1-9) to determine if any reporting exceptions apply to your situation. If the above conditions exist and none of the exceptions apply, then you must complete a separate Part B for each business.

a. DO YOU HAVE ANY OF THESE RELATIONSHIPS WITH A BUSINESS? YES ☐ NO ☐

b. If yes, record the number of businesses: _____

If you answer "No" to both Item 6a and Item 7a, you are not required to file Form LM-30.

LM-30 File Number: U - _____ No: _____ of _____

PART B

SCHEDULE 1 - EMPLOYER OR BUSINESS IDENTIFYING INFORMATION (all filers must complete)

Provide the following information regarding the employer, labor relations consultant to an employer, or business that met the conditions identified in Item 6 or Item 7.
(If more than one employer, labor relations consultant to an employer, or business met the conditions identified in Item 6 or Item 7, you must complete a separate Part B for each one.)

A. LEGAL NAME OF EMPLOYER, BUSINESS OR LABOR RELATIONS CONSULTANT ☐ Employer ☐ Business ☐ Labor Relations Consultant			I. TELEPHONE NUMBER
B. CONTACT FIRST NAME	C. CONTACT MIDDLE NAME	D. CONTACT LAST NAME	J. WEB SITE ADDRESS
E. MAILING ADDRESS (LINE 1)	MAILING ADDRESS (LINE 2)		K. DID YOU, YOUR SPOUSE, OR MINOR CHILD HAVE A RELATIONSHIP WITH THE EMPLOYER, BUSINESS OR LABOR RELATIONS CONSULTANT AT THE END OF THE REPORTING PERIOD? YES ☐ NO ☐
F. CITY	G. STATE	H. ZIP CODE	

SCHEDULE 2 - FILER'S INTERESTS IN, PAYMENTS FROM, LOANS TO OR FROM, AND TRANSACTIONS OR ARRANGEMENTS WITH EMPLOYER OR BUSINESS AND PAYMENTS FROM A LABOR RELATIONS CONSULTANT (all filers must complete)

Provide the information required below about interests in, payments from, loans to or from, and transactions or arrangements with the employer or labor relations consultant to an employer or the business identified in Schedule 1. Review Part II of the instructions (pages 1-9) to determine the reportability of a particular payment or interest and the applicability of any reporting exceptions. Include the date of the reportable matter (typically the date of receipt or date of arrangement or transaction), the recipient (you, your spouse, or minor child), a description of the matter, and its value.

A. DATE	B. OFFICER, EMPLOYEE, SPOUSE, MINOR CHILD	C. DESCRIPTION OF INTEREST, PAYMENT, LOAN, TRANSACTION, OR ARRANGEMENT	D. (1) VALUE OF INCOME OR OTHER PAYMENTS	D. (2) VALUE OF ASSET
Employer Example 02/03/2007	Employee	I received 298 hours of union leave payments from my employer for time spent handling grievances	$4,200	
Business Example 12/31/2007	Spouse	My husband owns 100% of Cleaning Services, Inc. which clean my local's offices		$100,000
Business Example 10/15/2007	Officer	Golfing weekend received from XYZ Inc. which is seeking to become a service provider for my union's pension plan	$500	
		E. TOTAL FROM SCHEDULE 2 CONTINUATION PAGES (IF ANY)		
		F. TOTAL OF COLUMNS D(1) AND D(2)		

LM-30 File Number: **U** - _____ No: _____ of _____

PART B

SCHEDULE 3 - EMPLOYER'S RELATIONSHIP WITH YOUR LABOR ORGANIZATION (Complete for employers only, that is, if you answered "yes" to Item 6a on page 2.)

Under Part A, check the box (and letter, where appropriate) that correctly describes the nature of the employer's relationship with your labor organization. Under Part B, provide details describing the relationship. If you received a reportable payment from a labor relations consultant to an employer, answer these questions with respect to the employer.

A. EMPLOYER'S RELATIONSHIP

1. ☐ The employer employs employees that your labor organization represents or is actively seeking to represent.
2. ☐ The employer is in competition with an employer whose employees your union represents or is actively seeking to represent.
3. ☐ The employer is a trust in which your labor organization is interested as defined in section 3(l) of the LMRDA.
4. ☐ The employer is a non-profit organization that receives or is actively and directly soliciting (other than by direct mail, telephone bank, or mass media) money, donations or contributions from your labor organization.
5. ☐ The employer is a labor union that:
   a. ___ has employees your union represents or is actively seeking to represent;
   b. ___ has employees in the same occupation as those represented by your union;
   c. ___ claims jurisdiction over work that is also claimed by your union;
   d. ___ is a party to or will be affected by any proceeding in which you have voting authority or other ability to influence the outcome of the proceeding; or
   e. ___ has made a payment to you for the purpose of influencing the outcome of an internal union election.
6. ☐ The employer has made payments to you for any of the following purposes:
   a. ___ not to organize employees;
   b. ___ to influence employees in any way with respect to their right to organize;
   c. ___ to take any action with respect to the status of employees or others as members of a labor organization;
   d. ___ to take any action with respect to bargaining or dealing with employers whose employees your organization represents or is actively seeking to represent; or
   e. ___ to influence the outcome of an internal union election.
7. ☐ The employer's interests are in actual or potential conflict with the interests of your labor organization or your duties to your labor organization.

B. PROVIDE DETAILS OF THE EMPLOYER'S RELATIONSHIP WITH YOUR LABOR ORGANIZATION AND SET FORTH THE DOLLAR VALUE OF ANY PAYMENTS OR OTHER TRANSACTIONS BETWEEN THE EMPLOYER AND THE LABOR ORGANIZATION. IF THERE ARE NO PAYMENTS OR TRANSACTIONS WITH A MONETARY VALUE, OR IF YOU DO NOT KNOW AND CANNOT ESTIMATE THE VALUE, ENTER N/A AND EXPLAIN IN THE ADDITIONAL INFORMATION SCHEDULE.

(For example, if you checked Box 7, the description might read "Local Union ABC paid annual premiums to HealthCare PrePaid, Inc., a not-for-profit health insurance company in return for insurance coverage for members of Local Union ABC.")

B(1). Value (if applicable)

$ 125,000

LM-30 File Number: **U** - _____ No: _____ of _____

PART B

SCHEDULE 4 - BUSINESS'S DEALINGS WITH UNION(S), TRUST(S), OR EMPLOYER(S) (Complete for businesses only, that is, if you answered "yes" to Item 7a on page 2.)

Enter the legal name of the entity with which the business deals in Column (A); Indicate whether the entity is a union, trust, or employer in Column (B); Enter its file number, if known, in Column (C); Describe in detail the nature of the dealings between the entity and the business in Column (D); Enter the value of such dealings between the entity and the business in Column (E). If the exact value is not known and cannot be estimated, enter "N/A" and explain the situation in the Additional Information Schedule.

A. NAME OF UNION, TRUST OR EMPLOYER	B. UNION/TRUST/ EMPLOYER	C. FILE NUMBER	D. DESCRIPTION OF DEALINGS	E. VALUE
Example - Local XYZ	Union	345-678	Cleaning Servicers, Inc. contracted with Local XYZ to clean its office space once per month	$960

LM-30 File Number: **U -** ____________

ITEM 4 CONTINUATION PAGE

LABOR ORGANIZATIONS IN WHICH THE REPORTING PERSON IS AN OFFICER OR EMPLOYEE

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME		
B. MAILING ADDRESS (LINE 1)		
C. MAILING ADDRESS (LINE 2)		
D. CITY	STATE	ZIP CODE
E. FILE NUMBER		
F. OFFICER ☐ EMPLOYEE ☐		
G. YOUR OFFICER POSITION OR JOB TITLE		
H. DID YOU HOLD THIS POSITION OR JOB TITLE AT THE END OF THE REPORTING PERIOD? YES ☐ NO ☐		

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME		
B. MAILING ADDRESS (LINE 1)		
C. MAILING ADDRESS (LINE 2)		
D. CITY	STATE	ZIP CODE
E. FILE NUMBER		
F. OFFICER ☐ EMPLOYEE ☐		
G. YOUR OFFICER POSITION OR JOB TITLE		
H. DID YOU HOLD THIS POSITION OR JOB TITLE AT THE END OF THE REPORTING PERIOD? YES ☐ NO ☐		

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME		
B. MAILING ADDRESS (LINE 1)		
C. MAILING ADDRESS (LINE 2)		
D. CITY	STATE	ZIP CODE
E. FILE NUMBER		
F. OFFICER ☐ EMPLOYEE ☐		
G. YOUR OFFICER POSITION OR JOB TITLE		
H. DID YOU HOLD THIS POSITION OR JOB TITLE AT THE END OF THE REPORTING PERIOD? YES ☐ NO ☐		

4. LABOR ORGANIZATION IDENTIFYING INFORMATION:

A. NAME		
B. MAILING ADDRESS (LINE 1)		
C. MAILING ADDRESS (LINE 2)		
D. CITY	STATE	ZIP CODE
E. FILE NUMBER		
F. OFFICER ☐ EMPLOYEE ☐		
G. YOUR OFFICER POSITION OR JOB TITLE		
H. DID YOU HOLD THIS POSITION OR JOB TITLE AT THE END OF THE REPORTING PERIOD? YES ☐ NO ☐		

Form LM-30 (Revised 2007)

LM-30 File Number: **U** - _____ **PART B** No: _____ of _____

SCHEDULE 2 CONTINUATION PAGE

SCHEDULE 2 - FILER'S INTERESTS IN, PAYMENTS FROM, LOANS TO OR FROM, AND TRANSACTIONS WITH EMPLOYER OR BUSINESS AND PAYMENTS FROM A LABOR RELATIONS CONSULTANT (all filers must complete)

Provide the information required below about interests in, payments from, loans to or from, and transactions or arrangements with the employer or labor relations consultant to an employer or the business identified in Schedule 1. Review Part II of the instructions (pages 1-9) to determine the reportability of a particular payment or interest and the applicability of any reporting exceptions. Include the date of the reportable matter (typically the date of receipt or date of arrangement or transaction), the recipient (you, your spouse, or minor child), a description of the matter, and its value.

A. DATE	B. OFFICER, EMPLOYEE, SPOUSE, MINOR CHILD	C. DESCRIPTION OF INTEREST, PAYMENT, LOAN, TRANSACTION, OR ARRANGEMENT	D. (1) VALUE OF INCOME OR OTHER PAYMENTS	D. (2) VALUE OF ASSET
		E. TOTAL OF COLUMNS D(1) and D(2) FOR THIS PAGE		

LM-30 File Number: **U** - _____ **PART B** No: _____ of _____

SCHEDULE 4 CONTINUATION PAGE

SCHEDULE 4 - BUSINESS'S DEALINGS WITH UNION(S), TRUST(S), OR EMPLOYER(S) - CONTINUATION PAGE (Complete for businesses only, that is, if you answered "yes" to Item 7a.)

Enter the legal name of the entity with which the business deals in Column (A); Indicate whether the entity is a union, trust, or employer in Column (B); Enter its file number, if known, in Column (C); Describe in detail the nature of the dealings between the entity and the business in Column (D); Enter the value of such dealings between the entity and the business in Column (E). If the exact value is not known and cannot be estimated, enter "N/A" and explain the situation in the Additional Information Schedule.

A. NAME OF UNION, TRUST OR EMPLOYER	B. UNION/TRUST/ EMPLOYER	C. FILE NUMBER	D. DESCRIPTION OF DEALINGS	E. VALUE
Example - Local XYZ	Union	345-678	Cleaning Servicers, Inc. contracted with Local XYZ to clean its office space once per month	$960

Form LM-30 (Revised 2007)

LM-30 File Number **U** - _____

ADDITIONAL INFORMATION SCHEDULE

A. SCHEDULE/ITEM	B. ADDITIONAL INFORMATION

FORM LM-30 LABOR ORGANIZATION OFFICER AND EMPLOYEE REPORT

GENERAL INSTRUCTIONS

I. WHY FILE

The Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA or Act), requires public disclosure of certain financial transactions and financial interests of labor organization officers and employees and their spouses and minor children. *See* 29 C.F.R. 404.1-404.9 (reports by officers and employees of labor organizations). The purpose of disclosure, among other things, is to publicly identify an actual or potential conflict between the personal financial interests of a union officer or employee (sometimes referred to as a *filer* in these instructions) and his or her obligations to the union and its members. *Labor organization, labor organization officer, labor organization employee,* and other important terms are defined in Part III of these instructions (pages 9-13).

The LMRDA establishes basic rights of union members, including equal voting rights, freedom of speech and assembly, and other essential safeguards for union democracy, among other protections; establishes financial reporting and disclosure requirements for unions, union officers and employees, employers, and labor relations consultants; regulates union trusteeships; details procedural requirements for the conduct of union officer elections; and establishes a fiduciary duty on union officers, employees, and other representatives.

Pursuant to Section 202 of the LMRDA, and subject to certain exceptions, every labor organization officer or employee (other than an employee performing exclusively clerical or custodial services), who has, directly or indirectly, held any legal or equitable interest in, received any payments from, or engaged in any transactions or arrangements (including loans) with certain employers or businesses or labor relations consultants during the officer or employee's fiscal year must file a detailed report with the Secretary of Labor (Secretary). *See* Part II of these instructions for a detailed discussion of the types of financial matters that must be reported. You are not required to file a report unless you or your spouse or minor child held a reportable interest, received a reportable payment, or engaged in a reportable transaction or arrangement during the reporting period. As discussed in Part II, you are not required to report insubstantial payments or gifts, as there defined.

The Department's Office of Labor-Management Standards (OLMS) has developed a comprehensive program to assist with LMRDA compliance, including the completion of the Form LM-30. Much of the information is available on the OLMS Web site: www.olms.dol.gov. For additional contact information, see the final page of these instructions.

The reporting requirements of the LMRDA and of the regulations and forms issued under the Act relate only to the public disclosure of specified transactions and interests. The reporting requirements do not address whether such transactions and interests are lawful or unlawful. The fact that a particular transaction or interest is or is not required to be reported is not indicative of whether it is or is not subject to any legal restriction; this must be determined by provisions of law other than those prescribing the reports. Failure to file a required report may subject an individual to civil or criminal penalties, or both. *See* Part VII of these instructions at page 13.

II. WHO MUST FILE AND WHAT MUST BE REPORTED

As described in more detail below, you must file Form LM-30 if at any time during your past fiscal year:

(1) You were an officer or employee of a labor organization (other than an employee performing exclusively clerical or custodial services) as defined by the LMRDA, and
(2) You or your spouse or your minor child, directly or indirectly, held any legal or equitable interest, received any payments, or engaged in any transactions or arrangements (including loans) of the types described in these instructions.

See pages 19 to 21 of these instructions for the text of Section 202 and other relevant provisions of the LMRDA and the Labor Management Relations Act (LMRA).

Minor child. Interests held by, payments received by, and transactions and arrangements involving a *minor child* must be reported until the child turns 21. If the child reaches the age of 21 during the fiscal year, disclosable matters must be reported for that portion of the fiscal year before the child's 21st birthday. If you are divorced during your fiscal year, disclosable interests and transactions for your spouse must be reported for that portion of the fiscal year prior to your divorce.

Insubstantial payments and gifts. You do not have to report any payments or gifts totaling $250 or less from any one source and payments or gifts valued at $20 or less do not need to be included in determining whether the $250 threshold has been met. For example, if you receive from an employer two gifts worth $20 each and two restaurant meals worth $150 each, you need only keep records of the restaurant meals, and report your receipt of this $300 value. However, a filer may not use the exception to hide the receipt of a series of payments or gifts purposely set at $20 or less to avoid reaching the $250 reporting threshold. For example, a filer would have to report his or her receipt of individual tickets worth $20 or less to all of a professional baseball team's home games that are provided before each game rather than given as a complete package at the start of the season.

Widely-attended gatherings. You also do not have to report the benefits, such as food and entertainment, you received while in attendance at one or two widely-attended receptions, meetings or gatherings in a single fiscal year for which an employer or business has spent $125 or less per attendee per gathering. You do not have to include the value of those gatherings in determining whether the $250 threshold has been met for the employer or business providing the meeting or gathering. However, if you attend three or more such widely-attended gatherings provided by an employer or business, you must count the value of all such events.

A gathering is widely attended if a large number of persons are in attendance and the attendees include union officers and employees and a substantial number of individuals with no relationship to a union or a section 3(l) trust of the union (*see* definition of *trust in which a labor organization is interested* at D16 on page 13). For a gathering to qualify as widely attended, those individuals with a relationship to a union must be treated the same as others when the employer or business advertises or distributes invitations for the event and must be treated alike at the event.

Getting Started

If you are an officer or employee of a labor organization (other than an employee performing exclusively clerical or custodial services) as defined by the LMRDA, review the following descriptions of the types of interests, payments, transactions, and arrangements that you must report on Form LM-30. Each description is followed by a list of specific exceptions to that reporting requirement and examples illustrating the requirement. (Please note that the exceptions and examples below apply only to the specific type of transaction where they are listed.)

Reportable Interests in, Payments from, and Transactions and Arrangements with Employers

(1) An Employer Whose Employees Your Labor Organization Represents or is Actively Seeking to Represent

You must complete Form LM-30 if you or your spouse or your minor child, directly or indirectly:

- held a stock, bond, security, or other interest, legal or equitable, in such an employer; or
- derived any income or any other benefit with monetary value (including reimbursed expenses) from such an employer; or
- received a loan from, or made a loan to, such an employer; or
- engaged in any other business transaction or arrangement with such an employer that was not a purchase or sale of goods or services in the regular course of business at prices generally available to any employee of the employer.

See definitions of *labor organization* at D10 on page 11; *actively seeking to represent* at D1 on page 9; *directly or indirectly* at D7 on page 11; *legal or equitable interest* at D13 on page 13; *income* at D9 on page 11; *benefit with monetary value* at D3 on page 10; *arrangement* at D2 on page 10.

Exceptions to the Above Reporting Requirements Relating to an Employer Whose Employees Your Labor Organization Represents or is Actively Seeking to Represent

You are not required to report:

- Payments or gifts totaling $250 or less from any one source (payments or gifts valued at $20 or less do not need to be included in determining whether the $250 threshold has been met, but a series of payments or gifts designed to circumvent the $20 threshold must be reported).

  In calculating whether the $250 threshold has been met for a particular employer or business, you do not have to include payments or gifts, such as food and entertainment, received while in attendance at one or two widely-attended receptions, meetings or gatherings in a single fiscal year for which an employer or business has spent $125 or less per attendee per gathering.

- Holdings of, transactions in, or income from, bona fide investments in (1) securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934 (including the American Stock Exchange, Boston Stock Exchange, Chicago Board Options Exchange, Chicago Stock Exchange, International Securities Exchange, NASDAQ, National Stock Exchange ,New York Stock Exchange, Pacific Exchange, and Philadelphia Stock Exchange); (2) shares in an investment company registered under the Investment Company Act of 1940, or (3) securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935,

- Holdings of, transactions in, or income from, bona fide investments in securities other than those described in the preceding bullet that are of insubstantial value or amount and occur under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial.

- Payments and benefits received as a bona fide employee of the employer. This exception does not apply to loans or to transactions involving interests in the employer. For example, if the employer has a program in which bona fide employees may sell their stock in the company, this exception would not apply. *See* definition of *bona fide employee* at D4 on page 10.

Examples

Example 1
You are a union officer and truck driver who is paid for ten days, or 80 hours, of work by the employer, every two weeks even though you drive a truck nine days, or 72 hours, and spend the tenth day of the pay period (8 hours) handling union member grievances or other union-related work. If this arrangement is *not* set forth in a collective bargaining agreement, you must report all of the income and benefits received from the employer for union work. If the arrangement is set forth in a bona fide collective bargaining agreement, you do not have to report because such payments are only reportable if you receive more than 250 hours of union-leave/no-docking payments per year. *See* definition of *bona fide employee* at D4 on page 10 and *labor organization employee* at D11 on page 12.

Example 2
You are an officer of a union that represents Widget Company employees. To help prepare for your retirement, you purchase 5,000 shares of Widget Company stock that is traded on NASDAQ, a registered national stock exchange. You need not report the shares under the exception for bona fide investments in such securities.

Example 3
You are an officer of a union that represents Cident Company employees. Your wife owns 5,000 shares of Cident Company stock that Cident's CEO gave her on Mother's Day two years ago. This stock is traded on the NYSE, a registered national stock exchange. You must report the holding of the shares. Because it was received as a gift, the exception for bona fide investments in such securities does not apply.

Example 4
You are a full-time officer of a union that represents employees of several different

employers. One of the employers pays your expenses on a trip with management officials to a plant in another part of the country to view new equipment that the employer is considering purchasing. You must report the travel expenses.

Example 5
You are an employee of a union that represents actors. You own a production company whose employees are represented by your union. You must report your interests in the production company.

Example 6
You are an employee of a union and your spouse works as a producer for a dinner theater that employs actors represented by your union. Your spouse works 40 to 50 hours a week producing shows and is paid a yearly salary. You do not have to report this salary because the payments are received by your spouse as a bona fide employee of the theater company. *See* definition of *bona fide employee* at D4 on page 10.

Example 7
You are a union officer and you receive payments under an ERISA-qualified pension plan. The payments relate to your past employment with an employer whose employees your union represents. These payments are received as a bona fide employee of the employer, thus you do not have to report these payments. *See* definition of *bona fide employee* at D4 on page 10.

Example 8
You are a union officer and after the beginning of the fiscal year, your employer gives you stock options permitting you to purchase stock at a preferred rate in a new business enterprise your employer is launching. Three weeks before the end of your fiscal year, you exercise the options to purchase the stock and then immediately sell it to realize a gain of $25,000. These transactions must be reported.

Example 9
You are a union employee and your minor child receives 100 shares of stock as a high school graduation gift from an employer whose employees your union represents. She immediately sells it to assist with college expenses. Both transactions, the gift and the sale, must be reported.

Example 10
You are a union officer, and you hold an ownership interest in the business of an employer whose employees your union represents and for whom you work. You own this interest pursuant to an investment plan in which all employees participate under the same terms. This is a payment or benefit received as a bona fide employee and the interest is not reportable. In this fiscal year, you sell this interest to the employer. The sales transaction is reportable.

Example 11
You are a union officer and your spouse receives a loan from an employer whose employees your union represents. The loan must be reported.

Example 12
You are a union employee. Your spouse is a partner of a package delivery company. The company receives a loan from Easy Credit Limited that was arranged with the assistance of an employer whose employees your union is actively seeking to represent. The loan and the arrangement for assistance must be reported.

Example 13
You are an officer of an international union affiliated with a local union that represents employees at an automobile plant. The employer permits you to participate in an executive purchase plan under which management executives are permitted to purchase vehicles produced by the employer at a discount and at a low interest rate. The transaction must be reported.

Example 14
You are an employee of a union that represents employees at Acme Warehouse. At your request, Acme allows your neighbor to store his company's inventory at a rate below the customary storage rate. Your neighbor, in turn, shows his gratitude by allowing you to use his luxury box at a sporting event. You must report this arrangement. *See* definition of *arrangement* at D2 on page 10.

Example 15
You are an officer of an international union and are a member of the board of directors of an employer whose employees your union represents. You receive directors' fees and reimbursed expenses. You must report these payments.

Example 16
You are a union steward and worked 300 hours on union business during the year and received your

regular income and benefits from your employer in accordance with the no-docking provision in the collective bargaining agreement. You must report all the income and benefits you received from the employer for the work performed on the union's behalf.

(2) Payments of Money or Other Thing of Value from Certain Other Employers or a Labor Relations Consultant to Such an Employer

You must file Form LM-30 if you or your spouse or your minor child received, directly or indirectly, any payment of money or other thing of value (including reimbursed expenses) from an employer or a labor relations consultant to an employer that:

- is in competition with an employer whose employees your labor organization represents or is actively seeking to represent; or
- is a *trust in which your labor organization is interested*, as defined in section 3(l) of the LMRDA (*see* definition at D16 on page 13); or
- is a not-for-profit organization that receives or is actively and directly soliciting (other than by mass mail, telephone bank, or mass media) money, donations, or contributions from your labor organization; or
- is a labor union that (1) has employees your union represents or is actively seeking to represent, (2) has employees in the same occupation as those represented by your union; (3) claims jurisdiction over work that is also claimed by your union; (4) is a party to or will be affected by any proceeding in which you have voting authority or other ability to influence the outcome of the proceeding; or (5) has made a payment to you for the purpose of influencing the outcome of an internal union election; or
- has interests in actual or potential conflict with the interests of your labor organization or your duties to your labor organization.

Exceptions to the Reporting Requirements Relating to Certain Other Employers or a Labor Relations Consultant to Such an Employer

You are not required to report:

- Bona fide loans, interest or dividends from national or state banks, credit unions, savings or loan associations, insurance companies, or other bona fide credit institutions, if such loans, interest or dividends are based upon the financial institution's own criteria and made on terms unrelated to your status in a labor organization. This exception does not apply to national or state banks, credit unions, savings or loan associations, insurance companies, or other bona fide credit institutions that constitute a "trust in which your labor organization is interested."

- Pension, health, or other benefit payments to you, your spouse, or minor child from a trust that are provided pursuant to a written specific agreement covering such payments.

- Any payments from your labor organization or from a labor organization affiliated with your labor organization.

- Payments of the kinds referred to in Labor Management Relations Act (LMRA) Section 302(c), as summarized below and set forth in full on pages 20-21, and payments your spouse or minor children receive as compensation for, or by reason of, their service to their employer:

  (1) any money or other thing of value payable by an employer to
  a) an employee acting openly for the employer in matters of labor relations or personnel administration, or
  b) any officer or employee of a labor organization who also is an employee or former employee of such employer, as compensation for or by reason of, his service as an employee of such employer;
  (2) money or other thing of value payable in satisfaction of a judgment, arbitral award, settlement or release of any claim in the absence of fraud or duress;
  (3) with respect to the sale or purchase of an item at the prevailing market price in the regular course of business;
  (4) with respect to deductions in payment of labor union dues from wages by written assignment;
  (5) with respect to money or other thing of value paid to a trust fund established by the representative of an employer's employees for the sole benefit of these employees, their families and dependents for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide the foregoing, or

unemployment benefits or life insurance, disability and sickness insurance, or accident insurance;
(6) with respect to money or other thing of value paid by any employer to a trust fund established by the representative of the employer's employees for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs;
(7) with respect to money or other thing of value paid by any employer to an individual or pooled trust fund for providing scholarships for the benefit of employees, families, and dependents, child care centers, or financial assistance for employee housing;
(8) with respect to money or other thing of value paid by any employer to a trust for defraying the costs of legal services; or
(9) with respect to money or other thing of value paid by any employer to a labor-management committee.

- Payments or gifts totaling $250 or less from any one source (payments or gifts valued at $20 or less do not need to be included in determining whether the $250 threshold has been met, but a series of payments or gifts designed to circumvent the $20 threshold must be reported).

  In calculating whether the $250 threshold has been met for a particular employer or business, you do not have to include payments or gifts, such as food and entertainment, received while in attendance at one or two widely-attended receptions, meetings or gatherings in a single fiscal year for which an employer or business has spent $125 or less per attendee per gathering.

Examples

Example 1
You are a union officer representing employees of TriWireFire, Inc., an employer in the telecommunications industry. An employer, WhyWire, Inc., which markets services in competition with TriWireFire, gives you a gift of a ski trip worth more than $250. You must report the trip and its value.

Example 2
You are a union officer and you receive payments pursuant to the terms of an ERISA qualified pension plan. You do not have to report these payments.

Example 3
You are a local union president and a trustee of a trust in which your labor organization is interested. You must reports payments from the trust, including reimbursed expenses, for your service as a trustee, except in the unusual situation where you as a trustee are also considered an employee of the trust.

Example 4

You are an employee of a union. Each year your union holds an annual workers' summer school at a private university whose space and services are rented by the union. You go to the summer school as an instructor and bring your wife and two minor children. At no extra charge to you, the university provides accommodations for you, your wife, and minor children, rather than the single room typically provided instructors. The use of the additional space and its fair market value must be reported.

Example 5
You are an officer of Local Union ABC. You receive a gift of high-end consumer electronics from a sales representative of HealthCare PrePaid, Inc., a not-for-profit health insurance company. Local Union ABC pays $125,000 annually in premiums to this health insurance company in return for its extending insurance coverage to the union members. You must report the value of the consumer electronics.

(3) *Payments from any Employer or a Labor Relations Consultant to any Employer for the Following Purposes:*

- Not to organize employees;
- To influence employees in any way with respect to their right to organize;
- To take any action with respect to the status of employees or others as members of a labor organization;
- To take any action with respect to bargaining or dealing with employers whose employees your labor organization represents or is actively seeking to represent; or
- To influence the outcome of an internal union election.

There are no exceptions to reporting these types of payments.

Examples

Example 1
You are an officer of a national union. Your spouse is hired as a senior executive of an employer on the understanding that your union will not seek to organize that employer. Your spouse receives a salary, medical, disability, and life insurance, use of a company car, and a paid membership to a private club. You must report the salary and the monetary value of the other benefits your spouse receives from the employer.

Example 2
You are a local union president. An employer outside of the jurisdiction of your local hires your 20-year old daughter for a summer job on the understanding that you will seek to have your members go on strike against an employer who is one of its competitors. You must report the payments your daughter receives from this employer.

Reportable Payments and Interests from Businesses

You must complete Form LM-30 if you, your spouse, or your minor child, directly or indirectly, held an interest in, or received any income or other benefit with monetary value (including reimbursed expenses) from a business (for example, a vendor or a service provider) that meets any of the following conditions:

- a substantial part of its business consists of buying or selling or otherwise dealing with an employer whose employees your labor organization represents or is actively seeking to represent (s*ubstantial part* is defined as 10% or more at D15 on page 13); or
- any part of its business consists of buying or selling or otherwise dealing with your labor organization; or
- any part of its business consists of buying or selling or otherwise dealing with a trust in which your labor organization is interested.

Special Note: A "business" here is a vendor of goods or provider of services. A payment from a business may be reportable whether or not the business employs employees or otherwise meets the definition of "employer."

Exceptions to Reportable Payments and Interests from Businesses

You are not required to report:

- Holdings of, transactions in, or income from, bona fide investments in (1) securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934 (including the American Stock Exchange, Boston Stock Exchange, Chicago Board Options Exchange, Chicago Stock Exchange, International Securities Exchange, NASDAQ, National Stock Exchange ,New York Stock Exchange, Pacific Exchange, and Philadelphia Stock Exchange); (2) shares in an investment company registered under the Investment Company Act of 1940, or (3) securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935,

- Holdings of, transactions in, or income from, bona fide investments in securities other than those described in the preceding bullet that are of insubstantial value or amount and occur under terms unrelated to your status in a labor organization. Holdings or transactions involving $1,000 or less and receipt of income of $100 or less in any one security shall be considered insubstantial.

- Payments or gifts totaling $250 or less from any one source (payments or gifts valued at $20 or less do not need to be included in determining whether the $250 threshold has been met, but a series of payments or gifts designed to circumvent the $20 threshold must be reported.)

  In calculating whether the $250 threshold has been met for a particular employer or business, you do not have to include the benefits, such as food and entertainment, received while in attendance at one or two widely-attended receptions, meetings or gatherings in a single fiscal year for which the employer or business spent $125 or less per attendee per gathering.

See the definitions of *dealing* below at D6 on page 11, *labor organization* at D10 on page 11, and *substantial part* at D15 on page 13.

Examples

Example 1
You are a union officer. You own a small machine parts business from which you receive $50,000 in annual income. The employer of the employees your union represents purchased a large quantity of machine parts from your business. The employer's purchases represented 10% of the total receipts of your machine parts business that year. You must report your interest in the machine parts business, the $50,000 in income you received from the business.

Example 2
You are an officer of an international union. Your wife owns an accounting firm that pays her an annual salary. Last year, 20% of the receipts of her firm were from an employer whose employees are represented by a local union that is subordinate to your international union. You must report your wife's interest in the accounting firm, her salary from the firm, and the dealings between her business and the employer.

Example 3
You are a union officer and part owner of a copier supply company. Your union represents employees of employers A, B, and C. Last year 3% of the company's receipts were from employer A, 2% were from employer B, and 4% were from employer C. You do not have to report because less than 10% of the company's receipts were from employers whose employees your union represents.

Example 4
You are a union officer and a trustee to a plan established to provide benefits for the union members. An investment firm seeking to provide financial services to the plan hosts you on a week-long golfing trip in the Outer Banks of North Carolina. You must report the value of the trip, as well as the nature of the relationship sought by the investment firm with the plan.

Example 5
You are an officer of an international union and you receive sporting event season tickets, and multiple restaurant meals, from an attorney who appears on, or wishes to appear on, a list of "designated legal counsel." The union uses this list to recommend lawyers to the union members for representation in workers' compensation or other matters. You must report the value of the gifts and the nature of the relationship between the lawyer and the union.

Example 6
You are an employee of a union that has a collective bargaining agreement with trade show contractors. You were a seasonal employee of a company that received 15% of its receipts last year from leasing fork lifts to these contractors. You must report your income received from the company and the dealings between the company and the contractors.

Example 7
You are an officer of a district council. Your spouse owns and operates a small catering business, which provides her an annual salary and reimburses her for business-related expenses. Your council purchases catering services from your spouse's business during the fiscal year. You must report your spouse's ownership interest in the catering business, the salary and reimbursed expenses that she received from the business, and its dealings with the union.

Example 8
You are a business manager of a local union. You work on a contract basis for a plumbing supply company that sold tools and other supplies to the union and its training funds. You must report the payments you received from the plumbing supply company, and the company's dealings with the union and the training funds.

Example 9
You are an officer of a national union. You and your spouse own a printing company that prints the union newsletters for a local union of the same national union. You must report your and your spouse's ownership interest in the printing company and the company's dealings with the local.

Example 10
You are an officer of a joint board and run a snow plowing business that provides you with an annual income of $20,000. A subordinate local contracted with the business to plow the parking lot of its meeting hall. You must report your

interest in the snow plowing business, the $20,000 in income and the business's dealings with the local.

Example 11
You are an employee of a national union. Your wife works for a travel agency that handles all the travel arrangements for the national union. Your wife receives income from the travel agency. You must report your wife's income from the travel agency and the dealings between the travel agency and the union.

Example 12
You are the president of a local union and your 19-year old son works for a business that produces customized t-shirts, caps, and jackets. Your local union buys logo items from this business. You must report your son's income received from this business and the dealings between the business and the union.

Example 13
You are a business representative of a local union that represents shipyard workers. You and two other business representatives own a company that does medical testing of local members, which is paid for by a health benefit plan that is a trust in which your local is interested. The company also provides medical insurance coverage for you and your spouse. You must report your interest in the medical testing company, the medical coverage for you and your spouse, and the dealings between the testing company and the health benefit plan.

Example 14
You are the president of a local union and own a building, which has numerous tenants, including your local. Your ownership interest and income received from the operation of the building and the dealings between you and the union must be reported.

Example 15
You are a national union president and a trustee of a jointly administered health care trust that insures union members through a health insurance company. Premiums for insurance coverage of union members are paid by the trust to the health insurance company. You are a member of the board of directors of the health insurance company, which pays you annual directors' fees and reimburses expenses for your attendance at board meetings. (To comply with other legal requirements, you recuse yourself from all decisions by the trust concerning the health insurance company.) As the health insurance company is doing business with a trust in which your union is interested, you must report your annual directors' fees and reimbursed expenses. The dealings between the health insurance company and the trust must also be reported.

Example 16
You are an officer of a national union and your spouse works as an associate for a law firm that represents a local union that is affiliated with your national union. You are not required to report payments and other financial benefits received by your spouse as a bona fide employee of a business or employer involved with a lower level of your labor organization. However, if the firm represents the national union, you must report your spouse's income and the firm's dealings with the national union.

Example 17
You are a union officer and director of a registered investment company that offers investment opportunities to unions or trusts in which unions are interested. Your union has invested several thousand dollars in fixed income or equity funds managed by the company. You receive no gratuities, compensation, or reimbursement for your duties as a director, but you are insured against personal liability for your actions as a director under a policy paid for by the investment company. You must report the payment, and the dealings between the investment company and the union.

III. DEFINITIONS

For purposes of completing Form LM-30, the following definitions apply:

D1. *Actively seeking to represent* means that a labor organization has taken steps during the filer's fiscal year to become the bargaining representative of the employees of an employer, including but not limited to:

- Sending organizers to an employer's facility;
- Placing an individual in a position as an employee of an employer that is the subject of an organizing drive and paying that

individual subsidies to assist in the union's organizing activities;
- Circulating a petition for representation among employees;
- Soliciting employees to sign membership cards;
- Handing out leaflets;
- Picketing; or
- Demanding recognition or bargaining rights or obtaining or requesting an employer to enter into a neutrality agreement (whereby the employer agrees not to take a position for or against union representation of its employees), or otherwise committing labor or financial resources to seek representation of employees working for the employer.

Where a filer's union has taken any of the foregoing steps, the filer is required to report a payment or interest received, or transaction conducted, during that reporting period.

> Note: Leafleting or picketing, such as purely "informational" or "area standards" picketing, that is wholly without the object of organizing the employees of a targeted employer will not alone trigger a reporting obligation. For example, if a union pickets a sporting goods retailer solely for the purpose of alerting the public that the retailer is selling goods that are made by children working in oppressive conditions in violation of accepted international standards, the picketing would not meet the "actively seeking to represent" standard.

D2. *Arrangement* means any agreement or understanding, tacit or express, or any plan or undertaking, commercial or personal, by which the filer, spouse, or minor child will obtain a benefit, directly or indirectly, with an actual or potential monetary value.

> Note: The term "arrangement" is very broad and covers both personal and business transactions, including an unwritten understanding. For example, if during the reporting period an employer's representative offered a union officer a job with the employer, the officer must report the offer unless he or she rejected it. A standing job offer must be reported because it carries the potential of monetary value to the filer. Another example of a situation requiring a report is when an employer provided insider information about a stock or other investment opportunity, unless the filer rejected the advice and took no steps to act on it.

D3. *Benefit with monetary value* means anything of value, tangible or intangible. It includes any interest in personal or real property, gift, insurance, retirement, pension, license, copyright, forbearance, bequest or other form of inheritance, office, options, agreement for employment or property, or property of any kind. You do not need to report pension, health, or other benefit payments from a trust to you, your spouse, or minor child that are provided pursuant to a written specific agreement covering such payments.

D4. *Bona fide employee* is an individual who performs work for, and subject to the control of, the employer.

> Note: A payment received as a bona fide employee includes wages and employment benefits received for work performed for, and subject to the control of, the employer making the payment, as well as compensation for work previously performed, such as earned or accrued wages, payments or benefits received under a bona fide health, welfare, pension, vacation, training or other benefit plan, leave for jury duty, and all payments required by law.
>
> Compensation received under a "union-leave," or "no-docking" policy is not received as a bona fide employee of the employer making the payment. Under a union-leave policy, the employer continues the pay and benefits of an individual who works full time for a union. Under a no-docking policy, the employer permits individuals to devote portions of their day or workweek to union business, such as processing grievances, with no loss of pay. Such payments are received as an employee of the union and thus, such payment must be reported by the union officer or employee unless they (1) totaled 250 or fewer hours during the filer's fiscal year and (2) were paid pursuant to a bona fide collective bargaining agreement. If a filer must report payments for union-leave or no-docking arrangements, the filer must enter the actual amount of compensation received for each hour of union work. If union-leave/no-docking payments are received from multiple employers, each such payment is to be considered separately to determine if the 250-hour threshold has been met. For purposes of Form LM-30, stewards receiving union-leave/no-docking payments from an employer or lost time payments from a labor organization are considered employees of the labor organization.

D5. *Bona fide investment* means personal assets of an individual held to generate profit that were not acquired by improper means or as a gift from any of the following: (1) an employer, (2) a business that deals with the filer's union or a trust in which the filer's union is interested, (3) a business a substantial part of which consists of dealing with an employer whose employees the filer's union represents or is actively seeking to represent, or (4) a labor relations consultant to an employer.

D6. *Dealing* means to engage in a transaction (bargain, sell, purchase, agree, contract) or to in any way traffic or trade, including solicitation for business.

> Note: The term "traffic or trade" includes not only financial transactions that have occurred but also the act of soliciting such business. Thus, for example, potential vendors or service providers attempting to win business with a union will be considered to be "dealing" with the union to the same extent as vendors who are already doing business with the union. Potential vendors must engage in the active and direct solicitation of business (other than by mass mail, telephone bank, or mass media). A business that passively advertises its services generally and would provide services consumed by, for example, a union would not meet this test. The potential vendor must be actively seeking the commercial relationship. Under certain circumstances, the payment itself will be evidence of the solicitation of business, such as a potential vendor who treats a union official to a golf outing and dinner to discuss the vendor's products.

D7. *Directly or indirectly* means by any course, avenue, or method. *Directly* encompasses holdings and transactions in which the filer, spouse, or minor child receives a payment or other benefit without the intervention or involvement of another party. *Indirectly* includes any payment or benefit which is intended for the filer, spouse, or minor child or on whose behalf a transaction or arrangement is undertaken, even though the interest is held by a third party, or was received through a third party.

> Note: Filers must disclose any benefits received by them (or their spouse or minor child) from a third party where the third party is acting on behalf, or at the behest, of an employer or business that would have to report the benefit if they provided it directly to the filer (or their spouse or minor child). The following examples show the difference between "direct" and "indirect":
>
> - You are employed by XYZ Widgets and also serve as the president of the local union representing XYZ Widgets employees. In a recent conversation with the XYZ Widgets human resources manager, you mention that you are placing your 15 year-old daughter in a private school. The XYZ Widget Company sends you a check for $1,000 with a note saying "Good luck with the new school!" You have received a direct benefit.
> - You are employed by XYZ Widgets and also serve as the president of the local union representing XYZ Widgets employees. In a recent conversation with the XYZ Widgets human resources manager, you mention that you are placing your daughter in a private school. You receive a letter from your daughter's new school stating that she has received a $1,000 scholarship through a donation by the XYZ Widget Company. You have received an indirect benefit.

D8. *Filer/Reporting Person/You* mean any officer or employee of a labor organization who is required to file Form LM-30.

> Note: These terms are used synonymously and interchangeably throughout the instructions and when referring to reportable interests, income, arrangements or transactions these terms include interests, income, arrangements or transactions involving the union officer's or employee's spouse or minor child.

D9. *Income* means all income from whatever source derived, including, but not limited to, compensation for services, fees, commissions, wages, salaries, interest, rents, royalties, copyrights, licenses, dividends, annuities, honorarium, income and interest from insurance and endowment contracts, capital gains, discharge of indebtedness, share of partnership income, bequests or other forms of inheritance, and gifts, prizes or awards. *See benefit with monetary value* at D3 above at page 10.

D10. *Labor organization* means the local, intermediate, or national or international labor organization that employed the filer, or in which the filer held office, during the reporting period, and, in the case of a national or international union officer or

an intermediate union officer, any subordinate labor organization of the officer's labor organization. Item 6 of Form LM-30 identifies the relationships between employers and "your labor organization" or "your union" that trigger a reporting requirement. Item 7 of the Form LM-30 identifies the direct and indirect relationships between a business (such as a goods vendor or a service provider) and "your labor organization" that trigger a reporting requirement. The terms "your labor organization" and "your union" mean:

a. For *officers and employees* of a local labor organization

Your local labor organization.

b. For *officers* of an international or national labor organization

Your national or international labor organization and all of its affiliated intermediate bodies and all of its affiliated local labor organizations

But note: A national or international union officer does not have to report payments from or interests in businesses that deal with employers represented by, or actively being organized by, any lower level of the officer's labor organization. Such officers are also not required to report payments and other financial benefits received by their spouses or minor children as bona fide employees of a business or employer involved with a lower level of the officer's labor organization.

c. For *employees* of a national or international labor organization

Your national or international labor organization.

d. F*or officers* of intermediate bodies

Your intermediate body and all of its affiliated local labor organizations.

But note: An officer of an intermediate body does not have to report payments from or interests in businesses that deal with employers represented by, or actively being organized by, any lower level of the officer's labor organization. Such officers are also not required to report payments and other financial benefits received by their spouses or minor children as bona fide employees of a business or employer involved with a lower level of the officer's labor organization.

e. For *employees* of an intermediate body

Your intermediate body.

D11. *Labor organization employee* means any individual (other than an individual performing exclusively custodial or clerical services) employed by a labor organization within the meaning of any law of the United States relating to the employment of employees.

Note: An individual who is paid by the employer to perform union work, either under a "union-leave" or "no-docking" policy, is an employee of the union for reporting purposes if the individual performs services for, and under the control of, the union.

For purposes of Form LM-30, stewards receiving union-leave/no-docking payments from an employer or lost time payments from a labor organization are considered employees of the labor organization.

D12. *Labor organization officer* means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body. An officer is (1) a person identified as an officer by the constitution and bylaws of the labor organization; (2) any person authorized to perform the functions of president, vice president, secretary, or treasurer; (3) any person who in fact has executive or policy-making authority or responsibility; and (4) a member of a group identified as an executive board or a body which is vested with functions normally performed by an executive board.

Note: Under this definition, an officer includes a trustee appointed by the national or international union to administer a local union in trusteeship. If you are a trustee elected or appointed by the local union to audit and/or hold the assets of the union, you may or may not be a union officer, depending on your union's constitution and other factors. If you serve in your union in any capacity and you are unsure if your position is an officer position, you are likely an officer of a labor organization if any one of the following applies:

- Your union's constitution or bylaws refers to your position as an officer of

the union
- Your union's constitution or bylaws states that your position has the authority to make executive decisions for the union or that you are authorized to perform the functions of president, vice president, secretary, treasurer, or other constitutionally designated officer
- Your union's annual Form LM-2 or Form LM-3 lists your position as an officer of the union
- In your position, you serve on your union's executive board or similar governing body

D13. *Legal or equitable interest* means any property or benefit, tangible or intangible, which has an actual or potential monetary value for the filer, spouse, or minor child without regard to whether the filer, spouse, or minor child holds possession or title to the interest. *See* definition of *income* at D9 above on page 11 and *benefit with monetary value* at D3 on page 10.

For example:

- You are an officer of a union. You and your spouse jointly own an accounting business that provides tax services to a number of clients, including your union. You hold a legal interest in the company providing services to your union.
- You are an officer of a union. You form a tax preparation business with two partners and put your share of the business in your wife's name. The business prepares tax returns and LM reports for your union. You hold an equitable interest in a business that deals with your union.

D14. *Minor child* means a son, daughter, stepson, or stepdaughter less than 21 years of age.

D15. *Substantial part* means 10% or more. Where a business's receipts from an employer(s) whose employees the filer's labor organization represents or is actively seeking to represent constitute 10% or more of its annual receipts, a substantial part of the business consists of dealing with this employer(s).

D16. *Trust in which a labor organization is interested* means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries. The term "section 3(l) trust" is used in the instructions as a shorthand reference to such trusts.

There are additional selected LMRDA definitions at the end of these instructions.

IV. WHEN TO FILE

You must file Form LM-30 within 90 days after the end of your fiscal year. If, however, you were an officer or employee for only a portion of your fiscal year, you may limit your report to that portion of the fiscal year.

V. WHERE TO FILE

You must mail the completed Form LM-30 to the following address:

U.S. Department of Labor
Employment Standards Administration
Office of Labor-Management Standards
200 Constitution Avenue, NW, Room N-5616
Washington, DC 20210

VI. PUBLIC DISCLOSURE

Pursuant to the LMRDA, the U.S. Department of Labor is required to make all submitted reports available for public inspection. Union officer and employee reports for the year 2000 and later may be viewed and downloaded from the Office of Labor-Management Standards (OLMS) Web site at http://www.union-reports.dol.gov. Copies of reports can also be ordered at the same Web site. Form LM-30 reports may also be examined at, and copies purchased from, the OLMS Public Disclosure Room at:

U.S. Department of Labor
Room N-1519
200 Constitution Avenue, NW
Washington, DC 20210

VII. OFFICER OR EMPLOYEE RESPONSIBILITIES AND PENALTIES

The labor organization officer or employee required to file Form LM-30 must sign the completed report and is personally responsible for its filing and accuracy. Under the LMRDA, this individual is subject to criminal penalties for willful failure to file a required report and/or for false reporting. False reporting includes making any false statement or misrepresentation of a material fact while knowing it to be false, or for knowingly failing to disclose a material fact in a required report or in the information required to be contained in it or in any information required to be submitted with it.

The reporting labor organization officer or employee is also subject to civil prosecution for violations of the filing requirements. Section 210 of the LMRDA (29 U.S.C. 440) provides that "whenever it shall appear that any person has violated or is about to violate any of the provisions of this title, the Secretary may bring a civil action for such relief (including injunctions) as may be appropriate."

The officers and employees responsible for filing Form LM-30 are also subject to criminal penalties for false reporting and perjury under Sections 1001 of Title 18, 1746 of Title 28, and 1621 of Title 18 of the United States Code.

You, your spouse, and minor child and any individuals or entities associated with the reportable interests and transactions may be required to provide additional information to the Department concerning reported or reportable interests.

VIII. RECORDKEEPING

The labor organization officer or employee required to file Form LM-30 is responsible for maintaining records on the matters required to be reported that will provide in sufficient detail the necessary basic information and data from which the documents may be verified, explained or clarified, and checked for accuracy and completeness. These records shall include vouchers, worksheets, receipts, financial and investment statements, contracts, correspondence, and applicable resolutions, in their original electronic and paper formats, and any electronic programs by which they are maintained. Records must be kept available for examination for a period of not less than five years after the filing of the Form LM-30.

IX. COMPLETING FORM LM-30

Read the instructions carefully

OLMS encourages all filers to complete Form LM-30 electronically. Form LM-30 is available on the OLMS Web site at www.olms.dol.gov. You can complete the form electronically or print a copy and complete it manually. If you do not have access to the Internet, you can obtain a blank form from the nearest OLMS field office listed at the end of these instructions, from the OLMS National Office at 202-693-0124, or by calling the DOL toll-free help desk at 1-866-487-2365.

Information Entry. If you are not completing the report electronically, entries should be typed or clearly printed in black ink. Do not use a pencil or any other color ink.

Entering Dollars. In all items dealing with monetary values, report amounts in dollars only; do not enter cents. Round cents to the nearest dollar. Enter a single "0" in the space for reporting dollars if you have nothing to report.

Continuation Pages. If you are completing this report in paper format and there is not enough space to report all the required information and amounts, print and use the continuation pages available online or from the sources listed above. Enter the requested identifying information at the top of each continuation page.

Form LM-30 PART A

1. **LM-30 FILE NUMBER** — Enter the five-digit file number that OLMS assigned you if you have previously filed Form LM-30. If you have never filed Form LM-30, leave Item 1 blank. OLMS will notify you of your assigned file number, which should be used on all future reports.

2. **PERIOD COVERED--**Enter the beginning and ending dates of your fiscal year. Your fiscal year will normally be identical to the dates for which you file Federal income tax returns. Your report should never cover more than a 12-month period. For example, if your 12-month fiscal year begins on January 1 and ends on December 31, do not enter a date beyond the 12-month period, such as January 1 to January 1; this is an invalid date entry. Note that your fiscal year may differ from the fiscal year utilized by your union for filing its annual financial report, Form LM-2, LM-3, or LM-4.

3. **CONTACT INFORMATION OF REPORTING PERSON** — Enter the following contact information:
   A – C. Your full name (first, middle, last name).
   D – H. Your complete address where mail should be sent including any building and room number.
   I. Your email address. If you do not have an email address or choose not to provide it leave this space blank. Otherwise, enter your email address in the space provided.

4. **LABOR ORGANIZATION IDENTIFYING INFORMATION —**
   A — D. Enter the full name of your labor organization including local number, if any. Enter the complete business address of the labor organization where mail should be sent including any building and room number.
   E. Enter your labor organization's OLMS file number. If you cannot obtain the file number, go to http://www.unionreports.dol.gov or contact the

nearest OLMS field office listed at the end of these instructions.

F. Specify your status in the labor organization by checking the appropriate box indicating whether you are an officer or an employee.

G. State your official position or job title with the labor organization. Official titles include, but are not limited to, president, vice president, secretary, treasurer. Job titles include, but are not limited to, business agent, bookkeeper, office secretary, shop steward.

H. Check "Yes" if you were an officer or employee of the labor organization at the end of the reporting period. Check "No" if you were no longer an officer or employee.

5. **SUMMARY —**The summary must be completed after you have first completed each Part B that you are required to file as discussed below.

A. Enter the total combined value of all income or other payments reported in Schedule 2, Item F, Column (1) of each Part B.

B. Enter the total combined value of all assets reported in Schedule 2, Item F, Column (2) of each Part B.

6. **Employer Relationships** – Review the seven types of employers listed in Item 6 on the form and the discussion of the reporting requirements and specific exemptions in Part II of these instructions, pages 1 – 9. Check "yes" in Item 6a if you, your spouse, or minor child had an arrangement or engaged in a transaction with, or held an interest in, or received income or other payment from (including any reimbursed expenses), or made loans to or received loans from, an employer or a labor relations consultant to an employer that meets any of the conditions listed. Check "no" in Item 6a if there are none of the listed relationships to report. If you check "yes" enter the number of employers and consultants with which you have reportable dealings in Item 6b.

7. **Business Relationships** – Review the three types of business relationships listed in Item 7 on the form and the discussion of the reporting requirements and specific exemptions in Part II of these instructions, pages 1 – 9. Check "yes" in Item 7a if you, your spouse, or minor child had an arrangement or engaged in a transaction with, or held an interest in, or received income or other payment from (including any reimbursed expenses), or made loans to or received loans from, a business, such as a goods vendor or service provider, that meets any of the conditions listed. Check "no" in Item 7a if there are none of the listed relationships to report. If you check "yes" enter the number of businesses with which you have reportable dealings in Item 7b.

If the answer to both Item 6a and Item 7a is "no," you are not required to file Form LM-30.

8. **SIGNATURE —** Sign and date the Form LM-30 after you have completed the required number of Part Bs as explained below. Enter the telephone number you use to conduct official business. You do not have to report a private unlisted telephone number.

PART B

You must complete a Part B for each employer (and each labor relations consultant to an employer) and for each business from which you received a reportable payment, loan, or interest (such as stock), or in which you held a reportable interest, or with whom you engaged in a reportable transaction or arrangement, as described in Part II of these instructions. At the top left of each Part B enter your file number. Number each Part B consecutively in the top right corner and indicate the total number being filed. The form does not require the reporting of any personally identifiable information relating to you, your spouse, or your minor child, except as explicitly noted. Do *not* include information such as social security or loan numbers.

For your guidance, Schedules 2, 3, and 4 in Part B contain examples of the types of information that should be reported.

Before completing a Part B, carefully read Part II of these instructions, including the employer and business reporting descriptions, the exceptions, the related examples, and the definitions. (*See also, LMRDA Section 202 (a)(1)-(a)(6) [29 USC 432(a)(1)-(a)(6)],* which is printed at the end of these instructions*).*

Schedule 1
Employer or Business Identifying Information (All Filers Must Complete)

A. Legal Name of Employer, Business or Labor Relations Consultant. Enter the legal name of the employer, business, or labor relations consultant including any alias, trade name, or "Doing Business As" designation, if applicable. This is the entity from which you, your spouse, or your minor child received a reportable payment or loan, or in which you held a reportable interest, or with whom you engaged in a reportable transaction or arrangement.

Check the appropriate box for employer, business, or labor relations consultant.

B-D. Contact Name. Enter the full name (first, middle, last name) of the contact person at the employer, business, or labor relations consultant to whom mail should be sent.

E-H. Mailing Address. Enter the complete address where mail to the employer, business, or labor relations consultant should be sent including any building and room number.

I. Telephone Number. Enter the work telephone number of the contact person, including the area code.

J. Web Site Address. Enter the Web site address of the employer, business, or labor relations consultant. If the employer, business, or labor relations consultant does not have a Web site, enter "none."

K. Continuing Relationship with Employer, Business, or Labor Relations Consultant at End of Reporting Period. Indicate whether a continuing business or financial relationship existed between you (or your spouse or your minor child) and the employer, business, or labor relations consultant at the end of the reporting period. For example, if you reported salary from a business that sells services to your union, and you were still working for the business at the end of the reporting period, check "yes." If, for example, the employer was one with whom you have no continuing relationship, check "no."

Schedule 2

Filer's Interests In, Payments From, Loans to or From, and Transactions or Arrangements with Employer or Business and Payments from a Labor Relations Consultant (All Filers Must Complete)

A. Date. Enter the date each payment or loan was received, or each transaction was completed. If the reportable event is an arrangement, enter the date the arrangement was made. The date of interests or other holdings should be the date of receipt of the interest.

B. Officer, Employee, Spouse, or Minor Child. Indicate whether the payment, loan, transaction, arrangement or interest was paid to, engaged in, or held by, the officer, employee, spouse or minor child.

C. Description of Interest, Payment, Loan, Transaction or Arrangement. Give a detailed description of the interest, payment, loan, transaction, or arrangement.

Interest. For each interest held, identify the nature of the interest (*for example*, common stock, preferred stock, bonds, options, etc.) Give the total number of shares or other units held during the fiscal year. State the total cost of the acquired interest, and the manner by which you (or your spouse or your minor child) acquired the interest (*for example*, employee stock purchase plan, purchase on an over-the-counter market, gift, etc.) If the interest was disposed of during the fiscal year, describe the manner by which you (or your spouse or minor child) disposed of the interest (*for example*, sale on market, gift, exchange, etc.)

Payment or Income. Identify the nature of the payment, income, or benefit of monetary value (*for example*, continuing use of an automobile for personal purposes, gift of a computer, payments for services).

Loan. Identify the terms and conditions of the loan. Include the dollar value of the remaining obligation, if any, as of the end of the fiscal year (*for example*, unpaid balance of a loan, rentals due under the lease, amount due under a contract, etc.).

Transaction. Identify the nature of the transaction, the property involved (for example, stock, bonds, rental of property located at X address), the terms and conditions of the transaction (*for example*, discount purchase of goods, sale and lease back one year, etc), and names and addresses of intermediate parties involved in any indirect transactions.

Arrangement. Identify the nature of the arrangement and provide sufficient detail to identify the date, persons involved, and information as to conditions, if any, of the arrangement and the anticipated date on which the benefit will be obtained.

Other Thing of Value. Describe the item of value in Item C and indicate its value in Item D.

Describe in detail the nature of the purchases, sales, leases, or other dealings listed. Your report will be deficient if you provide unclear or nonspecific descriptions. If you need additional space to describe the business dealings, use the Additional Information Schedule.

D. Value. If the description in Item C is of income or other payments, enter its monetary value in Column (1). If the description in Item C is of an asset, enter its monetary value in Column (2). Income or other payments, as used here, includes, among other things, salary, bonuses, benefits with monetary value (including reimbursed expenses), gifts, loans, payments of money and other things of value, as well as business transactions and arrangements. *See benefits with monetary value* at D3 on page 10 and *income* at D9 on page 11. Assets include, among other things, stocks, bonds, securities, and other interests and holdings, legal or equitable. *See legal or equitable interest* at D13 on page 13.

Enter the exact value if known or easily obtainable; otherwise, enter a good faith estimate of the fair market value and explain the basis for the estimate on the Additional Information Schedule. The fair market value may be determined by:

- The purchase price
- Recent appraisal
- Assessed value for tax purposes, adjusted to reflect market value if the assessed value is computed at less than 100% of the market value
- The year-end book value of stock that is not publicly traded, the year-end exchange rate of corporate stock, or the face value of corporate bonds or comparable securities
- The net worth of a business partnership or business venture
- The equity value of an individually-owned business or any other recognized indication of value (such as the sale price on the stock exchange at the time of the report or, for transactions, the sale price on the stock exchange at the time of the sale).

If the exact value is not known and cannot be estimated, enter "N/A" and explain the situation on the Additional Information Schedule.

E. Total from Continuation Pages. Enter the total value of income or other payments and the total value of assets from the continuation pages, if any.

F. Total Valuation of Income or Other Payments and Assets. Enter the total value of income or other payments and the total value of assets derived from the employer or business.

Schedule 3

Employer's Relationship with Your Labor Organization (Complete for employers only, that is, if you answered "yes" to Item 6a on page 2)

A. Employer's Relationship with Labor Organization. Check the box (and letter, as appropriate) that describes the nature of the employer's relationship with your labor organization.

B. Details of the Employer's Relationship with Labor Organization. Provide a detailed description of the relationship between the employer and your labor organization. For example, if you checked Box 4, the description might read: "The XYZ Charity received a donation from Local ABC in June 2005" or Local ABC pays "Health Care PrePaid, Inc., a not-for-profit entity, to provide insurance coverage to its members." Or if you checked Box 5a, the description might read: "The employees of National Union DEF are represented by my union, National Union DEF Staff Union. The two entities are parties to a collective bargaining agreement that is in effect from October 1, 2005 to September 30, 2009." Your report will be deficient if you provide unclear or nonspecific descriptions. If you need additional space to describe the business dealings, use the Additional Information Schedule.

B(1). Value. Enter the monetary value of the relationship described in Item B, if applicable. For example, as for the premium payments paid by the labor organization to HealthCare PrePaid, Inc., as described in Item B, record the $125,000 in premium payments in the space provided. If there are no payments or transactions with a monetary value, or if you do not know and cannot estimate the value, enter N/A and explain in the Additional Information Schedule.

Schedule 4

Business's Dealings with Union(s), Trust(s), or Employer(s) (Complete for businesses only, that is, if you answered "yes" to Item 7a on page 2)

A. Name of Union, Trust, or Employer. If the business has engaged in buying from, selling or leasing to, or otherwise dealing with your union, with a trust in which your union is interested, or in substantial part with an employer whose employees your union represents or is actively seeking to represent, enter the legal name of each such union, trust, or employer.

B. Union, Trust, or Employer. Indicate whether the entity listed in Item A is a union, trust, or employer.

C. File Number. If the union, trust, or employer has filed reports with OLMS, enter its file number, if known. If you do not have a file number for the union, trust, or employer, enter its complete address in the Additional Information Schedule.

D. Description of Dealings. Describe in detail the nature of the purchases, sales, leases, or other dealings between the business and the union, trust, or employer listed in Item A. For example, if the business and Union A arranged a payroll service in the amount of $45,000 for union members, you might describe the dealing as follows: "One payment for payroll services for Union A members." You report will be deficient if you provide unclear or nonspecific descriptions. If you need additional space to describe the business dealings, use the Additional Information Schedule.

E. Value. Enter the exact value of the purchase, sale, lease, or other dealings between the business and the union, trust, or employer listed in Item A, if known or easily obtainable; otherwise, enter a good faith estimate of the fair market value and explain the basis for the estimate in the Additional Information Schedule. The fair market value may be determined by:

- The purchase price
- Recent appraisal
- Assessed value for tax purposes, adjusted to reflect market value if the assessed value is computed at less than 100% of the market value
- The year-end book value of stock that is not publicly traded, the year-end exchange rate of corporate stock, or the face value of corporate bonds or comparable securities
- The net worth of a business partnership or business venture
- The equity value of an individually-owned business or any other recognized indication of value (such as the sale price on the stock exchange at the time of the report or, for transactions, the sale price on the stock exchange at the time of the sale).

If the exact value is not known and cannot be estimated, enter "N/A" and explain the situation in the Additional Information Schedule.

Additional Information Schedule

A. Schedule/Item. Enter the schedule or item to which the additional information applies.

B. Additional Information. Enter the additional information for the schedule or item listed in Column A.

SELECTED SECTIONS AND DEFINITIONS FROM THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959, AS AMENDED (LMRDA) AND THE LABOR MANAGEMENT RELATIONS ACT, 1947, AS AMENDED (LMRA)

LMRDA § 3 [29 U.S.C. §402]. Definitions

For the purposes of titles I, II, III, IV, V (except section 505), and VI of this Act-

(a) "Commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.

(b) "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343).

(c) "Industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

(d) "Person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, or receivers.

(e) "Employer" means any employer or any group or association of employers engaged in an industry affecting commerce (1) which is, with respect to employees engaged in an industry affecting commerce, an employer within the meaning of any law of the United States relating to the employment of any employees or (2) which may deal with any labor organization concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and includes any person acting directly or indirectly as an employer or as an agent of an employer in relation to an employee but does not include the United States or any corporation wholly owned by the Government of the United States or any State or political subdivision thereof.

(f) "Employee" means any individual employed by an employer, and includes any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice or because of exclusion or expulsion from a labor organization in any manner or for any reason inconsistent with the requirements of this Act.

(g) "Labor dispute" includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(h) "Trusteeship" means any receivership, trusteeship, or other method of supervision or control whereby a labor organization suspends the autonomy otherwise available to a subordinate body under its constitution or bylaws.

(i) "Labor organization" means a labor organization engaged in an industry affecting commerce and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.

(j) A labor organization shall be deemed to be engaged in an industry affecting commerce if it -

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council, subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection, other than a State or local central body.

(k) "Secret ballot" means the expression by ballot, voting machine, or otherwise, but in no event by proxy, of a choice with respect to any election or vote taken upon any matter, which is cast in such a manner that the person expressing such choice cannot be identified with the choice expressed.

(l) "Trust in which a labor organization is interested" means a trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or

more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries.

(m) "Labor relations consultant" means any person who, for compensation, advises or represents an employer, employer organization, or labor organization concerning employee organizing, concerted activities, or collective bargaining activities.

(n) "Officer" means any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body.[...]

LMRDA § 202 [29 U.S.C. §432]. Report of Officers and Employees of Labor Organizations

(a) Filing; contents of report

Every officer of a labor organization and every employee of a labor organization (other than an employee performing exclusively clerical or custodial services) shall file with the Secretary a signed report listing and describing for his preceding fiscal year--

(1) any stock, bond, **security**, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child derived directly or indirectly from, an employer whose employees such labor organization represents or is actively seeking to represent, except payments and other benefits received as a bona fide employee of such employer;
(2) any transaction in which he or his spouse or minor child engaged, directly or indirectly, involving any stock, bond, security, or loan to or from, or other legal or equitable interest in the business of an employer whose employees such labor organization represents or is actively seeking to represent;
(3) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, any business a substantial part of which consists of buying from, selling or leasing to, or otherwise dealing with, the business of an employer whose employees such labor organization represents or is actively seeking to represent;
(4) any stock, bond, security, or other interest, legal or equitable, which he or his spouse or minor child directly or indirectly held in, and any income or any other benefit with monetary value (including reimbursed expenses) which he or his spouse or minor child directly or indirectly derived from, a business any part of which consists of buying from, or selling or leasing directly or indirectly to, or otherwise dealing with such labor organization;
(5) any direct or indirect business transaction or arrangement between him or his spouse or minor child and any employer whose employees his organization represents or is actively seeking to represent, except work performed and payments and benefits received as a bona fide employee of such employer and except purchases and sales of goods or services in the regular course of business at prices generally available to any employee of such employer; and
(6) any payment of money or other thing of value (including reimbursed expenses) which he or his spouse or minor child received directly or indirectly from any employer or any person who acts as a labor relations consultant to an employer, except payments of the kinds referred to in Section 186(c) of this title.

(b) Report of certain bona fide investments

The provisions of paragraphs (1), (2), (3), (4), and (5) of subsection (a) of this section shall not be construed to require any such officer or employee to report his bona fide investments in securities traded on a securities exchange registered as a national securities exchange under the Securities Exchange Act of 1934 [15 U.S.C. §78a et seq.], in shares in an investment company registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1et seq.], or in securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935 [15 U.S.C.A. §79 et seq.], or to report any income derived therefrom.

(c) Exemption from filing requirement

Nothing contained in this section shall be construed to require any officer or employee of a labor organization to file a report under subsection (a) of this section unless he or his spouse or minor child holds or has held an interest, has received income or any other benefit with monetary value or a loan, or has engaged in a transaction described therein.

LMRA §302(c) [29 USCS § 186(c)]. Exceptions.

The provisions of this section shall not be applicable (1) in respect to any money or other thing of value payable by an employer to any of his employees whose established duties include acting openly for such employer in matters of labor relations or personnel administration or to any representative of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for, or by reason of, his service as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: Provided, That the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): Provided, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital

care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such neutral persons as the representatives of the employers and the representatives of employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities; (6) with respect to money or other thing of value paid by any employer to a trust fund established by such representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, (B) child care centers for preschool and school age dependents of employees, or (C) financial assistance for employee housing: Provided, That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: Provided further, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds; (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice: Provided, That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: Provided further, That no such legal services shall be furnished: (A) to initiate any proceedings directed (i) against any such employer or its officers or agents except in workman's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended [29 USCS §§ 151-158, 159-169], or this Act; and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959; or (9) with respect to money or other things of value paid by an employer to a plant, area or industrywide labor management committee established for one or more of the purposes set forth in section 5(b) of the Labor Management Cooperation Act of 1978.)

LMRDA § 501 [29 U.S.C. 501]. Fiduciary responsibility of officers of labor organizations

(a) Duties of officers; exculpatory provisions and resolutions void

The officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group. It is, therefore, the duty of each such person, taking into account the special problems and functions of a labor organization, to hold its money and property solely for the benefit of the organization and its members and to manage, invest, and expend the same in accordance with its constitution and bylaws and any resolutions of the governing bodies adopted thereunder, to refrain from dealing with such organization as an adverse party or in behalf of an adverse party in any matter connected with his duties and from holding or acquiring any pecuniary or personal interest which conflicts with the interests of such organization, and to account to the organization for any profit received by him in whatever capacity in connection with transactions conducted by him or under his direction on behalf of the organization. A general exculpatory provision in the constitution and bylaws of such a labor organization or a general exculpatory resolution of a governing body purporting to relieve any such person of liability for breach of the duties declared by this section shall be void as against public policy.

(b) Violation of duties; action by member after refusal or failure by labor organization to commence proceedings; jurisdiction; leave of court; counsel fees and expenses

When any officer, agent, shop steward, or representative of any labor organization is alleged to have violated the duties declared in subsection (a) of this section and the labor organization or its governing board or officers refuse or fail to sue or recover damages or secure an accounting or other appropriate relief within a reasonable time after being requested to do so by any member of the labor organization, such member may sue such officer, agent, shop steward, or representative in any district court of the United States or in any State court of competent jurisdiction to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization. No such proceeding shall be brought except upon leave of the court obtained upon verified application and for good cause shown, which application may be made ex parte. The trial judge may allot a reasonable part of the recovery in any action under this subsection to pay the fees of counsel prosecuting the suit at the instance of the member of the labor organization and to compensate such member for any expenses necessarily paid or incurred by him in connection with the litigation.

(c) Embezzlement of assets; penalty

Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

All terms in italics are defined in Part III of these instructions (pages 9-13).

If You Need Assistance

The Office of Labor-Management Standards has field offices located in the following cities to assist you if you have any questions concerning LMRDA reporting requirements.

Atlanta, GA
Baltimore, MD
Birmingham, AL
Boston, MA
Buffalo, NY
Chicago, IL
Cincinnati, OH
Cleveland, OH
Dallas, TX
Denver, CO
Detroit, MI
Grand Rapids, MI
Guaynabo, PR
Honolulu, HI
Houston, TX
Kansas City, MO
Las Vegas, NV
Los Angeles, CA
Miami (Ft. Lauderdale), FL
Milwaukee, WI
Minneapolis, MN
Nashville, TN
New Haven, CT
New Orleans, LA
New York, NY
Newark (Iselin), NJ
Philadelphia, PA
Pittsburgh, PA
St. Louis, MO
San Francisco, CA
Seattle, WA
Tampa, FL
Washington, DC

Consult local telephone directory listings under United States Government, Labor Department, Office of Labor- Management Standards, for the address and telephone number of the nearest field office. Copies of labor organization annual financial reports, employer reports, labor relations consultant reports, and union officer and employee reports filed for the year 2000 and after can be viewed and printed at http://www.unionreports.dol.gov.

Copies of reports for the year 1999 and earlier can be ordered through the Web site. Information about OLMS, including key personnel and telephone numbers, compliance assistance materials, the text of the LMRDA, and related Federal Register and Code of Federal Regulations (CFR) documents, is also available on the Internet at: http://www.olms.dol.gov.

For questions on Form LM-30 and/or the instructions, call the Department of Labor's toll-free number at: 1-866-4-USA-DOL (1-866-487-2365) or email olms-public@dol.gov.

If you would like to receive via email periodic updates from the Office of Labor-Management Standards, including information about the LM forms, enforcement results, and compliance assistance programs, you may subscribe to the OLMS Mailing List from the OLMS Web site: http://www.olms.dol.gov.

All terms in italics are defined in Part III of these instructions (pages 9-13).

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Federal Register

Monday,
July 2, 2007

Part III

Department of the Treasury

Fiscal Service

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies; Notice

DEPARTMENT OF THE TREASURY
FINANCIAL MANAGEMENT SERVICE
HYATTSVILLE, MD 20782

4810-35

DEPARTMENT OF THE TREASURY

FISCAL SERVICE
(Dept. Circular 570; 2007 Revision)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 2007

This Circular is published annually, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and interim changes may be obtained directly from the internet or from the Government Printing Office (202) 512-1800. (Interim changes are published in the FEDERAL REGISTER and on the internet as they occur). Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F01, Hyattsville, MD 20782, Telephone (202) 874-6850 or Fax (202) 874-9978.

The most current list of Treasury authorized companies is always available through the Internet at **www.fms.treas.gov/c570**. In addition, applicable laws, regulations, and application information are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10-11. Please refer to footnote (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874-6850.

Janice P. Lucas
Assistant Commissioner
Financial Operations
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

Acadia Insurance Company (NAIC #31325)
BUSINESS ADDRESS: P.O. Box 9010, Westbrook, ME 04098 - 5010. PHONE: (207) 772-4300. UNDERWRITING LIMITATION b/: $5,930,000. SURETY LICENSES c,f/: AZ, AR, CO, CT, DE, DC, GA, KY, ME, MD, MA, MS, NH, NM, NY, OK, PA, RI, SC, TN, TX, UT, VT, VA. INCORPORATED IN: Maine.

ACCREDITED SURETY AND CASUALTY COMPANY, INC. (NAIC #26379)
BUSINESS ADDRESS: P.O. Box 2067, Winter Park, FL 32790 - 2067. PHONE: (407) 629-2131. UNDERWRITING LIMITATION b/: $2,139,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY (NAIC #22950)
BUSINESS ADDRESS: P.O. BOX 2350, NEW BRITAIN, CT 06050 - 2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION b/: $3,168,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company (NAIC #33898)
BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657-9671 x-3051. UNDERWRITING LIMITATION b/: $3,629,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ALL AMERICA INSURANCE COMPANY (NAIC #20222)
BUSINESS ADDRESS: P.O. BOX 351, VAN WERT, OH 45891 - 0351. PHONE: (419) 238-5551 x-2350. UNDERWRITING LIMITATION b/: $8,964,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

Allegheny Casualty Company (NAIC #13285)
BUSINESS ADDRESS: PO Box 1116, Meadville, PA 16335 - 7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION b/: $1,503,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NV, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See footnotes and notes at the end of this Circular.

ALLIED Property and Casualty Insurance Company (NAIC #42579)
BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., DSPF-76, COLUMBUS, OH 43215 - 2220. PHONE: (515) 508-4211. UNDERWRITING LIMITATION b/: $9,016,000. SURETY LICENSES c,f/: AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, NC, ND, OH, OR, PA, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

AMCO Insurance Company (NAIC #19100)
BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., DSPF-76, COLUMBUS, OH 43215 - 2220. PHONE: (515) 508-4211. UNDERWRITING LIMITATION b/: $47,957,000. SURETY LICENSES c,f/: AZ, CA, CO, DE, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALTERNATIVE INSURANCE CORPORATION (NAIC #19720)
BUSINESS ADDRESS: 555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: $13,947,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company (NAIC #21849)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $16,192,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA (NAIC #10111)
BUSINESS ADDRESS: 11222 QUAIL ROOST DRIVE, MIAMI, FL 33157. PHONE: (305) 253-2244 x-35611. UNDERWRITING LIMITATION b/: $33,640,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

See footnotes and notes at the end of this Circular.

American Casualty Company of Reading, Pennsylvania (NAIC #20427)
BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $11,433,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC #10216) 1
BUSINESS ADDRESS: 9841 Airport Boulevard, 9th Floor, Los Angeles, CA 90045. PHONE: (310) 649-0990. UNDERWRITING LIMITATION b/: $5,091,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

American Economy Insurance Company (NAIC #19690)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $52,879,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Fire and Casualty Company (NAIC #24066)
BUSINESS ADDRESS: 9450 Seward Road, Fairfield, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $3,782,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company (NAIC #26247)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196 - 1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $14,597,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Hardware Mutual Insurance Company (NAIC #13331)
BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (800) 922-6757. UNDERWRITING LIMITATION b/: $11,913,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See footnotes and notes at the end of this Circular.

American Home Assurance Company (NAIC #19380)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7007. UNDERWRITING LIMITATION b/: $621,185,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The) (NAIC #21857)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $56,457,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

American International Pacific Insurance Company (NAIC #23795)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7007. UNDERWRITING LIMITATION b/: $3,161,000. SURETY LICENSES c,f/: AK, CO, CT, DC, IA, ME, MD, MA, MS, MT, NE, NH, ND, RI, SD, UT, VT, WV, WY. INCORPORATED IN: Colorado.

American Re-Insurance Company (NAIC #10227) 2

AMERICAN RELIABLE INSURANCE COMPANY (NAIC #19615)
BUSINESS ADDRESS: 8655 EAST VIA DE VENTURA, STE E200, SCOTTSDALE, AZ 85258. PHONE: (480) 483-8666. UNDERWRITING LIMITATION b/: $8,756,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

AMERICAN ROAD INSURANCE COMPANY (THE) (NAIC #19631)
BUSINESS ADDRESS: One American Road, MD 7600, Dearborn, MI 48126 - 2701. PHONE: (313) 594-1914. UNDERWRITING LIMITATION b/: $39,952,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

See footnotes and notes at the end of this Circular.

American Safety Casualty Insurance Company (NAIC #39969) 3
BUSINESS ADDRESS: 100 Galleria Pkwy, S.E. Suite 700, Atlanta, GA 30339. PHONE: (770) 916-1908. UNDERWRITING LIMITATION b/: $7,048,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

American Southern Insurance Company (NAIC #10235)
BUSINESS ADDRESS: P O Box 723030, Atlanta, GA 31139 - 0030. PHONE: (404) 266-9599 x-134. UNDERWRITING LIMITATION b/: $3,494,000. SURETY LICENSES c,f/: AL, AZ, AR, DE, DC, FL, GA, IL, IN, KS, KY, MD, MN, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, UT, VA, WA, WV, WY. INCORPORATED IN: Kansas.

American States Insurance Company (NAIC #19704)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $77,071,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety Company (NAIC #31380)
BUSINESS ADDRESS: 3905 Vincennes Road, Suite 200, Indianapolis, IN 46268. PHONE: (317) 875-8700. UNDERWRITING LIMITATION b/: $1,132,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Indiana.

Amerisure Mutual Insurance Company (NAIC #23396)
BUSINESS ADDRESS: P. O. Box 2060, Farmington Hills, MI 48333 - 2060. PHONE: (248) 615-9000. UNDERWRITING LIMITATION b/: $54,589,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Antilles Insurance Company (NAIC #10308)
BUSINESS ADDRESS: PO Box 9023507, San Juan, PR 00902 - 3507. PHONE: (787) 474-4900. UNDERWRITING LIMITATION b/: $4,323,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

See footnotes and notes at the end of this Circular.

Arch Insurance Company (NAIC #11150)
BUSINESS ADDRESS: ONE LIBERTY PLAZA, 53RD FLOOR, NEW YORK, NY 10006. PHONE: (203) 388-3300. UNDERWRITING LIMITATION b/: $51,892,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Arch Reinsurance Company (NAIC #10348)
BUSINESS ADDRESS: 360 Mt. Kemble Avenue, P.O. Box 1988, Morristown, NJ 07962 - 1988. PHONE: (973) 889-6467. UNDERWRITING LIMITATION b/: $22,128,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV. INCORPORATED IN: Nebraska.

Associated Indemnity Corporation (NAIC #21865)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $6,543,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: California.

Atlantic Bonding Company, Inc. (NAIC #41114)
BUSINESS ADDRESS: 1726 Reisterstown Rd, Ste 212, Pikesville, MD 21208. PHONE: (410) 484-3100. UNDERWRITING LIMITATION b/: $1,043,000. SURETY LICENSES c,f/: MD. INCORPORATED IN: Maryland.

Auto-Owners Insurance Company (NAIC #18988)
BUSINESS ADDRESS: P.O. BOX 30660, LANSING, MI 48909 - 8160. PHONE: (517) 323-1200. UNDERWRITING LIMITATION b/: $484,574,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, UT, VA, WA, WI. INCORPORATED IN: Michigan.

Bankers Insurance Company (NAIC #33162)
BUSINESS ADDRESS: P.O. BOX 15707, ST. PETERSBURG, FL 33733. PHONE: (727) 823-4000 x-4908. UNDERWRITING LIMITATION b/: $4,364,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IN, IA, KS, LA, MD, MS, MO, MT, NV, NC, OH, PA, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: Florida.

See footnotes and notes at the end of this Circular.

Beazley Insurance Company, Inc. (NAIC #37540)
BUSINESS ADDRESS: 30 Batterson Park Road, Farmington, CT 06032. PHONE: (860) 677-3700. UNDERWRITING LIMITATION b/: $6,015,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, PA, RI, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Berkley Insurance Company (NAIC #32603)
BUSINESS ADDRESS: 475 STEAMBOAT ROAD, GREENWICH, CT 06830. PHONE: (203) 542-3800. UNDERWRITING LIMITATION b/: $151,376,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DE, DC, FL, ID, IL, IN, IA, KY, LA, MD, MI, MN, MS, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WI. INCORPORATED IN: Delaware.

Berkley Regional Insurance Company (NAIC #29580)
BUSINESS ADDRESS: 11201 Douglas, Urbandale, IA 50322. PHONE: (203) 629-3000. UNDERWRITING LIMITATION b/: $56,105,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

BITUMINOUS CASUALTY CORPORATION (NAIC #20095)
BUSINESS ADDRESS: 320 - 18TH STREET, ROCK ISLAND, IL 61201 - 8744. PHONE: (309) 732-0300. UNDERWRITING LIMITATION b/: $26,138,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY (NAIC #27081)
BUSINESS ADDRESS: 10002 Shelbyville Road, Suite 100, Louisville, KY 40223. PHONE: (630) 495-9380. UNDERWRITING LIMITATION b/: $1,696,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NV, NJ, NM, NC, ND, OH, OK, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BRITISH AMERICAN INSURANCE COMPANY (NAIC #32875)
BUSINESS ADDRESS: P.O. Box 1590, Dallas, TX 75221 - 1590. PHONE: (214) 443-5500. UNDERWRITING LIMITATION b/: $3,126,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

See footnotes and notes at the end of this Circular.

Capital City Insurance Company, Inc. (NAIC #30589)
BUSINESS ADDRESS: P. O. Box 212157, Columbia, SC 29221 - 2157. PHONE: (803) 731-7728. UNDERWRITING LIMITATION b/: $3,659,000. SURETY LICENSES c,f/: AL, AR, FL, GA, IL, KY, LA, ME, MD, MS, MO, NC, OK, PA, SC, TN, TX, VA, WV. INCORPORATED IN: S. Carolina.

Capitol Indemnity Corporation (NAIC #10472)
BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705 - 0900. PHONE: (608) 829-4810. UNDERWRITING LIMITATION b/: $18,131,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Carolina Casualty Insurance Company (NAIC #10510)
BUSINESS ADDRESS: P. O. BOX 2575, JACKSONVILLE, FL 32203 - 2575. PHONE: (904) 363-0900. UNDERWRITING LIMITATION b/: $26,073,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Centennial Casualty Company (NAIC #34568)
BUSINESS ADDRESS: 2200 Woodcrest Place, Suite 200, Birmingham, AL 35209. PHONE: (205) 877-4500. UNDERWRITING LIMITATION b/: $4,872,000. SURETY LICENSES c,f/: AL. INCORPORATED IN: Alabama.

CENTRAL MUTUAL INSURANCE COMPANY (NAIC #20230)
BUSINESS ADDRESS: 800 SOUTH WASHINGTON STREET, VAN WERT, OH 45891. PHONE: (419) 238-5551 x-2350. UNDERWRITING LIMITATION b/: $37,857,000. SURETY LICENSES c,f/: AZ, CA, CO, CT, DE, GA, IL, IN, IA, KY, MA, MI, NV, NH, NJ, NM, NY, NC, OH, OK, PA, TN, TX, VA. INCORPORATED IN: Ohio.

CENTURY SURETY COMPANY (NAIC #36951)
BUSINESS ADDRESS: P.O. BOX 163340, Columbus, OH 43216 - 3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION b/: $13,751,000. SURETY LICENSES c,f/: AZ, IN, OH, WV, WI. INCORPORATED IN: Ohio.

See footnotes and notes at the end of this Circular.

Cherokee Insurance Company (NAIC #10642)
BUSINESS ADDRESS: 34200 Mound Road, Sterling Heights, MI 48310. PHONE: (800) 201-0450. UNDERWRITING LIMITATION b/: $7,822,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, GA, IL, IN, IA, KS, KY, MD, MA, MI, MS, MO, NV, NJ, NM, NY, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: Michigan.

CHUBB INDEMNITY INSURANCE COMPANY (NAIC #12777)
BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615 , Warren , NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $5,393,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Cincinnati Casualty Company (The) (NAIC #28665)
BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250 - 5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION b/: $28,146,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The) (NAIC #10677)
BUSINESS ADDRESS: P.O. BOX 145496, CINCINNATI, OH 45250 - 5496. PHONE: (513) 870-2604. UNDERWRITING LIMITATION b/: $444,191,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

CITIZENS INSURANCE COMPANY OF AMERICA (NAIC #31534)
BUSINESS ADDRESS: 645 W. Grand River Avenue, Howell, MI 48843. PHONE: (508) 853-7200 x-2075. UNDERWRITING LIMITATION b/: $73,683,000. SURETY LICENSES c,f/: AL, GA, IL, IN, KS, ME, MA, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, WI. INCORPORATED IN: Michigan.

Clearwater Insurance Company (NAIC #25070)
BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977-8024. UNDERWRITING LIMITATION b/: $54,498,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, MD, MI, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

See footnotes and notes at the end of this Circular.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY (NAIC #34347)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196 - 1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $2,324,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY (NAIC #10758)
BUSINESS ADDRESS: 50 Chestnut Ridge Road , Montvale , NJ 07645. PHONE: (201) 573-8788. UNDERWRITING LIMITATION b/: $873,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

COMPANION PROPERTY AND CASUALTY INSURANCE COMPANY (NAIC #12157)
BUSINESS ADDRESS: P.O. Box 100165, Columbia, SC 29202. PHONE: (803) 735-0672. UNDERWRITING LIMITATION b/: $11,244,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NE, NV, NH, NJ, NC, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: S. Carolina.

Consolidated Insurance Company (NAIC #22640)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $2,249,000. SURETY LICENSES c,f/: IL, IN, IA, KY, MI, MN, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Continental Casualty Company (NAIC #20443)
BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $528,726,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

CONTINENTAL HERITAGE INSURANCE COMPANY (NAIC #39551)
BUSINESS ADDRESS: 2800 CORPORATE EXCHANGE DR, STE 130, COLUMBUS, OH 43231 - 1666. PHONE: (614) 839-1800. UNDERWRITING LIMITATION b/: $682,000. SURETY LICENSES c,f/: AZ, CA, FL, ID, IL, IN, IA, LA, MS, ND, OH, PA, SC, TN, TX, VA. INCORPORATED IN: Ohio.

See footnotes and notes at the end of this Circular.

Continental Insurance Company (The) (NAIC #35289)
BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $182,040,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

CONTRACTORS BONDING AND INSURANCE COMPANY (NAIC #37206)
BUSINESS ADDRESS: P.O. BOX 9271, SEATTLE, WA 98109 - 0271. PHONE: (206) 628-7200. UNDERWRITING LIMITATION b/: $7,253,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico (NAIC #18163)
BUSINESS ADDRESS: P O BOX 363846, SAN JUAN, PR 00936 - 3846. PHONE: (787) 622-8585 x-2512. UNDERWRITING LIMITATION b/: $22,216,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

CUMIS INSURANCE SOCIETY, INC. (NAIC #10847)
BUSINESS ADDRESS: P. O. Box 1084, Madison, WI 53701. PHONE: (608) 238-5851. UNDERWRITING LIMITATION b/: $46,089,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DaimlerChrysler Insurance Company (NAIC #10499)
BUSINESS ADDRESS: CIMS:405-26-10, P.O. Box 9217, Farmington Hills, MI 48333 - 9217. PHONE: (800) 782-9164. UNDERWRITING LIMITATION b/: $18,465,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Developers Surety and Indemnity Company (NAIC #12718)
BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623 - 9725. PHONE: (800) 782-1546. UNDERWRITING LIMITATION b/: $4,257,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

See footnotes and notes at the end of this Circular.

Employers Insurance Company of Wausau (NAIC #21458)
BUSINESS ADDRESS: Post Office Box 8017, Wausau, WI 54402 - 8017. PHONE: (715) 845-5211 x-6570. UNDERWRITING LIMITATION b/: $120,837,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company (NAIC #21415)
BUSINESS ADDRESS: P. O. BOX 712, DES MOINES, IA 50303 - 0712. PHONE: (515) 345-7589. UNDERWRITING LIMITATION b/: $79,109,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Reinsurance Corporation (NAIC #39845)
BUSINESS ADDRESS: P.O. BOX 2991, OVERLAND PARK, KS 66201 - 1391. PHONE: (913) 676-5200. UNDERWRITING LIMITATION b/: $332,243,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Endurance Reinsurance Corporation of America (NAIC #11551)
BUSINESS ADDRESS: 333 Westchester Avenue, White Plains, NY 10604. PHONE: (914) 468-8000. UNDERWRITING LIMITATION b/: $57,135,000. SURETY LICENSES c,f/: AZ, CA, DE, DC, GA, ID, IN, KS, MD, MA, MI, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, PR, SC, SD, TX, UT, WV. INCORPORATED IN: New York.

Erie Insurance Company (NAIC #26263)
BUSINESS ADDRESS: 100 ERIE INSURANCE PLACE, ERIE, PA 16530. PHONE: (814) 870-2000. UNDERWRITING LIMITATION b/: $18,628,000. SURETY LICENSES c,f/: DC, IL, IN, KY, MD, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company (NAIC #26921)
BUSINESS ADDRESS: P.O. Box 830, Liberty Corner, NJ 07938 - 0830. PHONE: (800) 438-4375. UNDERWRITING LIMITATION b/: $270,412,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

See footnotes and notes at the end of this Circular.

Evergreen National Indemnity Company (NAIC #12750)
BUSINESS ADDRESS: 2800 CORPORATE EXCHANGE DR, STE 130, COLUMBUS, OH 43231 - 1666. PHONE: (614) 839-1800. UNDERWRITING LIMITATION b/: $2,438,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Excelsior Insurance Company (NAIC #11045)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $4,105,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, IN, KY, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, VA. INCORPORATED IN: New Hampshire.

Executive Risk Indemnity Inc. (NAIC #35181)
BUSINESS ADDRESS: 15 MOUNTAIN VIEW ROAD, P.O. BOX 1615, WARREN, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $81,015,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Explorer Insurance Company (NAIC #40029)
BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186 - 5563. PHONE: (858) 350-2400 x-2634. UNDERWRITING LIMITATION b/: $3,564,000. SURETY LICENSES c,f/: AZ, CA, CO, HI, ID, IL, IN, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: California.

Farmers Alliance Mutual Insurance Company (NAIC #19194)
BUSINESS ADDRESS: 1122 North Main Street, McPherson, KS 67460. PHONE: (620) 241-2200. UNDERWRITING LIMITATION b/: $13,780,000. SURETY LICENSES c,f/: AZ, CO, ID, IN, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company (NAIC #41483)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $24,071,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See footnotes and notes at the end of this Circular.

Farmland Mutual Insurance Company (NAIC #13838)
BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., DSPF-76, COLUMBUS, OH 43215 - 2220. PHONE: (515) 508-3300. UNDERWRITING LIMITATION b/: $14,092,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Federal Insurance Company (NAIC #20281)
BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $1,041,268,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY (NAIC #13935)
BUSINESS ADDRESS: 121 EAST PARK SQUARE, OWATONNA, MN 55060. PHONE: (888) 333-4949. UNDERWRITING LIMITATION b/: $159,090,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Deposit Company of Maryland (NAIC #39306)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196 - 1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $17,152,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY (NAIC #35386)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $1,958,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

See footnotes and notes at the end of this Circular.

Fidelity and Guaranty Insurance Underwriters, Inc. (NAIC #25879)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $3,140,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Fidelity National Property and Casualty Insurance Company (NAIC #16578)
BUSINESS ADDRESS: 601 Riverside Ave., Bldg. 5, Suite 200, Jacksonville, FL 32204. PHONE: (904) 997-7310. UNDERWRITING LIMITATION b/: $6,180,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Financial Pacific Insurance Company (NAIC #31453)
BUSINESS ADDRESS: P.O. Box 292220, Sacramento, CA 95829 - 2220. PHONE: (916) 630-5000. UNDERWRITING LIMITATION b/: $5,623,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WV, WI. INCORPORATED IN: California.

Fireman's Fund Insurance Company (NAIC #21873)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $303,263,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

First Founders Assurance Company (NAIC #12150)
BUSINESS ADDRESS: 6 Mill Ridge Lane, Chester, NJ 07930. PHONE: (908) 879-0990. UNDERWRITING LIMITATION b/: $241,000. SURETY LICENSES c,f/: NJ. INCORPORATED IN: New Jersey.

First Insurance Company of Hawaii, Ltd. (NAIC #41742)
BUSINESS ADDRESS: P.O. Box 2866, Honolulu, HI 96803. PHONE: (808) 527-7777. UNDERWRITING LIMITATION b/: $18,332,000. SURETY LICENSES c,f/: GU, HI. INCORPORATED IN: Hawaii.

See footnotes and notes at the end of this Circular.

First Liberty Insurance Corporation (The) (NAIC #33588)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $2,101,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

First National Insurance Company of America (NAIC #24724)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $7,759,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

First Sealord Surety, Inc. (NAIC #28519)
BUSINESS ADDRESS: 789 East Lancaster Avenue, Suite 200, PO Box 900, Villanova, PA 19085. PHONE: (610) 664-2259. UNDERWRITING LIMITATION b/: $1,003,000. SURETY LICENSES c,f/: AL, AK, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MS, MO, NJ, NY, NC, OH, OR, PA, SC, TN, TX, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

FOLKSAMERICA REINSURANCE COMPANY (NAIC #38776)
BUSINESS ADDRESS: ONE LIBERTY PLAZA - 19TH FLOOR, NEW YORK, NY 10006 - 1404. PHONE: (212) 312-2500. UNDERWRITING LIMITATION b/: $115,328,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, TX, UT, VA, WA, WI. INCORPORATED IN: New York.

General Insurance Company of America (NAIC #24732)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $87,660,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

See footnotes and notes at the end of this Circular.

General Reinsurance Corporation (NAIC #22039)
BUSINESS ADDRESS: Financial Centre, P.O.Box 10350, Stamford, CT 06904 - 2350. PHONE: (203) 328-6463. UNDERWRITING LIMITATION b/: $869,218,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Global Surety & Insurance Co. (NAIC #11304)
BUSINESS ADDRESS: 3555 FARNAM STREET, OMAHA, NE 68131. PHONE: (402) 271-2840. UNDERWRITING LIMITATION b/: $7,502,000. SURETY LICENSES c,f/: AZ, CA, CO, NE, WY. INCORPORATED IN: Nebraska.

GRANITE RE, INC. (NAIC #26310)
BUSINESS ADDRESS: 14001 Quailbrook Drive, Oklahoma City, OK 73134. PHONE: (800) 440-5953. UNDERWRITING LIMITATION b/: $926,000. SURETY LICENSES c,f/: AZ, AR, CO, IL, IA, KS, MN, MS, MO, MT, NE, NM, ND, OK, SD, TN, WI, WY. INCORPORATED IN: Oklahoma.

Granite State Insurance Company (NAIC #23809)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7007. UNDERWRITING LIMITATION b/: $3,217,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

GRAY CASUALTY & SURETY COMPANY (THE) (NAIC #10671)
BUSINESS ADDRESS: P.O. Box 6202, Metairie, LA 70009 - 6202. PHONE: (504) 888-7790. UNDERWRITING LIMITATION b/: $1,253,000. SURETY LICENSES c,f/: AL, AR, GA, LA, MS, NM, OK, SC, TN, TX. INCORPORATED IN: Louisiana.

GRAY INSURANCE COMPANY (THE) (NAIC #36307)
BUSINESS ADDRESS: P.O. BOX 6202, METAIRIE, LA 70009 - 6202. PHONE: (504) 888-7790. UNDERWRITING LIMITATION b/: $9,654,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Louisiana.

See footnotes and notes at the end of this Circular.

Great American Alliance Insurance Company (NAIC #26832)
BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (800) 972-3008. UNDERWRITING LIMITATION b/: $2,577,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great American Insurance Company (NAIC #16691)
BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (800) 972-3008. UNDERWRITING LIMITATION b/: $160,264,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK (NAIC #22136)
BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (800) 972-3008. UNDERWRITING LIMITATION b/: $5,500,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Great Northern Insurance Company (NAIC #20303)
BUSINESS ADDRESS: 15 MOUNTAIN VIEW ROAD, P.O. BOX 1615, WARREN, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $35,127,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Greenwich Insurance Company (NAIC #22322)
BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902 - 6040. PHONE: (203) 964-3466. UNDERWRITING LIMITATION b/: $35,558,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

See footnotes and notes at the end of this Circular.

Guarantee Company of North America USA (The) (NAIC #36650)
BUSINESS ADDRESS: 25800 Northwestern Highway, Suite 720, Southfield, MI 48075 - 8410. PHONE: (248) 281-0281 x-1008. UNDERWRITING LIMITATION b/: $5,462,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Hanover Insurance Company (The) (NAIC #22292)
BUSINESS ADDRESS: 440 Lincoln Street, Worcester, MA 01653. PHONE: (508) 853-7200 x-2075. UNDERWRITING LIMITATION b/: $72,720,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY (NAIC #26433)
BUSINESS ADDRESS: P.O. Box 68309, Schaumburg, IL 60168 - 0309. PHONE: (847) 321-4800. UNDERWRITING LIMITATION b/: $19,180,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Mutual Insurance Company (NAIC #14168)
BUSINESS ADDRESS: 355 Maple Avenue , Harleysville , PA 19438 - 2297. PHONE: (215) 256-5470. UNDERWRITING LIMITATION b/: $59,497,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Harleysville Worcester Insurance Company (NAIC #26182) 4
BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438 - 2297. PHONE: (215) 256-5470. UNDERWRITING LIMITATION b/: $13,315,000. SURETY LICENSES c,f/: CT, ME, MA, MI, NH, NY, RI, VT. INCORPORATED IN: Pennsylvania.

Hartford Accident and Indemnity Company (NAIC #22357)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $287,279,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See footnotes and notes at the end of this Circular.

Hartford Casualty Insurance Company (NAIC #29424)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $90,520,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company (NAIC #19682)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $1,302,086,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois (NAIC #38288)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $143,209,000. SURETY LICENSES c,f/: CT, HI, IL, MI, NY, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest (NAIC #37478)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $18,993,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast (NAIC #38261)
BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-4497. UNDERWRITING LIMITATION b/: $7,483,000. SURETY LICENSES c,f/: CT, FL, GA, KS, LA, MI, PA. INCORPORATED IN: Connecticut.

Hudson Insurance Company (NAIC #25054)
BUSINESS ADDRESS: 17 State Street, 29th Floor, New York, NY 10004. PHONE: (212) 978-2851. UNDERWRITING LIMITATION b/: $11,542,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MT, NE, NV, NJ, NM, NY, OH, OK, OR, PA, SD, TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Delaware.

See footnotes and notes at the end of this Circular.

IMT Insurance Company (NAIC #14257) 5
BUSINESS ADDRESS: P.O. Box 1336, Des Moines, IA 50305 - 1336. PHONE: (515) 327-2755. UNDERWRITING LIMITATION b/: $10,228,000. SURETY LICENSES c,f/: IL, IN, IA, MO, NE, SD, WI. INCORPORATED IN: Iowa.

Indemnity Company of California (NAIC #25550)
BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623 - 9725. PHONE: (800) 782-1546. UNDERWRITING LIMITATION b/: $1,055,000. SURETY LICENSES c,f/: AK, AZ, CA, HI, ID, IN, NV, OR, SC, UT, VA, WA. INCORPORATED IN: California.

Indemnity National Insurance Company (NAIC #18468)
BUSINESS ADDRESS: 4800 Old Kingston Pike, Knoxville, TN 37919. PHONE: (865) 934-4360. UNDERWRITING LIMITATION b/: $1,272,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, GA, KY, LA, MS, NV, NM, OK, SC, TN, TX, UT. INCORPORATED IN: Mississippi.

Independence Casualty and Surety Company (NAIC #10024)
BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186 - 5563. PHONE: (858) 350-2400. UNDERWRITING LIMITATION b/: $2,452,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Indiana Insurance Company (NAIC #22659)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $24,627,000. SURETY LICENSES c,f/: FL, IL, IN, IA, KY, MI, MN, NJ, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Indiana Lumbermens Mutual Insurance Company (NAIC #14265)
BUSINESS ADDRESS: 3600 Woodview Trace, Indianapolis, IN 46268. PHONE: (317) 875-3710. UNDERWRITING LIMITATION b/: $4,222,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

See footnotes and notes at the end of this Circular.

Inland Insurance Company (NAIC #23264)
BUSINESS ADDRESS: P.O. Box 80468 , Lincoln , NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $13,143,000. SURETY LICENSES c,f/: AZ, CO, IA, KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of the State of Pennsylvania (The) (NAIC #19429)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7007. UNDERWRITING LIMITATION b/: $81,946,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West (NAIC #27847)
BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186 - 5563. PHONE: (858) 350-2400 x-2634. UNDERWRITING LIMITATION b/: $42,878,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurors Indemnity Company (NAIC #43273)
BUSINESS ADDRESS: P.O. Box 2683 , Waco , TX 76702 - 2683. PHONE: (254) 759-3727. UNDERWRITING LIMITATION b/: $539,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY (NAIC #26778)
BUSINESS ADDRESS: PO Box 70128 , San Juan , PR 00936 - 8128. PHONE: (787) 781-0707. UNDERWRITING LIMITATION b/: $6,241,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

International Business & Mercantile REassurance Company (NAIC #24139) 6

See footnotes and notes at the end of this Circular.

International Fidelity Insurance Company (NAIC #11592) 7
BUSINESS ADDRESS: One Newark Center , Newark , NJ 07102 - 5207. PHONE: (973) 624-7200. UNDERWRITING LIMITATION b/: $7,325,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED (NAIC #22845)
BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806 - 1520. PHONE: (808) 564-8200. UNDERWRITING LIMITATION b/: $12,549,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

Kansas Bankers Surety Company (The) (NAIC #15962)
BUSINESS ADDRESS: P. O. Box 1654, TOPEKA, KS 66601 - 1654. PHONE: (785) 228-0000. UNDERWRITING LIMITATION b/: $12,926,000. SURETY LICENSES c,f/: AZ, AR, CO, DE, GA, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NH, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

Lexington Insurance Company (NAIC #19437)
BUSINESS ADDRESS: 100 Summer Street, Boston, MA 02110. PHONE: (212) 458-7007. UNDERWRITING LIMITATION b/: $351,165,000. SURETY LICENSES c,f/: DE. INCORPORATED IN: Delaware.

LEXINGTON NATIONAL INSURANCE CORPORATION (NAIC #37940)
BUSINESS ADDRESS: 200 East Lexington Street, Suite 501, Baltimore, MD 21202. PHONE: (410) 625-0800. UNDERWRITING LIMITATION b/: $1,006,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Maryland.

Lexon Insurance Company (NAIC #13307)
BUSINESS ADDRESS: 10002 Shelbyville Rd, Suite 100, Louisville, KY 40223. PHONE: (502) 253-6568. UNDERWRITING LIMITATION b/: $3,731,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

See footnotes and notes at the end of this Circular.

Liberty Insurance Corporation (NAIC #42404)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $32,968,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Liberty Mutual Fire Insurance Company (NAIC #23035)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $91,353,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Liberty Mutual Insurance Company (NAIC #23043)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $799,700,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Lincoln General Insurance Company (NAIC #33855)
BUSINESS ADDRESS: P.O. BOX 3709, YORK, PA 17402 - 0136. PHONE: (847) 700-8500. UNDERWRITING LIMITATION b/: $13,320,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

LM Insurance Corporation (NAIC #33600)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500 x-41015. UNDERWRITING LIMITATION b/: $1,898,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

See footnotes and notes at the end of this Circular.

Lyndon Property Insurance Company (NAIC #35769)
BUSINESS ADDRESS: 14755 North Outer Forty Rd., Suite 400, St. Louis, MO 63017. PHONE: (800) 950-6060. UNDERWRITING LIMITATION b/: $12,513,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Madison Insurance Company (NAIC #10702)
BUSINESS ADDRESS: 303 PEACHTREE STREET NE, SUITE 700, ATLANTA, GA 30308. PHONE: (404) 588-7595. UNDERWRITING LIMITATION b/: $7,930,000. SURETY LICENSES c,f/: DC, FL, GA, MD, TN, VA. INCORPORATED IN: Georgia.

MARKEL INSURANCE COMPANY (NAIC #38970)
BUSINESS ADDRESS: 4600 Cox Road, Glen Allen, VA 23060. PHONE: (800) 431-1270. UNDERWRITING LIMITATION b/: $13,019,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company (NAIC #22306)
BUSINESS ADDRESS: 440 Lincoln Street, Worcester, MA 01653. PHONE: (508) 853-7200 x-2075. UNDERWRITING LIMITATION b/: $2,190,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual) (NAIC #14494)
BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321 - 1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: $4,358,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company (NAIC #14508)
BUSINESS ADDRESS: P. O. Box 30060, Lansing, MI 48909 - 7560. PHONE: (517) 482-6211 x-252. UNDERWRITING LIMITATION b/: $12,893,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NY, NC, ND, OH, OK, OR, PA, SD, TN, VA, WA, WI. INCORPORATED IN: Michigan.

See footnotes and notes at the end of this Circular.

Mid-Century Insurance Company (NAIC #21687)
BUSINESS ADDRESS: P.O. Box 2478 Terminal Annex, Los Angeles, CA 90051. PHONE: (805) 583-7000. UNDERWRITING LIMITATION b/: $61,060,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: California.

MID-CONTINENT CASUALTY COMPANY (NAIC #23418)
BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $28,205,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Oklahoma.

MIDWESTERN INDEMNITY COMPANY (THE) (NAIC #23515) 8
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $1,499,000. SURETY LICENSES c,f/: AL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI. INCORPORATED IN: Ohio.

Minnesota Surety and Trust Company (NAIC #30996)
BUSINESS ADDRESS: PO Box 463, Austin, MN 55912. PHONE: (507) 437-3231. UNDERWRITING LIMITATION b/: $134,000. SURETY LICENSES c,f/: CO, MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

Motorists Mutual Insurance Company (NAIC #14621)
BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (800) 876-6642. UNDERWRITING LIMITATION b/: $49,991,000. SURETY LICENSES c,f/: IN, KY, MI, OH, PA, WV. INCORPORATED IN: Ohio.

Motors Insurance Corporation (NAIC #22012)
BUSINESS ADDRESS: 300 GALLERIA OFFICENTRE, SOUTHFIELD, MI 48034. PHONE: (248) 263-6900. UNDERWRITING LIMITATION b/: $281,215,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

See footnotes and notes at the end of this Circular.

Munich Reinsurance America, Inc. (NAIC #10227) 2
BUSINESS ADDRESS: 555 COLLEGE ROAD EAST - P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: $367,574,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

National American Insurance Company (NAIC #23663)
BUSINESS ADDRESS: P.O. Box 9 , Chandler , OK 74834. PHONE: (405) 258-0804. UNDERWRITING LIMITATION b/: $5,166,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

NATIONAL FARMERS UNION PROPERTY AND CASUALTY COMPANY (NAIC #16217)
BUSINESS ADDRESS: 5619 DTC PARKWAY, SUITE 300, GREENWOOD VILLAGE, CO 80111 - 3136. PHONE: (303) 338-2904. UNDERWRITING LIMITATION b/: $11,618,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Colorado.

National Fire Insurance Company of Hartford (NAIC #20478)
BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (877) 262-2727. UNDERWRITING LIMITATION b/: $17,706,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Indemnity Company (NAIC #20087)
BUSINESS ADDRESS: 3024 Harney Street , Omaha , NE 68131 - 3580. PHONE: (402) 536-3000. UNDERWRITING LIMITATION b/: $3,556,257,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

See footnotes and notes at the end of this Circular.

National Surety Corporation (NAIC #21881)
BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (800) 243-9622. UNDERWRITING LIMITATION b/: $18,969,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA (NAIC #19445)
BUSINESS ADDRESS: 70 PINE STREET, NEW YORK, NY 10270. PHONE: (212) 458-7007. UNDERWRITING LIMITATION b/: $796,206,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NATIONS BONDING COMPANY (NAIC #11595)
BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321 - 1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: $279,000. SURETY LICENSES c,f/: PA, TX. INCORPORATED IN: Texas.

Nationwide Mutual Insurance Company (NAIC #23787)
BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., DSPF-76, COLUMBUS, OH 43215 - 2220. PHONE: (877) 669-6877. UNDERWRITING LIMITATION b/: $1,023,623,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

NAVIGATORS INSURANCE COMPANY (NAIC #42307)
BUSINESS ADDRESS: 6 International Drive, Rye Brook, NY 10573. PHONE: (914) 934-8999. UNDERWRITING LIMITATION b/: $52,419,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Netherlands Insurance Company (The) (NAIC #24171)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $5,642,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, CT, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NV, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

See footnotes and notes at the end of this Circular.

New Hampshire Insurance Company (NAIC #23841)
BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 458-7007. UNDERWRITING LIMITATION b/: $102,929,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NGM Insurance Company (NAIC #14788)
BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (877) 927-5672. UNDERWRITING LIMITATION b/: $53,497,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY (NAIC #29874)
BUSINESS ADDRESS: 650 ELM STREET, MANCHESTER, NH 03101. PHONE: (603) 644-6600. UNDERWRITING LIMITATION b/: $15,567,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

NORTH POINTE INSURANCE COMPANY (NAIC #27740)
BUSINESS ADDRESS: P.O. Box 2223, Southfield, MI 48037 - 2223. PHONE: (248) 358-1171 x-3146. UNDERWRITING LIMITATION b/: $4,984,000. SURETY LICENSES c,f/: DE, GA, IL, IN, IA, KS, KY, MD, MI, NE, NJ, NY, NC, OH, PA, SD, TN, WV, WY. INCORPORATED IN: Michigan.

NORTHWESTERN PACIFIC INDEMNITY COMPANY (NAIC #20338)
BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615, Warren, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $1,341,000. SURETY LICENSES c,f/: CA, OK, OR, TX, WA. INCORPORATED IN: Oregon.

NOVA Casualty Company (NAIC #42552)
BUSINESS ADDRESS: Suite 1020, 726 Exchange Street, Buffalo, NY 14210. PHONE: (716) 856-3722. UNDERWRITING LIMITATION b/: $5,336,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: New York.

See footnotes and notes at the end of this Circular.

Ohio Casualty Insurance Company (The) (NAIC #24074)
BUSINESS ADDRESS: 9450 Seward Road , Fairfield , OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $82,887,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company (NAIC #24104)
BUSINESS ADDRESS: P. O. Box 5001 , Westfield Center , OH 44251 - 5001. PHONE: (330) 887-0980. UNDERWRITING LIMITATION b/: $116,770,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Indemnity Company (NAIC #26565)
BUSINESS ADDRESS: 250 East Broad Street, 10th Floor , Columbus , OH 43215. PHONE: (614) 220-5207. UNDERWRITING LIMITATION b/: $4,046,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Oklahoma Surety Company (NAIC #23426)
BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $1,077,000. SURETY LICENSES c,f/: AR, KS, LA, OK, TX. INCORPORATED IN: Oklahoma.

OLD DOMINION INSURANCE COMPANY (NAIC #40231)
BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (877) 927-5672. UNDERWRITING LIMITATION b/: $2,534,000. SURETY LICENSES c,f/: DE, FL, GA, MD, SC, VA. INCORPORATED IN: Florida.

Old Republic General Insurance Corporation (NAIC #24139) 6
BUSINESS ADDRESS: 307 NORTH MICHIGAN AVENUE, CHICAGO, IL 60601. PHONE: (312) 346-8100. UNDERWRITING LIMITATION b/: $26,996,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See footnotes and notes at the end of this Circular.

Old Republic Insurance Company (NAIC #24147)
BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601 - 0789. PHONE: (724) 834-5000. UNDERWRITING LIMITATION b/: $84,414,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company (NAIC #40444)
BUSINESS ADDRESS: P.O. BOX 1635, MILWAUKEE, WI 53201. PHONE: (262) 797-2640 x-654. UNDERWRITING LIMITATION b/: $4,279,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

OneBeacon America Insurance Company (NAIC #20621)
BUSINESS ADDRESS: One Beacon Lane, Canton, MA 02021 - 1030. PHONE: (781) 332-8307. UNDERWRITING LIMITATION b/: $52,089,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

OneBeacon Insurance Company (NAIC #21970)
BUSINESS ADDRESS: One Beacon Lane, Canton, MA 02021 - 1030. PHONE: (781) 332-8307. UNDERWRITING LIMITATION b/: $118,233,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pacific Indemnity Company (NAIC #20346)
BUSINESS ADDRESS: 15 MOUNTAIN VIEW ROAD, P.O. BOX 1615, WARREN, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $160,806,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

PACIFIC INDEMNITY INSURANCE COMPANY (NAIC #18380)
BUSINESS ADDRESS: 348 WEST O'BRIEN DRIVE, HAGATNA, GU 96932. PHONE: (671) 472-8834. UNDERWRITING LIMITATION b/: $398,000. SURETY LICENSES c,f/: GU. INCORPORATED IN: Guam.

See footnotes and notes at the end of this Circular.

PARTNER REINSURANCE COMPANY OF THE U.S. (NAIC #38636)
BUSINESS ADDRESS: ONE GREENWICH PLAZA, GREENWICH, CT 06830 - 6352. PHONE: (203) 485-4287. UNDERWRITING LIMITATION b/: $55,541,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, DC, IL, KS, MI, MS, NE, NY, OH, TX, UT, WV. INCORPORATED IN: New York.

PARTNERRE INSURANCE COMPANY OF NEW YORK (NAIC #10006)
BUSINESS ADDRESS: One Greenwich Plaza, Greenwich, CT 06830 - 6352. PHONE: (203) 485-4287. UNDERWRITING LIMITATION b/: $9,713,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DE, DC, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: New York.

Peerless Indemnity Insurance Company (NAIC #18333)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (630) 505-1442. UNDERWRITING LIMITATION b/: $16,812,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, GA, IL, IN, IA, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Illinois.

Peerless Insurance Company (NAIC #24198)
BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $103,611,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company (NAIC #24228)
BUSINESS ADDRESS: 2505 COURT STREET, PEKIN, IL 61558. PHONE: (309) 346-1161 x-2499. UNDERWRITING LIMITATION b/: $8,603,000. SURETY LICENSES c,f/: IL, IN, IA, MI, OH, WI. INCORPORATED IN: Illinois.

Penn Millers Insurance Company (NAIC #14982)
BUSINESS ADDRESS: P.O. BOX P, WILKES-BARRE, PA 18773 - 0016. PHONE: (570) 822-8111. UNDERWRITING LIMITATION b/: $5,052,000. SURETY LICENSES c,f/: AL, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: Pennsylvania.

See footnotes and notes at the end of this Circular.

Pennsylvania General Insurance Company (NAIC #21962)
BUSINESS ADDRESS: One Beacon Lane, Canton, MA 02021 - 1030. PHONE: (781) 332-8307. UNDERWRITING LIMITATION b/: $22,369,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company (NAIC #14990)
BUSINESS ADDRESS: P. O. Box 2361, Harrisburg, PA 17105 - 2361. PHONE: (717) 234-4941 x-6814. UNDERWRITING LIMITATION b/: $39,894,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

PHILADELPHIA INDEMNITY INSURANCE COMPANY (NAIC #18058)
BUSINESS ADDRESS: One Bala Plaza, Suite 100, Bala Cynwyd, PA 19004 - 1403. PHONE: (610) 617-7900 x-7680. UNDERWRITING LIMITATION b/: $89,021,000. SURETY LICENSES c,f/: AL, AK, CA, CO, DE, DC, HI, ID, IL, IN, IA, KY, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pioneer General Insurance Company (NAIC #12670)
BUSINESS ADDRESS: 6780 EAST HAMPDEN AVENUE, DENVER, CO 80224. PHONE: (800) 327-4230. UNDERWRITING LIMITATION b/: $605,000. SURETY LICENSES c,f/: AZ, CO, KS, MO, MT, NE, NV, NM, UT, WY. INCORPORATED IN: Colorado.

PLATTE RIVER INSURANCE COMPANY (NAIC #18619)
BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705 - 0900. PHONE: (608) 829-4810. UNDERWRITING LIMITATION b/: $3,628,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Progressive Casualty Insurance Company (NAIC #24260)
BUSINESS ADDRESS: P.O. BOX 89490, CLEVELAND, OH 44101 - 6490. PHONE: (800) 776-4737. UNDERWRITING LIMITATION b/: $159,270,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See footnotes and notes at the end of this Circular.

Protective Insurance Company (NAIC #12416)
BUSINESS ADDRESS: 1099 North Meridian Street , Indianapolis , IN 46204. PHONE: (317) 636-9800 x-288. UNDERWRITING LIMITATION b/: $24,222,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Republic - Franklin Insurance Company (NAIC #12475)
BUSINESS ADDRESS: P. O. Box 530, Utica, NY 13503 - 0530. PHONE: (315) 734-2413. UNDERWRITING LIMITATION b/: $3,548,000. SURETY LICENSES c,f/: CT, DE, DC, GA, IL, IN, KS, MD, MA, MI, NJ, NY, NC, OH, PA, RI, TN, TX, VA, WI. INCORPORATED IN: Ohio.

RLI Indemnity Company (NAIC #28860)
BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000 x-5550. UNDERWRITING LIMITATION b/: $3,540,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

RLI Insurance Company (NAIC #13056)
BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000 x-5550. UNDERWRITING LIMITATION b/: $71,151,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Roche Surety and Casualty Company, Inc. (NAIC #42706)
BUSINESS ADDRESS: 1910 Orient Road, Tampa, FL 33619. PHONE: (813) 623-5042. UNDERWRITING LIMITATION b/: $555,000. SURETY LICENSES c,f/: AZ, AR, DE, FL, GA, ID, IN, IA, KS, LA, MD, MI, MN, MO, MT, NE, NV, NH, NJ, ND, OK, PA, SC, SD, TN, TX, VT, VA, WA. INCORPORATED IN: Florida.

SAFECO Insurance Company of America (NAIC #24740)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185-4235. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $115,540,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

See footnotes and notes at the end of this Circular.

Safety National Casualty Corporation (NAIC #15105)
BUSINESS ADDRESS: 2043 Woodland Parkway, St. Louis, MO 63146. PHONE: (314) 995-5300 x-200. UNDERWRITING LIMITATION b/: $41,603,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Sagamore Insurance Company (NAIC #40460)
BUSINESS ADDRESS: 1099 North Meridian Street, Indianapolis, IN 46204. PHONE: (317) 636-9800 x-307. UNDERWRITING LIMITATION b/: $10,047,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, CT, DE, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MN, MS, MO, MT, NE, NM, NY, NC, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Seaboard Surety Company (NAIC #22535)
BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $12,890,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

SECURA INSURANCE, A Mutual Company (NAIC #22543)
BUSINESS ADDRESS: P.O. Box 819 , Appleton , WI 54912 - 0819. PHONE: (920) 739-3161. UNDERWRITING LIMITATION b/: $21,014,000. SURETY LICENSES c,f/: AZ, CO, IL, IN, IA, KS, MI, MN, MO, ND, PA, WI. INCORPORATED IN: Wisconsin.

Selective Insurance Company of America (NAIC #12572)
BUSINESS ADDRESS: 40 WANTAGE AVENUE, BRANCHVILLE, NJ 07890. PHONE: (973) 948-3000. UNDERWRITING LIMITATION b/: $53,432,000. SURETY LICENSES c,f/: AL, AK, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

Seneca Insurance Company, Inc. (NAIC #10936)
BUSINESS ADDRESS: 160 Water Street, New York, NY 10038 - 4922. PHONE: (212) 344-3000. UNDERWRITING LIMITATION b/: $11,604,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

See footnotes and notes at the end of this Circular.

Sentry Insurance A Mutual Company (NAIC #24988)
BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481. PHONE: (715) 346-7527. UNDERWRITING LIMITATION b/: $259,913,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Sentry Select Insurance Company (NAIC #21180)
BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481. PHONE: (715) 346-7527. UNDERWRITING LIMITATION b/: $19,465,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

SERVICE INSURANCE COMPANY (NAIC #36560)
BUSINESS ADDRESS: P.O. Box 9729, Bradenton, FL 34206 - 9729. PHONE: (800) 780-8423 x-1021. UNDERWRITING LIMITATION b/: $1,002,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MI, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WY. INCORPORATED IN: Florida.

SERVICE INSURANCE COMPANY INC. (THE) (NAIC #28240)
BUSINESS ADDRESS: 80 Main Street, West Orange, NJ 07052. PHONE: (973) 731-7650. UNDERWRITING LIMITATION b/: $292,000. SURETY LICENSES c,f/: CT, DE, NJ, NY, PA. INCORPORATED IN: New Jersey.

St. Paul Fire and Marine Insurance Company (NAIC #24767)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $455,656,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

ST. PAUL GUARDIAN INSURANCE COMPANY (NAIC #24775)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $1,465,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

See footnotes and notes at the end of this Circular.

St. Paul Mercury Insurance Company (NAIC #24791)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (800) 356-4098. UNDERWRITING LIMITATION b/: $2,601,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Standard Fire Insurance Company (The) (NAIC #19070)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $127,622,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company (NAIC #18023)
BUSINESS ADDRESS: 26255 American Drive, Southfield, MI 48034. PHONE: (800) 482-2726. UNDERWRITING LIMITATION b/: $16,511,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

State Auto Property and Casualty Insurance Company (NAIC #25127) 9
BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 464-5000 x-5017. UNDERWRITING LIMITATION b/: $57,890,000. SURETY LICENSES c,f/: AL, AZ, AR, FL, GA, IL, IN, IA, KY, MD, MI, MN, MS, MO, MT, NC, ND, OK, PA, SC, SD, TN, UT, VA, WV, WI, WY. INCORPORATED IN: Iowa.

State Automobile Mutual Insurance Company (NAIC #25135)
BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215 - 3976. PHONE: (614) 464-5000 x-5017. UNDERWRITING LIMITATION b/: $104,563,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company (NAIC #25143)
BUSINESS ADDRESS: ONE STATE FARM PLAZA, BLOOMINGTON, IL 61710. PHONE: (309) 766-2311. UNDERWRITING LIMITATION b/: $894,811,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See footnotes and notes at the end of this Circular.

Stonebridge Casualty Insurance Company (NAIC #10952)
BUSINESS ADDRESS: 520 Park Avenue, Baltimore, MD 21201. PHONE: (800) 527-9027. UNDERWRITING LIMITATION b/: $10,183,000. SURETY LICENSES c,f/: AL, AZ, CO, DC, GA, HI, ID, IL, IN, IA, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SD, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Ohio.

Suretec Insurance Company (NAIC #10916)
BUSINESS ADDRESS: 952 Echo Lane, Suite 450, Houston, TX 77024. PHONE: (713) 812-0800. UNDERWRITING LIMITATION b/: $2,758,000. SURETY LICENSES c,f/: AZ, AR, CA, LA, NM, OK, TX. INCORPORATED IN: Texas.

SURETY BONDING COMPANY OF AMERICA (NAIC #24047)
BUSINESS ADDRESS: P.O. Box 5111, Sioux Falls, SD 57117 - 5111. PHONE: (800) 331-6053. UNDERWRITING LIMITATION b/: $690,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, KS, MN, MO, MT, NE, NV, NM, NY, ND, OK, OR, SC, SD, TN, TX, UT, WV, WY. INCORPORATED IN: South Dakota.

Surety Company of the Pacific (NAIC #12793)
BUSINESS ADDRESS: P.O. Box 10289, Van Nuys, CA 91410. PHONE: (818) 609-9232. UNDERWRITING LIMITATION b/: $482,000. SURETY LICENSES c,f/: CA. INCORPORATED IN: California.

Swiss Reinsurance America Corporation (NAIC #25364)
BUSINESS ADDRESS: 175 KING STREET, ARMONK, NY 10504. PHONE: (914) 828-8000. UNDERWRITING LIMITATION b/: $280,207,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WI. INCORPORATED IN: New York.

TEXAS PACIFIC INDEMNITY COMPANY (NAIC #20389)
BUSINESS ADDRESS: 15 Mountain View Road., P.O. Box 1615, Warren, NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $437,000. SURETY LICENSES c,f/: AR, TX. INCORPORATED IN: Texas.

See footnotes and notes at the end of this Circular.

TRANSATLANTIC REINSURANCE COMPANY (NAIC #19453)
BUSINESS ADDRESS: 80 PINE STREET, NEW YORK, NY 10005. PHONE: (212) 770-2000. UNDERWRITING LIMITATION b/: $305,948,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI. INCORPORATED IN: New York.

Travelers Casualty and Surety Company (NAIC #19038)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $308,948,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America (NAIC #31194)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $112,790,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty Insurance Company of America (NAIC #19046)
BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $44,784,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company (The) (NAIC #25658)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $740,152,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Trinity Universal Insurance Company (NAIC #19887)
BUSINESS ADDRESS: P.O. BOX 655028, DALLAS, TX 75265 - 5028. PHONE: (800) 926-1887. UNDERWRITING LIMITATION b/: $118,425,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, OR, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Texas.

See footnotes and notes at the end of this Circular.

U.S. Specialty Insurance Company (NAIC #29599)
BUSINESS ADDRESS: 13403 NORTHWEST FREEWAY, HOUSTON, TX 77040 - 6094. PHONE: (713) 744-3700. UNDERWRITING LIMITATION b/: $19,030,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DC, FL, HI, ID, IL, KS, KY, LA, MD, MA, MI, MS, MT, NE, NV, NM, NY, ND, OK, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Texas.

Union Insurance Company (NAIC #25844)
BUSINESS ADDRESS: P.O. Box 1594, Des Moines, IA 50306 - 1594. PHONE: (515) 473-3000. UNDERWRITING LIMITATION b/: $2,636,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, GA, ID, IL, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

UNITED CASUALTY AND SURETY INSURANCE COMPANY (NAIC #36226)
BUSINESS ADDRESS: 170 Milk Street, Boston, MA 02109. PHONE: (617) 542-3232 x-109. UNDERWRITING LIMITATION b/: $346,000. SURETY LICENSES c,f/: DC, FL, MA, NH, NJ, NY, ND, PA. INCORPORATED IN: Massachusetts.

United Fire & Casualty Company (NAIC #13021)
BUSINESS ADDRESS: P. O. BOX 73909, CEDAR RAPIDS, IA 52407 - 3909. PHONE: (319) 399-5700. UNDERWRITING LIMITATION b/: $56,387,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

UNITED FIRE & INDEMNITY COMPANY (NAIC #19496)
BUSINESS ADDRESS: P.O. BOX 73909, CEDAR RAPIDS, IA 52407 - 3909. PHONE: (409) 766-4600. UNDERWRITING LIMITATION b/: $1,212,000. SURETY LICENSES c,f/: AL, CO, IN, KY, LA, MS, MO, NM, TX. INCORPORATED IN: Texas.

United States Fidelity and Guaranty Company (NAIC #25887)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $223,191,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

See footnotes and notes at the end of this Circular.

United States Fire Insurance Company (NAIC #21113)
BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07962. PHONE: (973) 490-6473. UNDERWRITING LIMITATION b/: $97,391,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

United States Surety Company (NAIC #10656)
BUSINESS ADDRESS: P. O. Box 5605, Timonium, MD 21094 - 5605. PHONE: (410) 453-9522. UNDERWRITING LIMITATION b/: $3,001,000. SURETY LICENSES c,f/: DE, DC, FL, GA, KY, ME, MD, MA, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV. INCORPORATED IN: Maryland.

UNITED SURETY AND INDEMNITY COMPANY (NAIC #44423)
BUSINESS ADDRESS: P.O. BOX 2111, SAN JUAN, PR 00922 - 2111. PHONE: (787) 273-1818. UNDERWRITING LIMITATION b/: $4,684,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

UNIVERSAL INSURANCE COMPANY (NAIC #31704)
BUSINESS ADDRESS: GPO BOX 71338, SAN JUAN, PR 00936. PHONE: (787) 706-7150. UNDERWRITING LIMITATION b/: $18,344,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company (NAIC #25933)
BUSINESS ADDRESS: P.O. Box 80468 , Lincoln , NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $9,693,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY (NAIC #41181)
BUSINESS ADDRESS: 7045 COLLEGE BOULEVARD, OVERLAND PARK, KS 66211. PHONE: (913) 339-1000. UNDERWRITING LIMITATION b/: $53,160,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

See footnotes and notes at the end of this Circular.

Utica Mutual Insurance Company (NAIC #25976)
BUSINESS ADDRESS: POST OFFICE BOX 530, UTICA, NY 13503 - 0530. PHONE: (800) 274-1914 x-2943. UNDERWRITING LIMITATION b/: $65,864,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

VAN TOL SURETY COMPANY, INCORPORATED (NAIC #30279)
BUSINESS ADDRESS: 520 6th Street, Brookings, SD 57006. PHONE: (605) 692-6294. UNDERWRITING LIMITATION b/: $448,000. SURETY LICENSES c,f/: SD. INCORPORATED IN: South Dakota.

VICTORE INSURANCE COMPANY (NAIC #28517)
BUSINESS ADDRESS: 4334 N.W. Expressway, Suite 151, Oklahoma City, OK 73116 - 1574. PHONE: (405) 767-1151. UNDERWRITING LIMITATION b/: $228,000. SURETY LICENSES c,f/: OK, TX. INCORPORATED IN: Oklahoma.

Vigilant Insurance Company (NAIC #20397)
BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615 , Warren , NJ 07061 - 1615. PHONE: (908) 903-5150. UNDERWRITING LIMITATION b/: $13,836,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company (NAIC #32778)
BUSINESS ADDRESS: 1200 ARLINGTON HEIGHTS ROAD, SUITE 400, ITASCA, IL 60143. PHONE: (630) 227-4700. UNDERWRITING LIMITATION b/: $4,946,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

West American Insurance Company (NAIC #44393)
BUSINESS ADDRESS: 9450 Seward Road , Fairfield , OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $21,602,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

See footnotes and notes at the end of this Circular.

WEST BEND MUTUAL INSURANCE COMPANY (NAIC #15350)
BUSINESS ADDRESS: 1900 South 18th Avenue, West Bend, WI 53095. PHONE: (262) 334-5571 x-6523. UNDERWRITING LIMITATION b/: $50,183,000. SURETY LICENSES c,f/: IL, IN, IA, MI, MN, MO, OH, WI. INCORPORATED IN: Wisconsin.

Westchester Fire Insurance Company (NAIC #21121)
BUSINESS ADDRESS: 436 WALNUT STREET, P.O. BOX 1000, Philadelphia, PA 19106. PHONE: (215) 640-4551. UNDERWRITING LIMITATION b/: $65,778,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Insurance Company (NAIC #10008)
BUSINESS ADDRESS: P.O. BOX 21030, RENO, NV 89515. PHONE: (775) 829-6650. UNDERWRITING LIMITATION b/: $1,601,000. SURETY LICENSES c,f/: AZ, CA, CO, ID, NV, NM, TX, UT, WA. INCORPORATED IN: Nevada.

Western Surety Company (NAIC #13188)
BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117 - 5077. PHONE: (800) 331-6053. UNDERWRITING LIMITATION b/: $34,212,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company (NAIC #24112)
BUSINESS ADDRESS: P. O. Box 5001 , Westfield Center , OH 44251 - 5001. PHONE: (330) 887-0980. UNDERWRITING LIMITATION b/: $68,313,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company (NAIC #24120)
BUSINESS ADDRESS: P. O. Box 5001 , Westfield Center , OH 44251 - 5001. PHONE: (330) 887-0980. UNDERWRITING LIMITATION b/: $16,451,000. SURETY LICENSES c,f/: AZ, CA, FL, GA, IL, IN, IA, KY, MI, MN, ND, OH, PA, SD, TN, TX, WV, WI. INCORPORATED IN: Ohio.

See footnotes and notes at the end of this Circular.

Westport Insurance Corporation (NAIC #34207)
BUSINESS ADDRESS: P.O. BOX 2991, OVERLAND PARK, KS 66202 - 1391. PHONE: (913) 676-5200. UNDERWRITING LIMITATION b/: $28,378,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

XL Reinsurance America Inc. (NAIC #20583)
BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902 - 6040. PHONE: (203) 964-3466. UNDERWRITING LIMITATION b/: $161,642,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

XL Specialty Insurance Company (NAIC #37885)
BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902 - 6040. PHONE: (203) 964-3466. UNDERWRITING LIMITATION b/: $16,160,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Zurich American Insurance Company (NAIC #16535)
BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 19TH FLOOR, SCHAUMBURG, IL 60196 - 1056. PHONE: (800) 382-2150. UNDERWRITING LIMITATION b/: $516,447,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See footnotes and notes at the end of this Circular.

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 [See Note (e)]

Odyssey America Reinsurance Corporation (NAIC #23680)
BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977-8019. UNDERWRITING LIMITATION b/: $184,119,000.

Phoenix Insurance Company (The) (NAIC #25623)
BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183 - 6014. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $115,050,000.

PLATINUM UNDERWRITERS REINSURANCE, INC. (NAIC #10357)
BUSINESS ADDRESS: 225 Liberty Street, Suite 2300, New York, NY 10281 - 1024. PHONE: (212) 238-9600. UNDERWRITING LIMITATION b/: $53,082,000.

SAFECO Insurance Company of Illinois (NAIC #39012)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $18,868,000.

SAFECO National Insurance Company (NAIC #24759)
BUSINESS ADDRESS: SAFECO PLAZA, SEATTLE, WA 98185. PHONE: (800) 332-3226. UNDERWRITING LIMITATION b/: $9,279,000.

ST. PAUL PROTECTIVE INSURANCE COMPANY (NAIC #19224)
BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (860) 277-1561. UNDERWRITING LIMITATION b/: $23,142,000.

See footnotes and notes at the end of this Circular.

FOOTNOTES

1 AMERICAN CONTRACTORS INDEMNITY COMPANY is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY. However, business is conducted in all other covered states as AMERICAN CONTRACTORS INDEMNITY COMPANY.

2 America Re-Insurance Company changed its name to Munich Reinsurance America, Inc., effective May 5, 2006.

3 American Safety Casualty Insurance Company changed its state of incorporation from Delaware to Oklahoma, effective May 15, 2007.

4 Harleysville Worcester Insurance Company redomesticated from Massachusetts to Pennsylvania, effective December 31, 2006.

5 IMT Insurance Company (Mutual) changed its name to IMT Insurance Company, effective January 1, 2007.

6 International Business & Mercantile REassurance Company changed its name to Old Republic General Insurance Corporation, effective June 1, 2006.

7 International Fidelity Insurance Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

8 THE MIDWESTERN INDEMNITY COMPANY's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

9 State Auto Property & Casualty Insurance Company changed its state of incorporation from South Carolina to Iowa, effective February 7, 2007.

Notes

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a *per bond basis*. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, *when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected* by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). Treasury refers to a *bond of this type as an Excess Risk.* When Excess Risks

See footnotes and notes at the end of this Circular.

on *bonds in favor of the United States are protected by reinsurance*, such reinsurance is to be effected by use of a *Federal reinsurance form* to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(c) A surety company *must be licensed in the State or other area in which it provides a bond*, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec.24, 1909; 31 CFR Section 223.5 (b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. *For updated license information, you may contact the company directly or the applicable State Insurance Department.* Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(d) FEDERAL PROCESS AGENTS: Treasury Approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

(f) Some companies may be Approved *surplus lines carriers* in various states. Such approval may indicate that the company is *authorized to write surety in a particular state, even though the company is not licensed in the state*. Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

See footnotes and notes at the end of this Circular.

STATE INSURANCE DEPARTMENTS	TELEPHONE NO.
Alabama , Montgomery 36104	(334) 269-3550
Alaska , Anchorage 99501 - 3567	(907) 269-7900
Arizona , Phoenix 85018 - 7256	(602) 364-3100
Arkansas , Little Rock 72201 - 1904	(501) 371-2600
California , Sacremento 95814	(916) 492-3500
Colorado , Denver 80202	(303) 894-7499
Connecticut , Hartford 06142 - 0816	(860) 297-3800
Delaware , Dover 19904	(302) 674-7300
District of Columbia, Washington 20002	(202) 727-8000
Florida , Tallahasse 32399 - 0300	(850) 413-2806
Georgia , Atlanta 30334	(404) 656-2056
Hawaii , Honolulu 96813	(808) 586-2790
Idaho , Boise 83720 - 0043	(208) 334-4250
Illinois , Springfield 62767 - 0001	(217) 782-4515
Indiana , Indianapolis 46204 - 2787	(317) 232-2385
Iowa , Des Moines 50319	(515) 281-5705
Kansas , Topeka 66612 - 1678	(785) 296-3071
Kentucky , Frankfort 40602 - 0517	(502) 564-6027
Louisiana , Baton Rouge 70802	(225) 342-5900
Maine , Augusta 04333 - 0034	(207) 624-8475
Maryland , Baltimore 21202 - 2272	(410) 468-2090
Massachusetts , Boston 02110	(617) 521-7301
Michigan , Lansing 48933 - 1020	(517) 373-0220
Minnesota , St. Paul 55101 - 2198	(651) 296-6025
Mississippi , Jackson 39201	(601) 359-3569
Missouri , Jefferson City 65102	(573) 751-4126
Montana , Helena 59601	(406) 444-2040
Nebraska , Lincoln 68508	(402) 471-2201
Nevada , Carson City 89701 - 5753	(775) 687-4270
New Hampshire , Concord 03301	(603) 271-2261
New Jersey , Trenton 08625	(609) 292-5360
New Mexico , Sante Fe 87504 - 1269	(505) 827-4601
New York , New York 10004 - 2319	(212) 480-2289
North Carolina , Raleigh 27611	(919) 733-3058
North Dakota , Bismarck 58505 - 0320	(701) 328-2440
Ohio , Columbus 43215 - 1067	(614) 644-2658
Oklahoma , Oklahoma City 73107	(405) 521-2828
Oregon , Salem 97301 - 3883	(503) 947-7980
Pennsylvania , Harrisburg 17120	(717) 783-0442
Puerto Rico , Santurce 00909	(787) 722-8686

See footnotes and notes at the end of this Circular.

STATE INSURANCE DEPARTMENTS	TELEPHONE NO.
Rhode Island , Providence 02903 - 4233	(401) 222-2223
South Carolina , Columbia 29202 - 3105	(803) 737-6212
South Dakota , Pierre 57501 - 3185	(605) 773-4104
Tennessee , Nashville 37243 - 0565	(615) 741-2176
Texas , Austin 78701	(512) 463-6464
Utah , Salt Lake City 84114 - 1201	(801) 538-3800
Vermont , Montpelier 05620 - 3101	(802) 828-3301
Virginia , Richmond 23218	(804) 371-9694
Virgin Islands , St. Thomas 00802	011-(340) 774-7166
Washington , Olympia 98504 - 0255	(360) 725-7100
West Virginia , Charleston 25305 - 0540	(304) 558-3354
Wisconsin , Madison 53707 - 7873	(608) 267-1233
Wyoming , Cheyenne 82002 - 0440	(307) 777-7401

See footnotes and notes at the end of this Circular.

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Federal Register

Monday,
July 2, 2007

Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

Availability of Grant Funds for Fiscal Year 2008; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030602141–7123–50; I.D.051906D]

RIN 0648–ZB55

Availability of Grant Funds for Fiscal Year 2008

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration publishes this notice to provide the general public with a consolidated source of program and application information related to its competitive grant and cooperative agreement (CA) award offerings for fiscal year (FY) 2008. This Omnibus notice is designed to replace the multiple **Federal Register** notices that traditionally advertised the availability of NOAA's discretionary funds for its various programs. It should be noted that additional program initiatives unanticipated at the time of the publication of this notice may be announced through subsequent **Federal Register** notices. All announcements will also be available through the Grants.gov Web site.

DATES: Proposals must be received by the date and time indicated under each program listing in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: Proposals must be submitted to the addresses listed in the **SUPPLEMENTARY INFORMATION** section of this notice for each program. The **Federal Register** and Full Funding Opportunity (FFO) notices may be found on the Grants.gov Web site. The URL for Grants.gov is *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Please contact the person listed within this notice as the information contact under each program.

SUPPLEMENTARY INFORMATION: Applicants must comply with all requirements contained in the FFO announcements for each of the programs listed in this omnibus notice. These FFOs are available at *http://www.grants.gov.*

The list of entries below describe the basic information and requirements for competitive grant/cooperative agreement programs offered by NOAA. These programs are open to any applicant who meets the eligibility criteria provided in each entry. To be considered for an award in a competitive grant/cooperative agreement program, an eligible applicant must submit a complete and responsive application to the appropriate program office. An award is made upon conclusion of the evaluation and selection process for the respective program.

NOAA Project Competitions

This omnibus notice describes funding opportunities for the following NOAA discretionary grant programs:

National Marine Fisheries Service

1. Great Lakes Habitat Restoration Partnership Grant.
2. Marine Fisheries Initiative (MARFIN).
3. Protected Species Cooperative Conservation.
4. Cooperative Research Program.
5. General Coral Reef Conservation.
6. FY2008 Community-based Marine Debris Prevention and Removal Project Grants.
7. Projects to Improve or Amend Coral Reef Fishery Management Plans.
8. FY2008 Community-based Habitat Restoration Project Grants.
9. FY2008 Open Rivers Initiative.
10. Bay Watershed Education & Training Program.
11. 2008 Monkfish Research Set-Aside Program.
12. 2008/2009 Atlantic Herring Research Set-Aside (RSA) Program.
13. John H. Prescott Marine Mammal Rescue Assistance Grant Program.
14. Saltonstall-Kennedy Grant Program.

National Ocean Service

1. CRCP-State and Territory Coral Reef Management Grants.
2. National Estuarine Research Reserve Land Acquisition and Construction Program FY08.
3. 2008 CRCP Coral Reef Ecosystem Monitoring.
4. National Estuarine Research Reserve Graduate Research Fellowship Program FY08.
5. FY08 California Bay Watershed Education and Training Program.
6. Bay Watershed Education and Training (B-WET) Program, Hawaii.
7. CSCOR FY08 Regional Ecosystem Prediction Program.
8. Dr. Nancy Foster Scholarship Program.
9. FY 2008 Implementation of Regional Integrated Ocean Observing Systems.
10. FY 2008 Integrated Ocean Observing System Regional Association Support.
11. FY 2008 Oceans and Human Health Initiative, External Grants Program.
12. International Coral.

National Environmental Satellite Data and Information Service

1. Research in Primary Vicarious Calibration of Ocean Color Satellite Sensors.
2. Research in Satellite Data Assimilation for Numerical Weather, Climate, and Environmental Forecast Systems.

National Weather Service

1. Collaborative Science, Technology, and Applied Research (CSTAR) Program.

Oceans and Atmospheric Research

1. Climate Program Office for FY 2008.

Office of the Under Secretary (USEC)

1. Environmental Literacy Grants for Spherical Display Systems for Earth System Science-Installations and Content Development.

NOAA Mission Goals

The mission of the agency is to understand and predict changes in the Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. Below is a listing of the program solicitations that generally fall under one or more areas of NOAA's strategic plan, i.e., mission goals. It is imperative that potential applicants tie their proposals to one of the mission goals. Program solicitations are provided from each of the five operating units within NOAA.

NOAA Project Competitions Listed by NOAA Mission Goals

I. Protect, Restore and Manage the Use of Coastal and Ocean Resources Through Ecosystem-Based Management

Summary Description: Coastal areas are among the most developed in the Nation. More than half the population lives on less than one-fifth of the land in the contiguous United States. Furthermore, employment in near shore areas is growing three times faster than population. Coastal and marine waters support over 28 million jobs and provide a tourism destination for nearly 90 million Americans a year. The value of the ocean economy to the United States is over $115 billion. The value added annually to the national economy by the commercial and recreational fishing industry alone is over $48 billion. U.S. aquaculture sales total almost $1 billion annually. With its Exclusive Economic Zone of 3.4 million square miles, the United States manages

the largest marine territory of any nation in the world.

Funded proposals should help achieve the following outcomes:

A. Healthy and productive coastal and marine ecosystems that benefit society; and

B. A well-informed public that acts as a steward of coastal and marine ecosystems

Program Names:

1. Great Lakes Habitat Restoration Partnership Grant.

2. Marine Fisheries Initiative (MARFIN).

3. Protected Species Cooperative Conservation.

4. Cooperative Research Program.

5. General Coral Reef Conservation.

6. FY2008 Community-based Marine Debris Prevention and Removal Project Grants.

7. Projects to Improve or Amend Coral Reef Fishery Management Plans.

8. FY2008 Community-based Habitat Restoration Project Grants.

9. FY2008 Open Rivers Initiative.

10. Bay Watershed Education & Training Program.

11. CRCP-State and Territory Coral Reef Management Grants.

12. National Estuarine Research Reserve Land Acquisition and Construction Program FY08.

13. 2008 CRCP Coral Reef Ecosystem Monitoring.

14. National Estuarine Research Reserve Graduate Research Fellowship Program FY08.

15. FY08 California Bay Watershed Education and Training Program.

16. 2008 Monkfish Research Set-Aside Program.

17. 2008/2009 Atlantic Herring Research Set-Aside (RSA) Program.

18. Bay Watershed Education and Training (B-WET) Program, Hawaii.

19. CSCOR FY08 Regional Ecosystem Prediction Program.

20. Research in Primary Vicarious Calibration of Ocean Color Satellite Sensors.

21. Research in Satellite Data Assimilation for Numerical Weather, Climate, and Environmental Forecast Systems.

22. Collaborative Science, Technology, and Applied Research (CSTAR) Program.

23. FY 2008 Oceans and Human Health Initiative, External Grants Program.

24. International Coral.

25. John H. Prescott Marine Mammal Rescue Assistance Grant Program.

26. Saltonstall-Kennedy Grant Program.

II. Understand Climate Variability and Change To Enhance Society's Ability To Plan and Respond

Summary Description: Climate shapes the environment, natural resources, economies, and social systems that people depend upon worldwide. While humanity has learned to contend with some aspects of climate's natural variability, major climatic events, combined with the stresses of population growth, economic growth, public health concerns, and land-use practices, can impose serious consequences on society. The 1997–98 El Nino, for example, had a $25 billion impact on the U.S. economy—property losses were $2.6 billion and crop losses approached $2 billion. Long-term drought leads to increased and competing demands for fresh water with related effects on terrestrial and marine ecosystems, agricultural productivity, and even the spread of infectious diseases. Decisions about mitigating climate change also can alter economic and social structures on a global scale. We can deliver reliable climate information in useful ways to help minimize risks and maximize opportunities for decisions in agriculture, public policy, natural resources, water and energy use, and public health. We continue to move toward developing a seamless suite of weather and climate products. The Climate Goal addresses predictions on time scales of up to decades or longer.

Funded proposals should help achieve the following outcomes:

A. A predictive understanding of the global climate system on time scales of weeks to decades with quantified uncertainties sufficient for making informed and reasoned decisions; and

B. Climate-sensitive sectors and the climate-literate public effectively incorporating NOAA's climate products into their plans and decisions.

Program Names:

1. Climate Program Office for FY 2008.

III. Serve Society's Needs for Weather and Water Information

Summary Description: Floods, droughts, hurricanes, tornadoes, tsunamis, wildfires, and other severe weather events cause $11 billion in damages each year in the United States. Weather is directly linked to public health and safety, and nearly one-third of the U.S. economy (about $3 trillion) is sensitive to weather and climate. With so much at stake, NOAA's role in understanding, observing, forecasting, and warning of environmental events is expanding. With our partners, we seek to provide decision makers with key observations, analyses, predictions, and warnings for a range of weather and water conditions, including those related to water supply, air quality, space weather, and wildfires. Businesses, governments, and non-governmental organizations are getting more sophisticated about how to use this weather and water information to improve operational efficiencies, to manage environmental resources, and to create a better quality of life. On average, hurricanes, tornadoes, tsunamis, and other severe weather events cause $11 billion in damages per year. Weather, including space weather, is directly linked to public safety and about one-third of the U.S. economy (about $3 trillion) is weather sensitive. With so much at stake, NOAA's role in observing, forecasting, and warning of environmental events is expanding, while economic sectors and its public are becoming increasingly sophisticated at using NOAA's weather, air quality, and water information to improve their operational efficiencies and their management of environmental resources, and quality of life.

Funded proposals should help achieve the following outcomes:

A. Reduced loss of life, injury, and damage to the economy;

B. Better, quicker, and more valuable weather and water information to support improved decisions; and

C. Increased customer satisfaction with weather and water information and services.

Program Names:

1. Collaborative Science, Technology, and Applied Research (CSTAR) Program

2. FY 2008 Implementation of Regional Integrated Ocean Observing Systems

3. FY 2008 Integrated Ocean Observing System Regional Association Support

IV. Support the Nation's Commerce With Information for Safe, Efficient, and Environmentally Sound Transportation

Summary Description: Safe and efficient transportation systems are crucial to the U.S. economy. The U.S. marine transportation system ships over 95 percent of the tonnage and more than 20 percent by value of foreign trade through U.S. ports, including 48 percent of the oil needed to meet America's energy demands. At least $4 billion is lost annually due to economic inefficiencies resulting from weather-related air-traffic delays. Improved surface weather forecasts and specific user warnings would reduce the 7,000 weather related fatalities and 800,000

injuries that occur annually from crashes on roads and highways. The injuries, loss of life, and property damage from weather-related crashes cost an average of $42 billion annually.

We provide information, services, and products for transportation safety and for increased commerce on roads, rails, and waterways. We will improve the accuracy of our information for marine, aviation, and surface weather forecasts, the availability of accurate and advanced electronic navigational charts, and the delivery of real-time oceanographic information. We seek to provide consistent, accurate, and timely positioning information that is critical for air, sea, and surface transportation. We will respond to hazardous material spills and provide search and rescue routinely to save lives and money and to protect the coastal environment. We will work with port and coastal communities and with Federal and state partners to ensure that port operations and development proceed efficiently and in an environmentally sound manner. We will work with the Federal Aviation Administration and the private sector to reduce the negative impacts of weather on aviation without compromising safety. Because of increased interest by the public and private sectors, we also will expand weather information for marine and surface transportation to enhance safety and efficiency.

Funded proposals should help achieve the following outcomes:

A. Safe, secure, efficient, and seamless movement of goods and people in the U.S. transportation system; and

B. Environmentally sound development and use of the U.S. transportation system.

Program Names:

None.

V. Provide Critical Support for NOAA's Mission

Summary Description: Strong, effective, and efficient support activities are necessary for us to achieve our Mission Goals. Our facilities, ships, aircraft, environmental satellites, data-processing systems, computing and communication systems, and our approach to management provide the foundation of support for all of our programs. This critical foundation must adapt to evolving mission needs and, therefore, is an integral part of our strategic planning. It also must support U.S. homeland security by maintaining continuity of operations and by providing NOAA services, such as civil alert relays through NOAA Weather Radio and air dispersion forecasts, in response to national emergencies.

NOAA ships, aircraft, and environmental satellites are the backbone of the global Earth observing system and provide many critical mission support services. To keep this capability strong and current with our Mission Goals, we will ensure that NOAA has adequate access to safe and efficient ships and aircraft through the use of both NOAA platforms and those of other agency, academic, and commercial partners. We will work with academia and partners in the public and private sectors to ensure that future satellite systems are designed, developed, and operated with the latest technology.

Leadership development and program support are essential for achieving our Mission Goals. We must also commit to organizational excellence through management and leadership across a ''corporate'' NOAA. We must continue our commitment to valuing NOAA's diverse workforce, including effective workforce planning strategies designed to attract, retain and develop competencies at all levels of our workforce. Through the use of business process re-engineering, we will strive for state-of-the-art, value-added financial and administrative processes. NOAA will ensure state-of-the-art and secure information technology and systems. By developing long-range, comprehensive facility planning processes, NOAA will be able to ensure right-sized, cost-effective, and safe facilities.

Funded proposals should help achieve the following outcomes:

A. A dynamic workforce with competencies that support NOAA's mission today and in the future.

Program Names:

1. Dr. Nancy Foster Scholarship Program.

2. Environmental Literacy Grants for Spherical Display Systems for Earth System Science—Installations and Content Development.

I. Electronic Access

The full funding announcement for each program is available via the Grants.gov Web site: *http://www.grants.gov.* These announcements will also be available by contacting the program official identified below. You will be able to access, download and submit electronic grant applications for NOAA Programs in this announcement at *http://www.grants.gov.* The closing dates will be the same as for the paper submissions noted in this announcement. NOAA strongly recommends that you do not wait until the application deadline date to begin the application process through Grants.gov. Getting started with Grants.gov is easy! Go to *http://www.grants.gov.* There are two key features on the site: Find Grant Opportunities and Apply for Grants. Everything else on the site is designed to support these two features and your use of them. While you can begin searching for grant opportunities for which you would like to apply immediately, it is recommended that you complete the remaining Get Started steps sooner rather than later, so that when you find an opportunity for which you would like to apply, you are ready to go.

Get Started Step 1 Find Grant Opportunity for Which You Would Like To Apply

Start your search for Federal government-wide grant opportunities and register to receive automatic e-mail notifications of new grant opportunities or any modifications to grant opportunities as they are posted to the site by clicking the Find Grant Opportunities tab at the top of the page.

Get Started Step 2 Register With Central Contractor Registry (CCR)

Your organization will also need to be registered with Central Contractor Registry. You can register with them online. This will take about 30 minutes. You should receive your CCR registration within 3 business days. Important: You must have a DUNS number from Dun & Bradstreet before you register with CCR. Many organizations already have a DUNS number. To determine if your organization already has a DUNS number or to obtain a DUNS number, contact Dun & Bradstreet at 1–866–705–5711. This will take about 10 minutes and is free of charge. Be sure to complete the Marketing Partner ID (MPIN) and Electronic Business Primary Point of Contact fields during the CCR registration process. These are mandatory fields that are required when submitting grant applications through Grants.gov.

Get Started Step 3 Register With the Credential Provider

You must register with a Credential Provider to receive a username and password. This will be required to securely submit your grant application.

Get Started Step 4 Register With Grants.gov

The final step in the Get Started process is to register with Grants.gov. This will be required to submit grant applications on behalf of your organization. After you have completed

the registration process, you will receive *e-mail* notification confirming that you are able to submit applications through Grants.gov.

Get Started Step 5 Log on to Grants.gov

After you have registered with Grants.gov, you can log on to Grants.gov to verify if you have registered successfully, to check application status, and to update information in your applicant profile, such as your name, telephone number, *e-mail* address, and title. In the future, you will have the ability to determine if you are authorized to submit applications through Grants.gov on behalf of your organization.

Electronic Application File Format and Naming Conventions

After the initial grant application package has been submitted to NOAA (e.g., via Grants.gov), requests for additional or modified forms may be requested by NOAA. Applicants should resubmit forms in Portable Document File Format (PDF) and follow the following file naming convention to name resubmitted forms. For example: 98042_SF–424_mmddyy_v2.pdf.

(1) 98042 = Proposal # (provided to applicant by Grants.gov & NOAA).

(2) SF–424 = Form Number.

(3) mmddyy = Date.

(4) v2 = Version Number.

To learn how to convert documents to PDF go to: *http://www.grants.gov/assets/PDFConversion.pdf.*

II. Evaluation Criteria and Selection Procedures

NOAA standardized the evaluation and selection process for its competitive assistance programs. All proposals submitted in response to this notice shall be evaluated and selected in accordance with the following procedures. There are two sets of evaluation criteria and selection procedures, one for project proposals, and the other for fellowship, scholarship, and internship programs. These evaluation criteria and selection procedures apply to all of the programs included below.

Proposal Review and Selection Process for Projects

Some programs may include a pre-application process which provides an initial review and feedback to the applicants that have responded to a call for letters of intent or pre-proposals; however, not all programs will include such a process. If a pre-application process is used by a program, it shall be described in the Summary Description and the deadline shall be provided in the Application Deadline section. Upon receipt of a full application by NOAA, an initial administrative review is conducted to determine compliance with requirements and completeness of the application. A merit review is conducted to individually evaluate, score, and rank applications using the evaluation criteria. A second merit review may be conducted on the applicants that meet the program's threshold (based on scores from the first merit review) to make selections using the selection factors provided below. Merit review is conducted by mail reviewers and/or peer panel reviewers. Each reviewer will individually evaluate and rank proposals using the evaluation criteria provided below. A minimum of three merit reviewers per proposal is required. No consensus advice will be given. The merit reviewer's ratings are used to produce a rank order of the proposals. The NOAA Program Officer may review the ranking of the proposals and make recommendations to the Selecting Official based on the mail and/or panel review(s) and selection factors listed below. The Selecting Official selects proposals after considering the mail and/or peer panel review(s) and recommendations of the Program Officer. In making the final selections, the Selecting Official will award in rank order unless the proposal is justified to be selected out of rank order based upon one or more of the selection factors below. The Program Officer and/or Selecting Official may negotiate the funding level of the proposal. The Selecting Official makes final recommendations for award to the Grants Officer who is authorized to obligate the funds.

Evaluation Criteria for Projects

1. Importance and/or relevance and applicability of proposed project to the program goals: This ascertains whether there is intrinsic value in the proposed work and/or relevance to NOAA, federal, regional, state, or local activities.

2. Technical/scientific merit: This assesses whether the approach is technically sound and/or innovative, if the methods are appropriate, and whether there are clear project goals and objectives.

3. Overall qualifications of applicants: This ascertains whether the applicant possesses the necessary education, experience, training, facilities, and administrative resources to accomplish the project.

4. Project costs: The Budget is evaluated to determine if it is realistic and commensurate with the project needs and time-frame.

5. Outreach and education: NOAA assesses whether this project provides a focused and effective education and outreach strategy regarding NOAA's mission to protect the Nation's natural resources.

Selection Factors for Projects

The merit review ratings shall provide a rank order to the Selecting Official for final funding recommendations. A program officer may first make recommendations to the Selecting Official applying the selection factors below. The Selecting Official shall award in the rank order unless the proposal is justified to be selected out of rank order based upon one or more of the following factors:

1. Availability of funding.

2. Balance/distribution of funds:

a. Geographically.

b. By type of institutions.

c. By type of partners.

d. By research areas.

e. By project types.

3. Whether this project duplicates other projects funded or considered for funding by NOAA or other federal agencies.

4. Program priorities and policy factors.

5. Applicant's prior award performance.

6. Partnerships and/or Participation of targeted groups.

7. Adequacy of information necessary for NOAA staff to make a NEPA determination and draft necessary documentation before recommendations for funding are made to the Grants Officer. Proposal Review and Selection Process for NOAA Fellowship.

Scholarship and Internship Programs

Some programs may include a pre-application process which provides an initial review and feedback to the applicants that have responded to a call for letters of intent or pre-proposals; however, not all programs will include such a process. If a pre-application process is used by a program, it shall be described in the Summary Description and the deadline shall be provided in the Application Deadline section. An initial administrative review of full applications is conducted to determine compliance with requirements and completeness of applications. A merit review is conducted to individually evaluate, score, and rank applications using the evaluation criteria. A second merit review may be conducted on the applicants that meet the program's threshold (based on scores from the first merit review) to make selections using

the selection factors provided below. No consensus advice will be given. The Program Officer may conduct a review of the rank order and make recommendations to the Selecting Official based on the panel ratings and the selection factors listed below. The Selecting Official considers merit reviews and recommendations. The Selecting Official will award in rank order unless the proposal is justified to be selected out of rank order based upon one or more of the selection factors below. The Selecting Official makes final recommendations for award to the Grants Officer who is authorized to obligate the funds.

Evaluation Criteria for Fellowship/ Scholarships/Internships

1. Academic record and statement of career goals and objectives of student.
2. Quality of project and applicability to program priorities.
3. Recommendations and/or endorsements of student.
4. Additional relevant experience related to diversity of education; extra-curricular activities; honors and awards; interpersonal, written, and oral communications skills.
5. Financial need of student.

Selection Factors for Fellowship/ Scholarships/Internships

1. Balance/Distribution of funds:
a. Across academic disciplines.
b. By types of institutions.
c. Geographically.
2. Availability of funds.
3. Program-specific objectives.
4. Degree in scientific area and type of degree sought.

III. NOAA Project Competitions

National Marine Fisheries Service (NMFS)

(1) Great Lakes Habitat Restoration Partnership Grant

Summary Description: The NOAA Great Lakes Habitat Restoration Program invites applications requesting funding to establish one or more regional habitat restoration partnership(s) for 1 to 3 years. The partnership(s) is expected to catalyze the implementation of habitat restoration projects that will benefit coastal resources through improved Great Lakes habitat quality.

The centerpiece of the program will be one or more restoration projects in an Area of Concern that: are based on strong science and data availability; are ecosystem focused; and, involve significant problems and lake-wide improvements. Project areas should include locations where: (1) Maximum use can be made of on-going restoration efforts and partnerships, (2) availability of matching funds are met, (3) the problem is significant to the Great Lakes region, NOAA's mission and established priorities, and, (4) there is a scientific merit in restoration. NOAA envisions working jointly on such a partnership(s) through its Great Lakes Habitat Restoration Program (GLHRP) to fund and administer projects that support community-identified priorities such as: (1) Restoring and enhancing critical, nearshore areas, tributaries and connecting channels; (2) remediating basin-wide sources of stress; (3) protecting healthy functioning areas; and, (4) monitoring ecosystem health. This document describes the types of partnership(s) that NOAA envisions establishing, portrays the qualities that NOAA has found to be ideal in a partnership, and describes criteria under which applications will be evaluated for funding consideration. The partnership application(s) selected through this announcement must be in support of ongoing efforts in an Area of Concern (AOC) and will be implemented through a cooperative agreement. The selection process is anticipated to be highly competitive.

Funding of up to $1 million may be available to establish one or more habitat restoration partnership(s) in 2008, and annual funding is anticipated to maintain them for 1 to 3 years duration. Definitions of Terms: (1) The Great Lakes region will be defined by the Great Lakes Water Quality Agreement: Article 1.(h) ''Great Lakes System: means all of the streams, rivers, lakes and other bodies of water that are within the drainage basin on the St. Lawrence River at or upstream from the point at which this river becomes the international boundary between Canada and the United States.'' (2) Areas of Concern are severely degraded geographic areas within the Great Lakes Basin. They are defined by the U.S.-Canada Great Lakes Water Quality Agreement (Annex 2 of the 1987 Protocol) as ''geographic areas that fail to meet the general specific objectives of the agreement where such failure has caused or is likely to cause impairment of beneficial use of the area's ability to support aquatic life.''

Funding Availability: This solicitation announces that funding of up to $1 million is expected to be available for establishing a habitat restoration partnership(s) with the NOAA Great Lakes Habitat Restoration Program in FY 2008. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. Funding for subsequent years will depend on the ability of partners to successfully perform partnership activities as stated in their applications. NOAA anticipates that the typical partnership(s) award will range from $250,000 to $1,000,000 for the initial year of a regional habitat restoration partnership(s) established in FY 2008. Applicants can request increases to continue scaling up partnership activities in subsequent budget periods to a limit of $2,000,000 in FY 2009, and to $3,000,000 in FY 2010. As this is the first year of the Great Lakes Habitat Restoration Program, no prior award information can be provided for reference purposes.

Statutory Authority: The Secretary of Commerce is authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970, to provide grants or cooperative agreements for fisheries habitat restoration.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.463, Habitat Conservation.

Application Deadline: Applications should be submitted via *www.grants.gov*, and must be received by grants.gov no later than 11:59 p.m. EST on August 31, 2007. No facsimile or electronic mail applications will be accepted.

Address for Submitting Proposals: If grants.gov cannot reasonably be used, applications must be postmarked, or provided to a delivery service and documented with a receipt, by August 31, 2007 and sent to: NOAA Restoration Center (F/HC3), Office of Habitat Conservation, National Marine Fisheries Service, 1315 East West Highway, Room 14726, Silver Spring, MD 20910. ATTN: GLHRP Partnership Applications.

Information Contacts: For further information contact Jenni Wallace (301) 713–0174 x191 or David Landsman at (301) 713–0174 x 151 or *GLHRP.GLERL@NOAA.gov*.

Eligibility: Eligible applicants are institutions of higher education, hospitals, other non-profits, commercial (for-profit) organizations, organizations under the jurisdiction of foreign governments, international organizations, state, local and Indian tribal governments whose applications propose to benefit Great Lakes coastal and open-lake habitats. Applications from federal agencies or employees of federal agencies will not be considered.

Cost Sharing Requirements: The overall initial focus of the GLHRP is to provide seed money to a regional partnership(s) that leverages funds and other contributions from a broad public and private sector to implement locally important habitat restoration projects to

benefit Great Lakes coastal and open-lake resources within an Area of Concern (AOC).

Additionally, the partnership(s) that propose to provide cash match toward project implementation funds at the local level (before local, project-specific contributions are included) will be likely to score higher in the evaluation of project costs. While this is not a requirement, the GLHRP strongly advises applicants to leverage as much investment as possible.

Intergovernmental Review: Applications under this program from state and local governments are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(2) Marine Fisheries Initiative (MARFIN)

Summary Description: The National Marine Fisheries Service (NMFS), Southeast Region, is seeking proposals under the Marine Fisheries Initiative Program (MARFIN), for research and development projects that optimize the use of fisheries in the Gulf of Mexico and off the South Atlantic states of North Carolina, South Carolina, Georgia, and Florida involving the U.S. fishing industry (recreational and commercial), including fishery biology, resource assessment, socioeconomic assessment, management and conservation, selected harvesting methods, and fish handling and processing.

Funding Availability: Approximately $2.0 million may be available in fiscal year (FY) 2008 for projects. This amount includes possible in-house projects. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. The NMFS Southeast Regional Office anticipates awarding projects that will range from $25,000 to $300,000. The average award is $150,000.

Statutory Authority: 15 U.S.C. 713c–3(d).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.433, Marine Fisheries Initiative.

Application Deadline: Applications must be received by 5:00 p.m., eastern time on August 1, 2007. For applications submitted through Grants.gov, a date and time receipt indication is included and will be the basis of determining timeliness. Hard copy applications will be date and time stamped when they are received. Facsimile transmission and electronic mail submission of applications will not be accepted.

Address for Submitting Proposals: Applications should be submitted electronically through *www.grants.gov.* Only if an applicant does not have Internet access, hard copies may be sent to the National Marine Fisheries Service, State/Federal Liaison Branch, 263 13th Avenue South, St. Petersburg, FL 33701.

Information Contacts: Ellie F. Roche, Chief, State/Federal Liaison Branch at (727) 824–5324.

Eligibility: Eligible applicants include Institutions of higher education, other nonprofits, commercial organizations, state, local and Indian tribal governments. Federal agencies or institutions are not eligible. Foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are excluded for purposes of this solicitation since the objective of the MARFIN program is to optimize research and development benefits from U.S. marine fishery resources.

Cost Sharing Requirements: Cost sharing is not required.

Intergovernmental Review: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(3) Protected Species Cooperative Conservation

Summary Description: The National Marine Fisheries Service (NMFS) is soliciting applications to support the conservation of threatened and endangered species, recently de-listed species, and candidate species under the jurisdiction of the NMFS or under the joint jurisdiction of the NMFS and the U.S. Fish and Wildlife Service (e.g. sea turtles). Any state that has entered into an agreement with the NMFS and maintains an adequate and active program for the conservation of endangered and threatened species pursuant to section 6(c) of the Endangered Species Act of 1973 (ESA) is eligible to apply.

These financial assistance awards can be used to support management, monitoring, research, and outreach activities that provide direct conservation benefits to listed species, recently de-listed species, or candidate species that reside within that state. Projects involving North Atlantic right whales will not be considered for funding under this grant program; such projects may be submitted under the North Atlantic Right Whale Research Program of the NMFS Northeast Regional Office. Projects focusing on listed Pacific salmon will also not be considered under this grant program; State conservation efforts for these species are funded through the Pacific Salmon Coastal Recovery Fund. The program priorities for this opportunity support NOAA's mission support goal of ''Ecosystems''.

Funding Availability: This solicitation announces that a minimum of $250K and a maximum of $800K may be available for distribution under the FY 2008 PSCC program, in award amounts to be determined by the proposals and available funds. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. Funds have not yet been appropriated for this program, and there is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award any specific grant proposal or to obligate any available funds. Award periods may extend up to 3 years with annual funding contingent on the availability of Federal appropriations and satisfactory performance by the grant recipient. There are no restrictions on maximum or minimum award amounts within the available funding.

Statutory Authority: The NMFS is authorized to provide Federal assistance to eligible states for the purpose of assisting the states in the development of programs for the conservation of listed, recently de-listed, and candidate species that reside within that state (16 U.S.C. 661; 1535).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.472, Unallied Science Program.

Application Deadline: Proposals submitted through Grants.gov must be received by 5 p.m. Eastern Daylight Time on September 15, 2007; proposals submitted by mail must be postmarked by September 15, 2007.

Address for Submitting Proposals: Applications should be submitted electronically through the Grants.gov Web site at *http://www.grants.gov.* If online submission is not possible, hard copy applications may be submitted (by postal mail, commercial delivery, or hand delivery) to NOAA/NMFS/Office of Protected Resources, Attn: Lisa Manning, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910.

Information Contacts: Lisa Manning at the NOAA/NMFS/Office of Protected Resources, Endangered Species Division, 1315 East-West Highway, Silver Spring, MD 20910, by phone at 301–713–1401, or by e-mail at *Lisa.Manning@noaa.gov.*

Eligibility: Eligible applicants are states that, through their respective state agencies, have entered into an agreement with the NMFS pursuant to section 6(c) of the ESA. The terms 'state' and 'state agency' are used as defined in

section 3 of the ESA. Currently eligible state agencies are from the following states: Florida, Georgia, Hawaii, Maine, Maryland, Massachusetts, New Jersey, New York, North Carolina, Puerto Rico, South Carolina, and the U.S. Virgin Islands. Any state agency that enters into a section 6(c) agreement with the NMFS prior to the application deadline (September 15, 2007) is also eligible to apply. Proposals may address federally listed species that are included in the state's ESA section 6 agreement or any species that has become a ''candidate'' species by the grant application deadline.

Cost Sharing Requirements: In accordance with section 6(d) of the ESA, all proposals submitted must include a minimum non-Federal cost share of 25 percent of the total budget if the proposal involves a single state. If a proposal involves collaboration of two or more states, the minimum non-Federal cost share decreases to 10 percent of the total project costs.

Intergovernmental Review: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(4) Cooperative Research Program

Summary Description: The CRP program provides financial assistance for projects that seek to increase and improve the working relationship between researchers from the NMFS, state fishery agencies, universities, and fishermen in the Gulf of Mexico and off the South Atlantic states of North Carolina, South Carolina, Georgia, and Florida involving the U.S. fishing industry (recreational and commercial). The program is a means of involving commercial and recreational fishermen in the collection of fundamental fisheries information. Collection efforts support the development and evaluation of management and regulatory options.

Funding Availability: Approximately $2.0 million may be available in fiscal year (FY) 2008 for projects. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. The NMFS Southeast Regional Office estimates awarding eight projects that will range from $25,000 to $400,000. The average award is $150,000. Publication of this notice does not obligate NMFS to award any specific grant or cooperative agreement or any of the available funds.

Statutory Authority: Authority for the CRP is provided by the following: 15 U.S.C. 713c–3(d).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.454, Unallied Management Projects.

Application Deadline: Applications must be received by 5 p.m., eastern time on August 31, 2007. For applications submitted through Grants.gov, a date and time receipt indication is included and will be the basis of determining timeliness. Hard copy applications will be date and time stamped when they are received. Facsimile transmission and electronic mail submission of applications will not be accepted.

Address for Submitting Proposals: Applications should be submitted through *www.grants.gov*. Only if an applicant does not have internet access, hard copies may be sent to: National Marine Fisheries Service, State/Federal Liaison Branch, 263 13th Avenue South, St. Petersburg, FL 33701.

Information Contacts: For questions regarding the application process, you may contact: Robert Sadler, State/Federal Liaison Branch, (727) 824–5324, or *Robert.Sadler@noaa.gov*.

Eligibility: Eligible applicants may be Institutions of higher education, nonprofits, commercial organizations, individuals, and state, local, and Indian tribal governments. Federal agencies or institutions are not eligible. Foreign governments, organizations under the jurisdiction of foreign governments, and international organizations are excluded for purposes of this solicitation since the objective of the CRP is to optimize research and development benefits from U.S. marine fishery resources. Applicants who are not commercial or recreational fishermen must have commercial or recreational fishermen participating in their project. There must be a written agreement with a fisherman describing the involvement in the project activity.

Cost Sharing Requirements: Cost-sharing is not required for this program.

Intergovernmental Review: Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs. Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a States process under EO 12372, the names, addresses and phone numbers of participating SPOCs are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html.*

(5) General Coral Reef Conservation

Summary Description: The NOAA Coral Reef Conservation Program/General Coral Reef Conservation Grants (GCRCGP) provides funding to institutions of higher education, non-profit organizations, commercial organizations, Freely Associated State government agencies, and local and Indian tribal governments to support coral reef conservation projects in the United States and the Freely Associated States in the Pacific, as authorized under the Coral Reef Conservation Act of 2000. Projects funded through the GCRCGP support on-the-ground efforts that: (1) Help preserve, sustain and restore the condition of coral reef ecosystems, (2) promote the wise management and sustainable use of coral reef resources, (3) increase public knowledge and awareness of coral reef ecosystems and issues regarding their conservation and (4) develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems. Projects should complement and fill gaps in state, territorial and commonwealth coral reef programs, emphasize community-based conservation, or address local action strategy priorities. Proposals selected for funding through this solicitation require a 1:1 match and will be implemented through a grant. Funding of up to $600,000 is expected to be available for GRCGP in FY 2008. These funds will be divided approximately equally among the U.S. Pacific and Atlantic to maintain geographic balance, as outlined in the Coral Reef Conservation Act of 2000. Awards will range from $15,000–$50,000.

Funding Availability: NOAA announces the availability of up to $600,000 of Federal assistance may be available in FY 2008 for the GCRCGP to support financial assistance awards for coral conservation activities. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. Proposals can be submitted for a minimum of $15,000 to a maximum of $50,000; NOAA will not accept proposals requesting over $50,000 of Federal funds.

There is no limit on the number of applications that can be submitted by the same applicant during the 2008 competitive grant cycle. However, multiple applications submitted by the same applicant must clearly identify different projects and must be successful in the competitive review process. The number of awards made as a result of this solicitation will depend on the number of eligible applications

received, the amount of funds requested for each project, the merit and ranking of the proposals, and the amount of funds made available to the Program by Congress. In addition, funding will be divided between the U.S. Pacific and U.S. Atlantic to meet requirements for geographic distribution of funds, as described in the Coral Reef Conservation Act. Attempts will also be made to fund one or more projects in each jurisdiction, provided that the project addresses priorities outlined above, it is identified as having sufficient merit, and it meets all other requirements as stipulated in this solicitation. The funds have not yet been appropriated for this program, and there is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds.

Statutory Authority: Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.463, Habitat Conservation.

Application Deadline: Applications must be received no later than 11:59 PM EST on November 1, 2007.

Address for Submitting Proposals: Applications should be submitted through *www.grants.gov*. If applicants are unable to submit through *www.grants.gov*, an original paper copy of signed Federal financial assistance forms and the complete project narrative and budget narrative must be submitted by mail to: Andrew Bruckner, NOAA Coral Reef Conservation Program, NOAA Fisheries, Office of Habitat Conservation (F/HC), 1315 East West Highway, Silver Spring, MD 20910. ATTN: CRCGP Project Applications. Electronic copies of the project narrative and budget narrative are requested when submitting by mail (*liz.fairey@noaa.gov*), however e-mail applications submitted without a mailed hard copy with appropriate postal date stamp will not be accepted.

Information Contacts: Technical point of contact for NOAA Coral Reef Conservation Grant Program/General Grants is Andy Bruckner, 301–713–3459, extension 190 or e-mail at *andy.bruckner@noaa.gov.*

Eligibility: Institutions of higher education, non-profit organizations, commercial organizations, local and Indian tribal governments and Freely Associated State Government Agencies can apply for funding under the GCRCGP. U.S. federal, state, territory, and commonwealth governments and Regional Fishery Management Councils are not eligible under this category. NOAA employees are not allowed to help in the preparation of applications or write letters of support for any application. NOAA staff are available to provide information on programmatic goals and objectives, ongoing coral reef conservation programs, Regional funding priorities, and, along with other Federal Program Officers, can provide information on application procedures and completion of required forms. For activities that involve collaboration with current NOAA programs or staff, NOAA employees must provide a letter verifying that they are collaborating with the project. Federal employee travel and salaries are not allowable costs under this program.

Cost Sharing Requirements: As per section 6403(b)(1) of the Coral Reef Conservation Act of 2000, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total cost of the project. All GCRCGP projects submitted to this program require a 1:1 match obtained from non-Federal sources. Applicants must specify in their proposal the source of the match and provide letters of commitment to confirm stated match contributions. The match can include in-kind contributions and other non-cash support. Applicants are permitted to combine contributions from additional non-Federal partners in order to meet the 1:1 match expected, as long as such contributions are not being used to match any other funds. Federal funds may not be used as matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process, with cash being the preferred method of contribution. However, applicants should note that cost sharing is an element considered in Evaluation Criterion d. Project Costs. Applicants may request a waiver from the 1:1 match pursuant to Section 6403(b)(2) of the Coral Reef Conservation Act. As per section 6403(b)(2) of the Coral Reef Conservation Act of 2000, the NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: (1) No reasonable means are available through which an applicant can meet the matching requirement; and (2) The probable benefit of such project outweighs the public interest in such matching requirement. In the case of a waiver request, the applicant must provide a detailed justification at the time the proposal is submitted explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match. Notwithstanding any other provisions herein, and in accordance with 48 U.S.C. 1469a(d), the Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Eligible applicants choosing to apply 48 U.S.C. 1469a(d) must include a letter requesting a waiver that demonstrates that their project meets the requirements of 48 U.S.C. 1469a(d).

Intergovernmental Review: Applications under this Program are subject to Executive Order 12372, Intergovernmental Review of Federal Programs. Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. *http://www.whitehouse.gov/omb/grants/spoc.html*

(6) FY2008 Community-based Marine Debris Prevention and Removal Project Grants

Summary Description: The NOAA Marine Debris Program (MDP), authorized in the Marine Debris Reduction, Prevention, and Reduction Act (33 U.S.C. 1951 *et seq.*), provides funding to catalyze the implementation of locally driven, community-based marine debris prevention and removal projects that will benefit coastal habitat, waterways, and NOAA trust resources including diadromous fish. Projects funded through the MDP have strong on-the-ground habitat components involving the removal of marine debris and derelict gear that will provide educational and social benefits for people and their communities in addition to long-term ecological habitat improvements for NOAA trust resources. Through this solicitiation the MDP identifies potential marine debris prevention and removal projects, strengthens the development and implementation of habitat restoration through the removal of marine debris within communities, and fosters awareness of the effects of marine debris through the funding of outreach and education proposals to further the

conservation of living marine resource habitats across a wide geographic area.

Funding Availability: This solicitation announces that funding of up to $2,000,000 is expected to be available for Community-based Marine Prevention and Removal Project Grants in FY 2008. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. The NOAA Restoration Center anticipates that typical project awards will range from $15,000 to $150,000; NOAA will not accept proposals for under $15,000 or proposals for over $250,000 under this solicitation.

Statutory Authority: The Administrator of the National Oceanic and Atmospheric Administration is authorized under the Marine Debris Reduction, Prevention, and Reduction Act (33 U.S.C. 1951 *et seq.*) to provide grants or cooperative agreements to identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety. The Secretary of Commerce is also authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970, to provide grants or cooperative agreements for fisheries habitat restoration.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.463, Habitat Conservation.

Application Deadline: Applications should be submitted via *www.grants.gov*, and must be received by grants.gov no later than 11:59 p.m. EDT on October 31, 2007. No facsimile or electronic mail applications will be accepted. Applications postmarked or provided to a delivery service after that time will not be considered for funding. Applications submitted via the U.S. Postal Service must have an official postmark; private metered postmarks are not acceptable. In any event, applications received later than 15 business days following the postmark closing date will not be accepted.

Address for Submitting Proposals: Applications should be submitted through Grants.gov. If grants.gov cannot reasonably be used, a hard copy application with the SF424 signed in blue ink must be postmarked, or provided to a delivery service and documented with a receipt, by October 31, 2007, and sent to: NOAA Restoration Center (F/HC3), Community-based Restoration Program, NOAA Fisheries, 1315 East West Highway, Rm. 14727, Silver Spring, MD 20910. ATTN: MDP Project Applications.

Information Contacts: For further information contact David Landsman at 301–713–0174 or by e-mail at *David.Landsman@noaa.gov.*

Eligibility: Eligible applicants are institutions of higher education, other non-profits, commercial (for profit) organizations, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments whose projects have the potential to benefit NOAA trust resources. Applications from federal agencies or employees of Federal agencies will not be considered. Federal agencies are strongly encouraged to work with states, non-governmental organizations, national service clubs or youth corps organizations and others that are eligible to apply. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in under-served areas. The MDP encourages proposals involving any of the above institutions.

Cost Sharing Requirements: Cost-sharing is not required however it does affect a proposal's score (see criterion 4, Section V.A. of the Federal Funding Opportunity). Federal sources cannot be considered for matching funds, but can be described in the budget narrative to demonstrate additional leverage.

Intergovernmental Review: Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(7) Projects To Improve or Amend Coral Reef Fishery Management Plans

Summary Description: The NOAA Coral Reef Conservation Grant Program/Projects to Improve or Amend Coral Reef Fishery Management Plans (CRFMPGP) provides funding to the Regional Fishery Management Councils for projects to conserve and manage coral reef fisheries, as authorized under the Coral Reef Conservation Act of 2000. Projects funded through the CRFMPGP are for activities that (1) provide better scientific information on the status of coral reef fisheries resources, critical habitats of importance to coral reef fishes, and the impacts of fishing on these species and habitats; (2) identify new management approaches that protect coral reef biodiversity and ecosystem function through regulation of fishing and other extractive uses; and (3) incorporate conservation and sustainable management measures into existing or new Federal fishery management plans for coral reef species. Proposals selected for funding through this solicitation will be implemented through a Cooperative Agreement. The role of NOAA in the CRFMPGP is to help identify potential projects that reduce impacts of fishing on coral reef ecosystems, strengthen the development and implementation of the projects, and assist in coordination of these efforts with Federal, state, territory or commonwealth management authorities and various coral reef user groups.

Funding up to $1,050,000 is expected to be available for CRFMPGP Cooperative Agreements in FY 2008. These funds will be divided equally among the Atlantic and Pacific to maintain the geographic split required by the Act. The NOAA Coral Reef Conservation Program anticipates that awards will range from $175,000–$525,000.

Funding Availability: This solicitation announces that approximately $1,050,000 is expected to be available for cooperative agreements in support coral reef conservation activities for Projects to Improve or Amend Coral Reef Fishery Management Plans (CRFMPGP) in FY 2008. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. The NOAA Coral reef Conservation Program anticipates that typical project awards will range from about $175,000 to $525,000; NOAA will not accept proposals for over $525,000 under this solicitation. Equal funding will be provided to the Atlantic and Pacific, up to a maximum of $525,000 for activities in the Western Pacific, and a maximum of $525,000 for activities in the South Atlantic, the Gulf of Mexico, and the Caribbean. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Activities approved by NOAA will be awarded as new cooperative agreements through the NMFS Office of Habitat Conservation (HC). The number of awards made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for each project, the merit and ranking of the proposals, and the amount of funds made available to the Program by Congress. The funds have not yet been appropriated for this program, and there is no guarantee that sufficient funds will be available to make awards for all qualified projects. Publication of this notice does not oblige NOAA to award

any specific project or to obligate any available funds.

Statutory Authority: Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.441, Regional Fishery Management Councils.

Application Deadline: Applications should be submitted via *www.grants.gov* and must be received by grants.gov no later than 11:59 p.m. EST on November 1, 2007.

Address For Submitting Proposals: Applications should be submitted through *www.grants.gov.* If applicants are unable to submit through *www.grants.gov,* an original paper copy of signed Federal financial assistance forms and the complete project narrative and budget narrative must be submitted by mail to: Andrew Bruckner, NOAA Coral Reef Conservation Program, NOAA Fisheries, Office of Habitat Conservation (F/HC), 1315 East West Highway, Silver Spring, MD 20910. ATTN: CRCGP Project Applications. Electronic copies of the project narrative and budget narrative are requested when submitting by e-mail (*liz.fairey@noaa.gov*), however e-mail applications submitted without a mailed hard copy with appropriate postal date stamp will not be accepted.

Information Contacts: Information on submission requirements and Federal forms can be obtained from Liz Fairey at 301–713–3459 or by e-mail at *liz.fairey@noaa.gov.* Technical point of contact for NOAA Coral Reef Conservation Grant Program/Projects to Improve or Amend Coral Reef Fishery Management Plans Grants Program is Andy Bruckner, 301–713–3459, extension 190 or e-mail at *andy.bruckner@noaa.gov.*

Eligibility: Eligible applicants are limited to the Western Pacific Regional Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the Caribbean Fishery Management Council.

Cost Sharing Requirements: No cost sharing or matching is required under this program. The Administrator has waived the matching requirement for the Fishery Management Councils as discussed in Section VII of the Coral Reef Conservation Grant Program Implementation Guidelines (**Federal Register** Vol. 67, No. 76, page 19396, Friday, April 19, 2002). This waiver is based on the fact that the Councils are funded solely by awards from the U.S. Federal Government, and therefore, do not have the ability to generate matching funds.

Intergovernmental Review: Applications under this CRFMPGP are subject to Executive Order 12372, Intergovernmental Review of Federal Programs. Specific information regarding Intergovernmental Review can be found above in Section IV. Application and Submission Information, D. Intergovernmental Review.

(8) FY2008 Community-based Habitat Restoration Project Grants

Summary Description: The NOAA Community-based Restoration Program (CRP) provides funding and technical expertise to catalyze the implementation of locally-driven, grass-roots habitat restoration projects that will benefit living marine and coastal resources, including diadromous fish. Projects funded through the CRP have strong on-the-ground habitat restoration components that provide educational and social benefits for people and their communities in addition to long-term ecological habitat improvements for NOAA trust resources. Through this solicitation, the CRP identifies potential restoration projects, strengthens the development and implementation of sound restoration projects and science-based monitoring of such projects within communities, and develops long-term, ongoing national and regional partnerships to support community-based restoration of living marine and coastal resource habitats across a wide geographic area. Proposals selected for funding through this solicitation will be implemented through a cooperative agreement.

Funding of up to $3,000,000 is expected to be available for Community-based Habitat Restoration Project Grants in FY 2008. The NOAA Restoration Center (RC) anticipates that typical awards will range from $50,000 to $200,000.

Funding Availability: This solicitation announces that funding of up to $3,000,000 is expected to be available for Community-based Habitat Restoration Project Grants in FY 2008. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. The NOAA Restoration Center anticipates that typical project awards will range from $50,000 to $200,000; NOAA will not accept proposals for under $30,000 or proposals for over $250,000 under this solicitation. There is no guarantee that sufficient funds will be available to make awards for all proposals. The number of awards to be made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested for initiating restoration projects by the applicants, the merit and ranking of the proposals, and the amount of funds made available to the CRP by Congress. The CRP anticipates that between 10 and 20 awards will be made as a result of this solicitation. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this document does not obligate NOAA to award any specific project or obligate all or any parts of any available funds. In FY 2006, 12 applications were recommended for funding ranging from $32,766 to $175,000 for a total of $1,009,466. In FY 2005, 18 applications were recommended for funding ranging from $20,000 to $211,507 for a total of $1.72 million. In FY 2004, 14 applications were recommended for funding ranging from $30,000 to $206,277 for a total of $1.37 million.

Statutory Authority: The Secretary of Commerce is authorized under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (H.R. 5946) to provide funding and technical expertise for fisheries and coastal habitat restoration and to promote significant community support and volunteer participation in such activities. The Secretary of Commerce is also authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970, to provide grants or cooperative agreements for fisheries habitat restoration.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.463, Habitat Conservation.

Application Deadline: Applications must be received by Grants.gov no later than 11:59 p.m. EDT on September 27, 2007. If Grants.gov cannot reasonably be used, a hard copy application must be postmarked, or provided to a delivery service and documented with a receipt, by September 27, 2007. No facsimile or electronic mail applications will be accepted.

Address for Submitting Proposals: Applicants are strongly encouraged to apply through *www.grants.gov.* It takes approximately 3 weeks to register with Grants.gov, and registration is required only once. Applicants should consider the time needed to register with Grants.gov, and should begin the registration process well in advance of the application due date if they have never registered with Grants.gov. Applications must be received by Grants.gov no later than 11:59 PM EDT on September 27, 2007 to be considered

for funding. Applicants should allow themselves time to submit the proposal to Grants.gov, as the deadline for submission cannot be extended and there is the potential for human or computer error during the Grants.gov submission process. If Grants.gov cannot reasonably be used, a hard copy application with the SF424 signed in ink (blue ink is preferred) must be postmarked, or provided to a delivery service and documented with a receipt, by September 27, 2007, and sent to: NOAA Restoration Center (F/HC3), Community-based Restoration Program, NOAA Fisheries, 1315 East West Highway, Rm. 14727, Silver Spring, MD 20910. ATTN: CRP Project Applications. Applications postmarked or provided to a delivery service after that time will not be considered for funding. Applications submitted via the U.S. Postal Service must have an official postmark; private metered postmarks are not acceptable. In any event, applications received later than 15 business days following the postmark closing date will not be accepted. No facsimile or electronic mail applications will be accepted. Applicants desiring acknowledgment of receipt of their applications should include a self-addressed postcard. Paper applications should be printed on one side only, on 8.5″ x 11″ paper, and should not be bound in any manner. Applicants submitting paper applications should also include a full copy of the application on a compact disc (CD).

Information Contacts: For further information contact Cathy Bozek or Melanie Gange at (301) 713–0174, or by fax at (301) 713–0184, or by e-mail at *Cathy.Bozek@noaa.gov* or *Melanie.Gange@noaa.gov.* Potential applicants are invited to contact CRP staff before submitting an application to discuss the applicability of project ideas to the CRP's goals and objectives. Additional information on the CRP, including examples of community-based habitat restoration projects that have been funded to date, can be found on the World Wide Web at *http://www.nmfs.noaa.gov/habitat/restoration.*

Eligibility: Eligible applicants are institutions of higher education, hospitals, other non-profits, commercial (for profit) organizations, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments whose projects have the potential to benefit NOAA trust resources.

Applications from federal agencies or employees of Federal agencies will not be considered.

Federal agencies are strongly encouraged to work with states, non-governmental organizations, national service clubs or youth corps organizations and others that are eligible to apply. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in under-served areas. The CRP encourages proposals involving any of the above institutions.

Cost Sharing Requirements: A major goal of the CRP is to provide seed money to projects that leverage funds and other contributions from a broad public and private sector to implement locally important habitat restoration to benefit living marine and coastal resources. Cost-sharing is not required however it does affect a proposal's score (see criterion 4, Section V.A. of the Federal Funding Opportunity).

Intergovernmental Review: Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOC's are listed in the Office of Management and Budget's home page at *http://www.whitehouse.gov/omb/grants/spoc.html.*

(9) FY2008 Open Rivers Initiative

Summary Description: The NOAA Open Rivers Initiative (ORI) provides funding to catalyze the implementation of locally-driven projects to remove dams and other barriers, in order to benefit living marine and coastal resources, particularly diadromous fish. Projects funded through the Open Rivers Initiative have strong on-the-ground habitat restoration components that foster economic, educational, and social benefits for citizens and their communities in addition to long-term ecological habitat improvements for NOAA trust resources. Through the ORI, NOAA provides funding and technical assistance for barrier removal projects. Proposals selected for funding through this solicitation will be implemented through a cooperative agreement. Funding of up to $6,000,000 is expected to be available for ORI Project Grants in FY 2008. The NOAA Restoration Center (RC) within the Office of Habitat Conservation will administer this grant initiative, and anticipates that typical awards will range from $50,000 to $250,000. Although a select few may fall outside of this range, project proposals requesting less than $30,000 or greater than $1,000,000 will not be accepted or reviewed.

Funding Availability: This solicitation announces that funding of up to $6,000,000 is expected to be available for Open Rivers Initiative Project Grants in FY 2008. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. NOAA anticipates that typical project awards will range from $50,000 to $250,000; proposals requesting less than $30,000 or more than $1,000,000 will not be accepted under this solicitation.

NOAA does not guarantee that sufficient funds will be available to make awards for all proposals. The number of awards to be made as a result of this solicitation will depend on the number of eligible applications received, the amount of funds requested by the applicants, the merit and ranking of the proposals, and the amount of funds made available to the ORI by Congress. NOAA anticipates that between 20 and 40 awards will be made as a result of this solicitation. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives.

Publication of this document does not obligate NOAA to award any specific project or obligate all or any parts of any available funds.

Statutory Authority: The Secretary of Commerce is authorized under the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970, to provide grants or cooperative agreements for fisheries habitat restoration. The Secretary of Commerce is also authorized under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (H.R. 5946) to provide funding and technical expertise for fisheries and coastal habitat restoration and to promote significant community support and volunteer participation in such activities.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.463, Habitat Conservation.

Application Deadline: Applications should be submitted via grants.gov, and must be received by grants.gov no later than 11:59 p.m. EDT on October 31, 2007. If *http://www.grants.gov* cannot

reasonably be used, a hard copy application, with the SF–424 Form bearing an original, ink signature must be postmarked, or provided to a delivery service and documented with a receipt, by October 31st, 2007. No facsimile or electronic mail applications will be accepted.

Address for Submitting Proposals: Applicants are strongly encouraged to apply through *www.grants.gov* and should note that it takes approximately 3 weeks to register with grants.gov, and registration is required only once. Applicants should consider the time needed to register with grants.gov, and should begin the registration process well in advance of the application due date if they have never registered with grants.gov. If *www.grants.gov* cannot reasonably be used, a hard copy application with the SF–424 bearing an original, ink signature must be postmarked, or provided to a delivery service and documented with a receipt, by October 31st, 2007, and sent to: NOAA Restoration Center (F/HC3), Office of Habitat Conservation, NOAA Fisheries, 1315 East West Highway, Rm. 14718, Silver Spring, MD 20910. ATTN: Open Rivers Initiative Project Applications. Applications postmarked or provided to a delivery service after that time will not be considered for funding.

Applications submitted via the U.S. Postal Service must have an official postmark; private metered postmarks are not acceptable. In any event, applications received later than 15 business days following the postmark closing date will not be accepted. No facsimile or electronic mail applications will be accepted. Paper applications should be printed on one side only, on 8.5″ x 11″ paper, and should not be bound in any manner. Applicants submitting paper applications should also include a full copy of the application on a compact disc (CD).

Information Contacts: For further information contact Tisa Shostik (*Tisa.Shostik@noaa.gov*) or Melanie Gange (*Melanie.Gange@noaa.gov*) at (301) 713–0174.

Potential applicants are invited to contact NOAA Restoration Center staff before submitting an application to discuss the applicability of project ideas to the goals and objectives of ORI. Additional information on the ORI can be found on the world wide web at *http://www.nmfs.noaa.gov/habitat/restoration.*

Eligibility: Eligible applicants are institutions of higher education, other non-profits, industry and commercial (for profit) organizations, organizations under the jurisdiction of foreign governments, international organizations, and state, local and Indian tribal governments whose projects have the potential to benefit NOAA trust resources.

Applications from federal agencies or employees of federal agencies will not be considered.

Federal agencies are strongly encouraged to work with states, non-governmental organizations, national service clubs or youth corps organizations and others that are eligible to apply. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic-serving institutions, tribal colleges and universities, and institutions that work in under-served areas. The ORI encourages proposals from or involving any of the above institutions.

Cost Sharing Requirements: A major goal of the ORI will be to provide seed money for projects that leverage funds and other contributions from a broad public and private sector to implement locally important barrier removals to benefit living marine and coastal resources. Cost-sharing is not required however it does affect a proposal's score (see criterion 4, Section V.A. of the Federal Funding Opportunity).

Intergovernmental Review: Applications under this initiative are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOC's are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html.*

(10) Bay Watershed Education and Training Program

Summary Description: B–WET Chesapeake is a competitively based program that supports existing environmental education programs, fosters the growth of new programs, and encourages the development of partnerships among environmental education programs throughout the entire Chesapeake Bay watershed. Funded projects assist in meeting the Stewardship and Community Engagement goals of the Chesapeake 2000 Agreement. Specifically, projects support organizations that provide meaningful watershed educational experiences for students or related professional development for teachers. NCBO is encouraging applications that include innovative technologies in the delivery of these experiences.

Funding Availability: This solicitation announces that approximately $3.5M may be available in FY 2008 in award amounts to be determined by the proposals and available funds. Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. Annual funding is anticipated to maintain partnerships for up to 3 years duration, but is dependent on funding made available by Congress.

1. About $2.75M will be for exemplar programs that successfully integrate teacher professional development on the Chesapeake Bay watershed with in-depth classroom study and outdoor experiences for their students.

2. About $500K will be for proposals that provide opportunities either for students (K through 12) to participate in Meaningful Watershed Educational Experiences related to Chesapeake Bay or Professional Development in the area of Chesapeake Bay watershed education for teachers.

3. About $250K will be for proposals that incorporate innovative technologies into meaningful watershed educational experiences. The NCBO anticipates that typical awards for B–WET Exemplar Programs that successfully integrate teacher professional development with in-depth classroom student and outdoor experiences for their students will range from $50,000 to $200,000. Projects that represent either meaningful watershed educational experiences for students or teacher professional development in watershed education will range from $10,000 to $75,000. Technology-Based Projects will generally range from $20,000 to $150,000.

There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government. Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

Statutory Authority: Under 15 U.S.C. 1540, the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to enter into cooperative agreements and other financial agreements with any nonprofit organization to aid and promote scientific and educational activities to foster public understanding of the National Oceanic and Atmospheric Administration or its programs.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.457, Chesapeake Bay Studies.

Application Deadline: Proposals must be received by 5 p.m. eastern time on Friday, October 19, 2007.

Address for Submitting Proposals: Applicants are strongly encouraged to submit applications electronically through *http://www.grants.gov*. Hard copies may be submitted by postal mail, commercial delivery service, or hand-delivery. Proposals being submitted by hard copy must be received by: NOAA Chesapeake Bay Office; Education Coordinator; 410 Severn Avenue, Suite 107A; Annapolis, Maryland 21403. Facsimile transmissions and e-mail submission of proposals will not be accepted.

Information Contacts: Please visit the B–WET Web site for further information at: *http://noaa.chesapeakebay.net/educationgrants.aspx* or contact Shannon Sprague, NOAA Chesapeake Bay Office; 410 Severn Avenue, Suite 107A, Annapolis, MD 21403, or by phone at 410–267–5664, or fax to 410–267–5666, or via e-mail at *Shannon.Sprague@noaa.gov*.

Eligibility: Eligible applicants are K-through-12 public and independent schools and school systems, institutions of higher education, community-based and nonprofit organizations, state or local government agencies, interstate agencies, and Indian tribal governments in the Chesapeake Bay watershed. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in undeserved areas. The NCBO encourages proposals involving any of the above institutions.

Cost Sharing Requirements: No cost sharing is required under this program, however, the NCBO strongly encourages applicants include a 25% or higher match. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process.

Intergovernmental Review: Applications under this program are subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

(11) 2008 Monkfish Research Set-Aside Program

Summary Description: The National Marine Fisheries Service (NMFS) announces that the New England and Mid-Atlantic Fishery Management Councils (Councils) have set aside 500 monkfish days-at-sea (DAS) to be used for research endeavors under a research set-aside (RSA) program. NMFS is soliciting proposals to utilize the DAS for research activities concerning the monkfish fishery for fishing year 2008 (May 1, 2008–April 30, 2009). Through the allocation of research DAS, the Monkfish RSA Program provides a mechanism to reduce the cost for vessel owners to participate in cooperative monkfish research. The intent of this RSA program is for fishing vessels to utilize these research DAS to conduct monkfish related research, rather than their allocated monkfish DAS, thereby eliminating any cost to the vessel associated with using a monkfish DAS.

Funding Availability: No Federal funds are provided for research under this notification. Rather, projects funded under the Monkfish RSA Program would be provided with additional opportunity to harvest monkfish, and the catch sold to generate income to offset research costs. The National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce (NMFS), the Federal Government may issue an Exempted Fishing Permit (EFP), if needed, to provide special fishing privileges in response to research proposals selected under this program. For example, vessels participating in an approved research project may be authorized by the Northeast Regional Administrator, NMFS, to harvest monkfish in excess of established possession limits. Two awards were issued under the 2006 Monkfish RSA Program, with these projects recently ending in April 2007. Three awards were issued under the 2007 Monkfish RSA Program, and these projects are expected to commence in May 2007. A total of 137.5 RSA DAS were issued to projects during FY 2006, and a total of 367 RSA DAS have been issued to projects for FY 2007. For FY 2008, it is anticipated that 2–5 awards will be made. Funds generated from landings harvested and sold under the Monkfish RSA Program shall be used to cover the cost of research activities, including vessel costs. For example, the funds may be used to pay for gear modifications, monitoring equipment, the salaries of research personnel, or vessel operation costs. The Federal Government shall not be liable for any costs incurred in the conduct of the project. Specifically, the Federal Government is not liable for any costs incurred by the researcher or vessel owner should the sale of catch not fully reimburse the researcher or vessel owner for his/her expenses.

Statutory Authority: Grants issued through the RSA program are consistent with 16 U.S.C. 1853(b)(11), 16 U.S.C. 1881a(e), and 16 U.S.C. 1881(c). The ability to set aside monkfish DAS for research purposes was established in the final rule implementing Amendment 2 to the Monkfish Fishery Management Plan (70 FR 21927, April 28, 2005), and codified in the regulations at 50 CFR 648.92(c).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.454, Unallied Management Projects.

Application Deadline: Applications must be received on or before 5 p.m. Eastern Daylight Time, August 31, 2007.

Address for Submitting Proposals: Proposals must be submitted electronically through *http://www.grants.gov*, or as hard copy (by postal mail, commercial delivery service, or hand delivery) to NMFS, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543. Delays may be experienced when Registering with Grants On-line near the end of a solicitation period. Therefore, NOAA strongly recommends that applicants do not wait until the deadline date to begin the application process through *http://www.grants.gov*. Electronic or hard copies received after the deadline will not be considered, and hard copy applications will be returned to the sender.

Information Contacts: Administrative questions: Allison McHale, Fishery Policy Analyst, NMFS, by phone 978–281–9103, fax 978–281–9135, or e-mail at *allison.mchale@noaa.gov*. Technical questions: Kelly Taranto, NMFS, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543 by phone 508–495–2312, fax 508–495–2004, or e-mail at *kelly.taranto@noaa.gov*.

Eligibility: Eligible applicants include, but are not limited to, institutions of higher education, hospitals, other non-profits, commercial organizations, individuals, state, local, and Native American tribal governments. Federal agencies and institutions are not eligible to receive Federal assistance under this

notice. Additionally, employees of any Federal agency or Regional Fishery Management Council (Council) are ineligible to submit an application under this program. However, Council members who are not Federal employees may submit an application.

Cost Sharing Requirements: None.

Intergovernmental Review: Applications under the program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

(12) 2008/2009 Atlantic Herring Research Set-Aside (RSA)

Program: NMFS announces that for 2008 and 2009 Atlantic herring (herring) fishing years (January 1–December 31), the New England Fishery Management Council (Council), in consultation with the Atlantic States Marine Fisheries Commission, has set aside 3 percent of the total allowable catch (TAC) from herring management areas 1A, 1B, 2, and 3, to be used for research endeavors under a research set-aside (RSA) program. The RSA program provides a mechanism to fund research and compensate vessel owners through the sale of fish harvested under the research quota. Vessels participating in research and/or compensation activities of an approved research project may be authorized by the Northeast Regional Administrator, NMFS, to harvest and land fish from management areas closed due to attainment of a commercial quota. Landings from such trips shall be sold to generate funds that help defray the costs associated with the approved research projects. No Federal funds are provided for research under this notification. Priority shall be given to funding research proposals in the following general subject areas: (1) Efforts to define localized herring depletion on a spatial and temporal scale, (2) assessment of bycatch/discards in the directed herring fishery, (3) commercial herring catch sampling programs and portside bycatch surveys, (4) herring predator/prey information synthesis and investigations addressing information gaps, (5) development and testing of herring gear modifications to minimize interactions with non-target species in the herring fishery, and (6) development of tagging and morphometric studies to explore uncertainties in herring stock structure, stock mixing rates, and the impacts of harvest mortality on different components of the stock. For a detailed description of the research priorities, see 2008/2009 Atlantic Herring RSA Program Research Priorities listed in full text at *http://www.grants.gov*, Federal Funding Opportunity #NMFS–NEFSC–2008–2001107.

Funding Availability: No Federal funds are provided for research under this notification, but rather the opportunity to fish with the catch sold to generate income to offset research costs. Individual research projects may apply for the use of more than one herring research set-aside allocation from the 2008 and/or 2009 fishing year(s). Multi-year projects can be funded since the herring RSA program is intended to be consistent with the three-year harvest specification process. The research compensation trips must be conducted in the management area from which the set-aside was derived. In addition, an awarded TAC set-aside must be utilized in the same fishing year from which it was distributed. For example, a 2008 TAC RSA from Management Area 2 must be harvested before the end of the 2008 fishing year (December 31, 2008). However, the money generated from the RSA may be rolled over into, or used to fund research in, future years, consistent with the multi-year proposal. No more than 50 percent of an allocated set-aside should be taken before the research begins. Proposals may request that set-aside herring be collected separately from the research trip(s) or as part of the research trip(s). To set a value on the TAC set asides, the value of the herring must be estimated. This Federal Funding Opportunity (FFO) uses an estimated price based on the average 2005 price of $202 per metric ton (mt) established through herring dealer reports. By requiring researchers to use this price in requesting RSA TAC, all proposals will relate herring catch to research costs similarly. The Federal Government may issue a Letter of Authorization (LOA) or Exempted Fishing Permit (EFP), as applicable, which may provide special fishing privileges in response to research proposals selected under this program. Funds generated from the RSA landings shall be used to cover the cost of the research activities, including vessel costs, and to compensate vessels for expenses incurred during the collection of the set-aside species. For example, the funds may be used to pay for gear modifications, monitoring equipment, additional provisions (e.g., fuel, ice, food for scientists), or the salaries of research personnel. The Federal Government is not liable for any costs incurred by the researcher or vessel owner should the sale of the excess catch not fully reimburse the researcher or vessel owner for their expenses. If a research project is terminated for any reason prior to completion, any funds collected from the catch sold to pay for research expenses must be refunded to the U.S. Treasury. The Council, in consultation with the Commission, has incorporated the level of RSA (amounts or percentages) for each of the management areas into the final two years of the three year quota specification process. Final specifications were published in the **Federal Register** on April 10, 2007 (Volume 72, Number 68). NMFS will consider the recommended level of RSA as part of the associated rulemaking process. The estimated values of the set-aside allocations will vary, depending on market considerations prevailing at the time the research compensation trips are conducted.

Statutory Authority: Grants issued through the RSA program are consistent with 16 U.S.C.1853(b)(11), 16 U.S.C. 1881a(e), and 16 U.S.C. 1881(c). Amendment 1 of the FMP established a process which allows herring set-aside for the RSA program to be awarded to selected RSA applicants to fund approved herring research.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.454, Unallied Management Projects.

Application Deadline: Applications must be received on or before 5 p.m. EST, August 16, 2007.

Address for Submitting Proposals: Application information is available at *http://www.grants.gov*. Electronic copies of the Standard Forms for submission of research proposals may be found on the Internet in a PDF (Portable Document Format) version at *http://www.ago.noaa.gov/grants/appkit.shtml*. Delays may be experienced when registering with Grants.gov near the end of a solicitation period. Therefore, NMFS strongly recommends that you do not wait until the application deadline to begin the registration/application process through the Grants.gov Web site. Applicants without Internet access can contact Kelly A. Taranto, NMFS, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543, or by phone at 508–495–2312, or fax at 508–495–2004, or via e-mail at *kelly.taranto@noaa.gov*. To apply for this NOAA Federal funding opportunity, please go to *http://www.grants.gov* and use the following funding opportunity #NMFS–NEFSC–2008–2001107.

Information Contacts: Information may be obtained from Paul Howard, Executive Director, New England Fishery Management Council, by phone at 978–465–0492, or fax at 978–465–3116; or Kelly A. Taranto, NMFS, Northeast Fisheries Science Center, 166

Water Street, Woods Hole, MA 02543, or by phone at 508–495–2312, or fax at 508–495–2004, or via e-mail at *kelly.taranto@noaa.gov*.

Eligibility: 1. Eligible applicants include institutions of higher education, hospitals, other nonprofits, commercial organizations, individuals, and state, local, and Native American tribal governments. Federal agencies and institutions are not eligible to receive Federal assistance under this notice. Additionally, employees of any Federal agency or Regional Fishery Management Council are ineligible to submit an application under this program. However, Council members who are not Federal employees may submit an application. 2. DOC/NOAA supports cultural and gender diversity and encourages women and minority individuals and groups to submit applications to the RSA program. In addition, DOC/NOAA is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that work in underserved areas. DOC/NOAA encourages proposals involving any of the above institutions. 3. DOC/NOAA encourages applications from members of the fishing community and applications that involve fishing community cooperation and participation.

Cost Sharing Requirements: None required.

Intergovernmental Review: Applicants will need to determine if their state participates in the intergovernmental review process. This information can be found at the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html*. This information will assist applicants in providing either a Yes or No response to Item 16 of the Application Form, SF–424, entitled. ''Application for Federal Assistance.''

(13) John H. Prescott Marine Mammal Rescue Assistance Grant Program

Summary Description: The Marine Mammal Health and Stranding Response Program of the National Marine Fisheries Service is charged under the Marine Mammal Protection Act with facilitating the collection and dissemination of reference data on stranded marine mammals and health trends of marine mammal populations in the wild. Through cooperation with NMFS Regional Coordinators, local organizations and state and local government officials respond to and collect valuable data from stranded marine mammals as participants in the national Marine Mammal Stranding Network. The John H. Prescott Marine Mammal Rescue Assistance Grant Program is conducted by NOAA to provide Federal assistance to eligible members of the Stranding Network to: (A) Support basic needs of organizations for response, treatment, and data collection from living and dead stranded marine mammals, (B) fund scientific research objectives designed to answer questions about marine mammal strandings, health, or rehabilitation techniques utilizing data from living and dead stranded marine mammals, and (C) support facility operations directly related to the recovery or treatment of stranded marine mammals and collection of data from living or dead stranded marine mammals.

Funding Availability: This solicitation announces that a maximum of $4M may be available for distribution under the FY 2008 annual competitive Prescott Program. The maximum Federal award for each grant cannot exceed $100,000, as stated in the legislative language (16 U.S.C. 1421f–1). Actual funding availability for this program is contingent upon Fiscal Year 2008 Congressional appropriations. Applicants are hereby given notice that these funds have not yet been appropriated for this program, and therefore exact dollar amounts cannot be given. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The total amount available may also be reduced by the use of funds to supplement the emergency assistance portion of the Prescott program if necessary.

Statutory Authority: 16 U.S.C. 1421f–1.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.439 Marine Mammal Data Program.

Application Deadline: Proposals must be postmarked or submitted online by 11:59 p.m. EDT on Monday, October 1, 2007.

Address for Submitting Proposals: All applications should be submitted via the Grants.Gov Find and Apply Web site. Should you encounter a problem with submitting your application online, you may submit a paper proposal package (one signed original and two copies) to: NOAA/NMFS/Office of Protected Resources, Marine Mammal Health and Stranding Response Program, Attn: Michelle Ordono, 1315 East-West Highway, Room 13620, Silver Spring, MD 20910–3283, phone 301–713–2322 ext 177.

Information Contacts: Please visit the Prescott Grant Program Web site at: *http://www.nmfs.noaa.gov/pr/health/prescott/* or contact Michelle Ordono or Sarah Wilkin at the NOAA/NMFS/Office of Protected Resources, Marine Mammal Health and Stranding Response Program, 1315 East-West Highway, Room 13620, Silver Spring, MD 20910–3283, by phone at (301) 713–2322, or by fax at (301) 427–2525, or by e-mail at *PrescottGrantFR.comments@noaa.gov.*

Eligibility: There are 3 categories of eligible stranding network participants that may apply for funds under this Program: (1) Stranding Agreement (SA) holders or their designee organizations; (2) holders of researcher authorization letters issued by a NMFS Regional Administrator; and, (3) state, local, eligible federal government or tribal employees or personnel.

Cost Sharing Requirements: All proposals submitted must provide a minimum non-Federal cost share of 25 percent of the total budget (i.e., .25 × total project costs = total non-Federal share). Therefore, the total Federal share will be 75 percent or less of the total budget. The applicant can include a non-Federal cost share for more than 25 percent of the total budget, but this obligation will be binding. In order to reduce calculation error in determining the correct cost share amounts, we urge all applicants to use the cost share calculator on the Prescott Program Web page *http://www.nmfs.noaa.gov/pr/health/prescott/proposals/costshare.htm*). If a proposal does not comply with these cost share requirements, it will not be considered in this annual funding cycle.

Intergovernmental Review: Applications submitted under this program are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone numbers of participating SPOC's are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html.*

(14) Saltonstall-Kennedy Grant Program

Summary Description: The Saltonstall-Kennedy Act established a fund (known as the S–K fund) that the Secretary of Commerce uses to provide grants or cooperative agreements for fisheries research and development projects addressed to any aspect of U.S. fisheries, including, but not limited to,

harvesting, processing, marketing, and associated infrastructures. U.S. fisheries include any fishery, commercial or recreational, that is, or may be, engaged in by citizens or nationals of the United States, or citizens of the Northern Mariana Islands (NMI), the Republic of the Marshall Islands, Republic of Palau, and the Federated States of Micronesia.

Funding Availability: Funding is contingent upon availability of Federal allocations. The program has sought funding for $5.3 million in grant awards. There are four individual program areas in which a single grant of approximately $1 million in each area will be issued. These programs involve: (1) Cooperative research on right whale gear entanglement mitigation strategies; (2) Strategies to minimize catch of Klamath River Chinook Salmon in mixed salmon fisheries on the West Coast; (3) Efforts to understand impacts of reduced fishing effort in shrimp and reef fish (e.g. red snapper) fisheries on the Gulf of Mexico ecosystem; and (4) Support for the New England fishing industry in cooperative groundfish survey projects related to the change in trawl survey procedures. For the remaining $1.3 million, we anticipate awarding 8–10 grants of approximately $100,000 to $250,000 each. Applicants are hereby given notice that funds have not yet been allocated for this program. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds.

Statutory Authority: Authority for the Saltonstall-Kennedy Grant Program is provided under the Saltonstall-Kennedy Act (S–K Act), as amended (15 U.S.C. 713c–3).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.427, Fisheries Dev and Utilization Research and Dev Grants and Coop Agreements Program.

Application Deadline: Applications should be submitted electronically through the Federal grants portal—*http://www.grants.gov* and must be received by 5 p.m. EST on October 1, 2007. Grants.gov provides a date and time indicator for timeliness. Facsimile transmission and electronic mail submission of applications will not be accepted. Hard copies may only be sent if an applicant does not have Internet access. Hard copy applications will be date and time stamped when they are received.

Address for Submitting Proposals: Applications submitted in response to this announcement should be submitted electronically through the Federal grants portal—*http://www.grants.gov.* Electronic access to the full funding announcement for this program is also available through this Web Site. Hard copies may only be sent if an applicant does not have Internet access. They must be received by the deadline. These should be addressed to SK Competitive Program, Attn: Steve Aguzin, National Marine Fisheries Service, F/MB5–SSMC3, Room 13134, 1315 East West Hwy, Silver Spring, MD 20910–3282.

Information Contacts: The point of contact is: Steve Aguzin, S–K Program Manager, NOAA/NMFS (F/MB5); 1315 East-West Highway, Room 13134; Silver Spring, MD 20910–3282; or by Phone at (301) 713–2358 ext. 215, or fax at (301) 713–1306, or via e-mail at *Stephen.Aguzin@noaa.gov.*

Eligibility: You are eligible to apply for a grant or a cooperative agreement under the Saltonstall-Kennedy Grant Program if: 1. You are a citizen or national of the United States; 2. You are a citizen of the Northern Mariana Islands (NMI), being an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the constitution of the NMI; 3. You are a citizen of the Republic of the Marshall Islands, Republic of Palau, or the Federated States of Micronesia; or 4. You represent an entity that is a corporation, partnership, association, or other non-Federal entity, non-profit or otherwise (including Indian tribes), if such entity is a citizen of the United States or NMI, within the meaning of section 2 of the Shipping Act, 1916, as amended (46 U.S.C. app. 802). We support cultural and gender diversity in our programs and encourage women and minority individuals and groups to submit applications. Furthermore, we recognize the interest of the Secretaries of Commerce and Interior in defining appropriate fisheries policies and programs that meet the needs of the U.S. insular areas, so we also encourage applications from individuals, government entities, and businesses in U.S. insular areas. We are strongly committed to broadening the participation of Minority Serving Institutions (MSIs), which include Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribal Colleges and Universities, in our programs, including S–K. Therefore, we encourage all applicants to include meaningful participation of MSIs. We encourage applications from members of the fishing community, and applications that involve fishing community cooperation and participation. We will consider the extent of fishing community involvement when evaluating the potential benefit of funding a proposal. You are not eligible to submit an application under this program if you are an employee of any Federal agency; a Council; or an employee of a Council. However, Council members who are not Federal employees can submit an application to the S–K Program. Our employees (whether full-time, part-time, or intermittent) are not allowed to help you prepare your application, except that S–K Program staff may provide you with information on program goals, funding priorities, application procedures, and completion of application forms. Since this is a competitive program, NMFS and NOAA employees will not help with conceptualizing, developing, or structuring proposals, or write letters of support for a proposal.

Cost Sharing Requirements: We are requiring cost sharing in order to leverage the limited funds available for this program and to encourage partnerships among government, industry, and academia to address the needs of fishing communities. You must provide a minimum cost share of 10 percent of total project costs, but your cost share must not exceed 50 percent of total costs. You may find this formula useful: 1. Total Project Cost (Federal and non-Federal cost share combined) × .9 = Maximum Federal Share. 2. Total Cost − Federal share = Applicant Share. For example, if the proposed total budget for your project is $100,000, the maximum Federal funding you can apply for is $90,000 ($100,000 × .9). Your cost share in this case would be $10,000 ($100,000 − $90,000). For a total project cost of $100,000, you must contribute at least $10,000, but no more than $50,000 (10–50 percent of total project cost). Accordingly, the Federal share you apply for would range from $50,000 to $90,000. If your application does not comply with these cost share requirements, we will return it to you and will not consider it for funding.

Intergovernmental Review: Applications submitted by state and local governments are subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Any applicant submitting an application for funding is required to complete item 16 on SF–424 regarding clearance by the State Single Point of Contact (SPOC) established as a result of EO 12372. To find out about and comply with a State's process under EO 12372, the names, addresses and phone

numbers of participating SPOC's are listed in the Office of Management and Budget's home page at: *http://www.whitehouse.gov/omb/grants/spoc.html.*

National Ocean Service (NOS)

(1) CRCP-State and Territory Coral Reef Management Grants

Summary Description: The NOAA Coral Reef Conservation Grant Program, as authorized under the Coral Reef Conservation Act of 2000, provides matching grants to Governor-appointed point of contact agencies for the jurisdictions of Puerto Rico, the U.S. Virgin Islands (USVI), Florida, Hawaii, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and American Samoa for coral reef management activities. The objective of the State and Territory Coral Reef Management Grant program is to support comprehensive management programs for the conservation of coral reef ecosystems in these jurisdictions.

Funding Availability: Funding up to $3,000,000 is expected to be available from OCRM and DOI/OIA for cooperative agreements to support priority coral reef management activities that address areas a–j above. There is no appropriation of funds at this time and the final funding amount will be subject to the availability of federal appropriations. Support in out-years following FY2008 is likewise contingent upon the availability of future funding and the requirements of the Federal agency supporting the project (DOC or DOI). Each eligible jurisdiction can apply for a maximum $600,000. A minimum of 40% of the final award amount must be dedicated to the implementation and support of the Local Action Strategy initiative in each jurisdiction. In certain instances, when requested by the applicant and agreed upon by NOAA and DOI, NOAA may hold back a portion of any awarded funds in order to provide specific coral reef conservation technical assistance in the form of contractual or other services. This will only be allowed where such priority technical assistance and/or the lack of sufficient means to deliver it are unavailable at the local level. Such requests proposed herein will be reviewed on a case by case basis with respect to the specific management objectives of this and the local coral reef program. If all funds that become available after Congressional appropriation are not awarded, NOAA and DOI will consult with the eligible applicants on the use of any residual funds. NOAA and DOI will work with each jurisdiction to ensure the greatest degree of success in meeting local, state, territorial and national coral reef management needs.

Statutory Authority: Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq*).

Catalog Of Federal Domestic Assistance (CFDA) Number: 11.419, Coastal Zone Management Administration Awards.

Application Deadline: Pre-applications must be received no later than 11:59 p.m. Eastern Standard Time on Tuesday, November 6, 2007. Final applications must be received no later than 11:59 p.m. Eastern Standard Time on Friday, February 22, 2008.

Address For Submitting Proposals: Pre-applications should be submitted electronically by e-mail to: *coral.grants@noaa.gov.* If internet access is not available, submissions by surface mail should be sent to: David Kennedy, NOAA National Ocean Service, NOAA Coral Reef Conservation Program, Office of Response and Restoration, N/ORR, Room 10102, 1305 East-West Highway, Silver Spring, MD 20910. Final applications should be submitted electronically to: *www.grants.gov*, the Federal grants portal. If internet access is unavailable, hard copies can be submitted to: David Kennedy, NOAA National Ocean Service, NOAA Coral Reef Conservation Program, Office of Response and Restoration, N/ORR, Room 10102, 1305 East West Highway, Silver Spring, MD 20910.

Information Contacts: Technical point of contact for State and Territory Coral Reef Management is Dana Wusinich-Mendez at 301–713–3155, extension 159 or e-mail at *dana.wusinich-mendez@noaa.gov.* FAX; 301–713–4367. Address: OCRM/NOAA, N/–ORM3, 1305 East West Highway, Silver Spring, MD, 20910.

Eligibility: Eligible applicants are the governor-appointed point of contact agencies for coral reef activities in each of the jurisdictions of American Samoa, Florida, the Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Puerto Rico, and the U.S.Virgin Islands.

Cost Sharing Requirements: As per section 6403(b)(1) of the Coral Reef Conservation Act of 2000, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total cost of the projects. Therefore, any coral conservation project under this program requires a 1:1 match. Match can come from a variety of public and private sources and can include in-kind goods and services such as private boat use and volunteer labor. Federal sources cannot be considered for matching funds, but can be described in the budget narrative to demonstrate additional leverage. Applicants are permitted to combine contributions from multiple non-federal partners in order to meet the 1:1 match recommendation, as long as such contributions are not being used to match any other funds. Applicants must specify in their proposal the source(s) of match and may be asked to provide letters of commitment to confirm stated match contributions. Applicants whose proposals are selected for funding will be bound by the percentage of cost sharing reflected in the award document signed by the NOAA Grants Officer. Applicants should be prepared to carefully document matching contributions for each project selected to be funded. As per section 6403(b)(2) of the Coral Reef Conservation Act of 2000, the NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: 1. No reasonable means are available through which an applicant can meet the matching requirement, and, 2. The probable benefit of such project outweighs the public interest in such matching requirement. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match. Match waiver requests including the appropriate justification should be submitted as part of the final application package. Notwithstanding any other provisions herein, and in accordance with 48 U.S.C. 1469a(d), the Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Please Note: eligible applicants choosing to apply 48 U.S.C. 1469a(d) should note the use of the waiver and the total amount of funds requested to be waived in the matching funds section of the respective application.

Intergovernmental Review: Applications under the this program are not subject to Executive Order 12372,

Intergovernmental Review of Federal Programs.

(2) National Estuarine Research Reserve Land Acquisition and Construction Program FY08

Summary Description: The National Estuarine Research Reserve System consists of estuarine areas of the United States and its territories which are designated and managed for research and educational purposes. Each reserve within the system is chosen to represent different bio-geographic regions and to include a variety of ecosystem types in accordance with the classification scheme of the national program as presented in 15 CFR part 921.

Through the funding of designated reserve agencies and universities to undertake land acquisition and construction projects that support the NERRS purpose, NOAA will strengthen protection of key land and water areas; enhance long-term protection of the area for research and education; and provide for facility and exhibit construction.

Funding Availability: This funding opportunity announces that approximately $7.178 million may be available to designated reserve agencies or universities only through this announcement for fiscal year 2008. Awards will be issued as competitive grants. It is anticipated that the awards will run for up to two years. In the past, funding for land acquisition/ construction awards has ranged in amount from approximately $50,000 to $3 million.

Statutory Authority: Authority for the NERR program is provided by 16 U.S.C. 1461 (e)(1)(A)(i),(ii), and (iii).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.420, Coastal Zone Management Estuarine Research Reserves.

Application Deadline: Complete grant application proposals must be submitted to Grants.gov by Friday, 6 p.m., Eastern standard time, November 30, 2007. Notification regarding the selection of proposals will be issued on or about January 18, 2008. The grant awards will start the first day of the month beginning June 1 through November 1, 2008.

Address for Submitting Proposals: Applications should be submitted through *www.grants.gov.* For applicants without internet access, contact Doris Grimm, NOAA/OCRM/ERD, 1305 East-West Highway, Room 10501; Silver Spring, Maryland 20910, or by phone at 301–713–3155, ext. 107.

Information Contacts: Administrative and Technical questions regarding the program and application process, please contact Doris Grimm, program coordinator, at NOAA/Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, SSMC4, Station 10509, Silver Spring, MD 20910 or via phone: 301–713–3155 ext. 107, e-mail: *doris.grimm@noaa.gov,* or fax: 301–713–4363. The program Web site can be accessed at *www.ocrm.nos.noaa.gov/ nerr.html.* Other questions should be directed to Doris Grimm at 301–713–3155, extension 107, *doris.grimm@noaa.gov* or Laurie McGilvray at (301) 713–3155 ext. 158, *laurie.mcgilvray@noaa.gov.*

Eligibility: Eligible applicants are National Estuarine Research Reserves (NERR) lead state agencies or universities in coastal states. Eligible applicants should have completed all requirements as stated in the NERRS regulations [CITE 15 CFR 921] Title 15—Commerce and Foreign Trade, Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce, Part 921—National Estuarine Research Reserve System. regulations, *http:// nerrs.noaa.gov/ Background_Regulations.html.*

Cost Sharing Requirements: The amount of federal funds requested must be matched by the applicant: 30 percent total project match for construction awards and 50 percent total project match for land acquisition awards. Cash or in-kind contributions directly benefiting the project may be used to satisfy the matching requirements. If using Reserve land acquisition banked match, a list of the banked match must be included with the application. Applicants must identify all match sources and amounts equal to that requested above.

Intergovernmental Review: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Applicants should contact their State Single Point of Contact (SPOC) to find out about and comply with the States process under EO12372. The names and addresses of the SPOCs are listed in the Office of Management and Budgets Web site at *http:// www.whitehouse.gov/omb/grants/ spoc.html.*

(3) 2008 CRCP Coral Reef Ecosystem Monitoring

Summary Description: The NOAA Coral Reef Monitoring Grant Program, as authorized under the Coral Reef Conservation Act of 2000, provides matching grants to Governor appointed point of contact agencies for the jurisdictions of Puerto Rico, the U.S. Virgin Islands (USVI), Florida, Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), the Republic of Palau, the Federated States of Micronesia (including Chuuk, Yap, Kosrae, and Pohnpei), and the Republic of the Marshall Islands to support State and Territory Coral Reef Monitoring activities.

Funding Availability: NCCOS may provide approximately $1,100,000 in funding for FY 2008 to support coral reef ecosystem monitoring activities under this program. FY 2008 awards to Puerto Rico, Florida, U.S. Virgin Islands, Hawaii, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands are expected to range from $50,000 to $130,000. FY 2008 awards to the Federated States of Micronesia (FSM—including Chuuk, Yap, Kosrae, and Pohnpei), Republic of Palau, and the Republic of the Marshall Islands (RMI) are expected to be approximately $10,000 to $30,000 per year. Funding will be subject to the availability of federal appropriations. FY 2008 grant seekers may submit proposals up to three years in duration, at funding levels specified above (i.e., up to $90,000 for three year proposals for Palau, FSM, and RMI, and up to $390,000 for three year proposals for all other eligible applicants). In certain instances, when requested by the applicant and agreed upon by NOAA, NOAA may hold back a portion of any awarded funds in order to provide specific technical assistance in the form of contractual or other services. This will only be allowed where such priority technical assistance and/or the lack of sufficient means to deliver it are unavailable at the local level. Such requests proposed herein will be reviewed on a case by case basis with respect to the specific management objectives of this and the local coral reef program. If all available funds are not awarded, NOAA will consult with the eligible applicants on the use of any residual funds. NOAA will work with each jurisdiction to ensure the greatest degree of success in meeting local, state, territorial, and national coral reef monitoring needs.

Statutory Authority: 16 U.S.C. 6403.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.426, Financial Assistance for National Centers for Central Coastal Ocean Science.

Application Deadline: Pre-Applications Due: 11/6/2007 Final Applications Due: 02/22/2008.

Address for Submitting Proposals: Pre-applications may be submitted by surface mail or e-mail. Submissions by encrypted e-mail are preferred. If submitting by surface mail, applicants

are encouraged to include an electronic copy of the pre-application on disk or CD-ROM. Pre-applications must be sent to *coral.grants@noaa.gov* or to Jenny Waddell, NOAA National Ocean Service, N/SCI–1, 1305 East-West Highway, Silver Spring, MD 20910. Final applications should be submitted via *www.grants.gov,* the Federal grants portal.

Information Contacts: The technical point of contact for State and Territory Coral Reef Monitoring is Jenny Waddell. She can be reached at 301–713–3028 extension 174 or by *e-mail* at *jenny.waddell@noaa.gov.*

Eligibility: Eligible applicants are limited to a natural resource management agency in each U.S. State or Territory, or Freely Associated State, with jurisdiction over coral reefs, as designated by the respective governors or other applicable senior jurisdictional official. NOAA is requesting proposals from Puerto Rico, Florida, U.S. Virgin Islands, Hawaii, American Samoa, Guam, and Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands. Federal agencies are not eligible for funding under this Program.

Furthermore, to be eligible for FY 2008 funding, applicants previously receiving funds under this program must have made significant progress implementing those tasks and met data submission deadlines, including all performance and fiscal reporting requirements and data transfers.

Cost Sharing Requirements: As per section 6403(b)(1) of the Coral Reef Conservation Act of 2000, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total cost of the projects.

Therefore, any coral conservation project under this program requires a 1:1 match. Matching funds must be from non-Federal sources and can include in-kind contributions and other non-cash support. NOAA strongly encourages applicants to leverage as much investment as possible. Federal funds may not be considered as matching funds.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

(4) National Estuarine Research Reserve Graduate Research Fellowship Program FY08

Summary Description: The National Estuarine Research Reserve System (NERRS) consists of estuarine areas of the United States and its territories which are designated and managed for research and educational purposes. Each reserve within the system is chosen to reflect regional differences and to include a variety of ecosystem types in accordance with the classification scheme of the national program as presented in 15 CFR part 921. Each reserve supports a wide range of beneficial uses of ecological, economic, recreational, and aesthetic values which are dependent upon the maintenance of a healthy ecosystem. The sites provide habitats for a wide range of ecologically and commercially important species of fish, shellfish, birds, and other aquatic and terrestrial wildlife. Each reserve has been designed to ensure its effectiveness as a conservation unit and as a site for long-term research and monitoring. As part of a national system, the reserves collectively provide an excellent opportunity to address research questions and estuarine management issues of national significance. For detailed descriptions of the sites, refer to the NERR Web site at *http://www.nerrs.noaa.gov/fellowship* or contact the site staff.

Funding Availability: The National Estuarine Research Reserve System of NOAA announces the availability of graduate research fellowships. The Estuarine Reserves Division anticipates that 25 Graduate Research Fellowships will be competitively awarded to provide funding to qualified graduate students whose research occurs within the boundaries of at least one reserve. Minority students are encouraged to apply. The amount of the fellowship is $20,000; at least 30% of total project cost match is required by the applicant (i.e. $8,572 match for $20,000 in federal funds for a total project cost of $28,572).

Statutory Authority: Section 315 of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1461, establishes the National Estuarine Research Reserve System (NERRS). 16 U.S.C. 1461(e)(1)(B) authorizes the Secretary of Commerce to make grants to any coastal state or public or private person for purposes of supporting research and monitoring within a National Estuarine Research Reserve that are consistent with the research guidelines developed under subsection (c).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.420, Coastal Zone Management Estuarine Research Reserves.

Application Deadline: Applications must be no later than 11 pm (EST) November 1, 2007 or postmarked no later than November 1, 2007.

Address for Submitting Proposals: Applications submitted in response to this announcement are strongly encouraged to be submitted through the *www.grants.gov* web site no later than November 1, 2007 at 11 pm (EST). Electronic access to the full funding announcement for this program is available via the *www.grants.gov* Web site. The announcement will also be available by contacting Susan White with the Estuarine Reserves Division at *Susan.White@noaa.gov* or 301–713–3155 x 124. If internet access is not available, paper applications (a signed original and two copies) should be submitted to the Estuarine Reserves Division at the following address postmarked by November 1, 2007: Attn: Dr. Susan White, NOAA/Estuarine Reserves Division, 1305 East-West Highway, Room 10626, Silver Spring, Maryland 20910.

Information Contacts: For questions regarding the program and application process, please contact Susan White (301–713–3155 ext. 124) at NOAA/Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, SSMC4, Station 10626, Silver Spring, MD 20910 or via *e-mail: susan.white@noaa.gov*, or fax: 301–713–4012. The program Web site can be accessed at *http://www.nerrs.noaa.gov/fellowship.* If the Web page does not provide sufficient information and Dr. White is unavailable, please contact Erica Seiden at (301) 713–3155 ext. 172 or *erica.seiden@noaa.gov.* For further information on specific research opportunities at National Estuarine Research Reserves, contact the site staff listed in Appendix I.

Eligibility: Awards are normally made to the fellow's graduate institution through the use of a grant. However, institutions eligible to receive awards include institutions of higher education, other non-profits, commercial organizations, and state and local governments. All reserve staff are ineligible to submit an application for a fellowship under this announcement. Funds are expected to be available on a competitive basis to qualified graduate students for research within a reserve(s) leading to a graduate degree. Applicants must be admitted to or enrolled in a full-time master's or doctoral program at a U.S. accredited university in order to be eligible to apply. Applicants should have completed a majority of their graduate course work at the beginning of their fellowship and have an approved thesis research program. Minority students are encouraged to apply.

Cost Sharing Requirements: Requested federal funds must be matched by at least 30 percent of the

TOTAL cost, not the federal share, of the project (i.e. $8,572 match for $20,000 in federal funds for a total project cost of $28,572). Requested overhead costs under fellowship awards are limited to 10% of the federal amount. Waived overhead costs may be used as match.

Intergovernmental Review: Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' Applicants should contact their State Single Point of Contact (SPOC) to find out about and comply with the States process under EO12372. The names and addresses of the SPOCs are listed in the Office of Management and Budgets Web site at *http://www.whitehouse.gov/omb/grants/spoc.html.*

(5) FY08 California Bay Watershed Education and Training Program

Summary Description: The California B–WET grant program, is a competitively based program that supports existing environmental education programs, fosters the growth of new programs, and encourages the development of partnerships among environmental education programs throughout the San Francisco Bay, Monterey Bay, and Santa Barbara Channel watersheds. Funded projects provide Meaningful Watershed Experiences to students and teachers.

Funding Availability: This solicitation announces that approximately $1,650,000 may be available in FY2008 in award amounts to be determined by the proposals and available funds. About $700,000 will be made available to the San Francisco Bay watershed area, $600,000 will be made available to the Monterey Bay watershed area, and about $350,000 will be made available to the Santa Barbara Channel watershed area. The National Marine Sanctuary Program anticipates that approximately 35 grants will be awarded with these funds. The California B–WET Program should not be considered a long-term source of funds; applicants must demonstrate how ongoing programs, once initiated, will be sustained. The National Marine Sanctuary Program anticipates that typical project awards for Meaningful Watershed Experiences and Professional Development in the Area of Environmental Education for Teachers will range from $10,000 to $60,000. Proposals will be considered for funds greater than the specified ranges if there is sufficient demonstration that the project requires additional funds and/or if the proposal includes multiple partners. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government. Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

Statutory Authority: 16 U.S.C. 1440.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.429, Marine Sanctuary Program.

Application Deadline: Proposals must be received by 5 p.m. Pacific Standard time October 9, 2007.

Address for Submitting Proposals: Applicants are strongly encouraged to submit applications electronically through *http://www.grants.gov.* If internet access is not available, paper applications, a signed original and 2 copies (submission of ten additional hard copies is strongly encouraged to expedite the review process, but it is not required) may be submitted to Attn: Seaberry Nachbar, B–WET Program Manager, Monterey Bay National Marine Sanctuary Office, 299 Foam Street, Monterey, CA 93940. The closing deadline for applying through grants.gov is the same as for the paper submission noted in this announcement.

Information Contacts: Please visit the National Marine Sanctuaries B–WET Web site for further information at: *http://sanctuaries.noaa.gov/BWET* or contact Seaberry Nachbar, Monterey Bay National Marine Sanctuary office; 299 Foam Street, Monterey, CA 93940, or by phone at 831–647–4201, or fax to 831–647–4250, or via Internet at *seaberry.nachbar@noaa.gov.*

Eligibility: Eligible applicants are K-through-12 public and independent schools and school systems, institutions of higher education, nonprofit organizations, state or local government agencies, and Indian tribal governments. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically black colleges and universities, Hispanic serving institutions, tribal colleges and universities, and institutions that service undeserved areas.

The National Marine Sanctuary Program encourages proposals involving any of the above institutions.

Cost Sharing Requirements: No cost sharing is required under this program; however, the National Marine Sanctuary Program strongly encourages applicants applying for either area of interest to share as much of the costs of the award as possible. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process with cash being the preferred method of contribution.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

(6) Bay Watershed Education and Training (B–WET) Program, Hawaii

Summary Description: The B–WET Hawaii Programs Grant Opportunity is an annually awarded, competitively-based grant that provides initial funding to: (1) Assist in the development of new programs; (2) encourage innovative partnerships among environmental education programs throughout Hawaii; (3) support geographically targeted programs to advance environmental education efforts that complement appropriate school requirements.

The program supports NOAAs goal of developing a well-informed citizenry involved in decision-making that positively impact our coastal, marine and watershed ecosystems.

Funded projects provide meaningful science-based outdoor experiences for K–12 students and professional development opportunities for teachers in the area of environmental education as defined in this announcement.

Funding Availability: This solicitation announces that approximately $1,000,000 may be available in FY 2008 in award amounts to be determined by the proposals and available funds. The NOAA Pacific Services Center anticipates that approximately 5 to 15 grants will be awarded with these funds, pending availability of funds. Applicants are hereby given notice that funds have not yet been appropriated for this program. It is anticipated that typical project awards for Priority 1 and 2 will range from approximately $10,000 to $100,000. Applications requesting Federal support from NOAA of more than $100,000 total will not be considered for review or funding. There is no guarantee that sufficient funds will be available to make awards for all qualified projects. The exact amount of

funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Publication of this notice does not oblige NOAA to award any specific project or to obligate any available funds. If applicants incur any costs prior to an award being made, they do so at their own risk of not being reimbursed by the government.

Notwithstanding verbal or written assurance that may have been received, there is no obligation on the part of NOAA to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made.

Statutory Authority: 15 U.S.C. 1540; 33 U.S.C. 883d.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.473, Coastal Services Center.

Application Deadline: Full proposals must be received through Grants.gov no later than 11 p.m. ET/5 p.m. Hawaii time, August 15, 2007. If applicants do not have Internet access and submit through surface mail, full proposals must be received no later than 11 p.m. ET/5 p.m. Hawaii time, August 15, 2007.

Address for Submitting Proposals: Full proposal application packages should be submitted through Grants.gov/APPLY. The standard NOAA funding application package is available at *www.grants.gov.* Please be advised that potential funding applicants must register with Grants.gov before any application materials can be submitted. An organization's one time registration process may take up to three weeks to complete so please allow sufficient time to ensure applications are submitted before the closing date. The Grants.gov site contains directions for submitting an application, the application package (forms), and is also where the completed application is submitted. If the applicant has difficulty downloading the required forms, the applicant should contact the Grants.gov Customer Support at 1–800–518–4726 or *support@grants.gov.* Additional information about registering and submitting an application through Grants.gov may be found at *www.Grants.gov* and at the B–WET Hawaii Web page at *http://www.csc.noaa.gov/psc/bwet.html.*

Applicants using Grants.gov must locate the downloadable application package for this solicitation by the Funding Opportunity Number or the CFDA number (11.473).

Applicants will be able to download a copy of the application package, complete it off line, and then upload and submit the application via the Grants.gov site. After electronic submission of the application, the person submitting the application will receive within the next 24 to 48 hours two e-mail messages from Grants.gov updating them on the progress of their application. The first e-mail will confirm receipt of the application by the Grants.gov system, and the second will indicate that the application has either been successfully validated by the system prior to transmission to the grantor agency or has been rejected due to errors. After the application has been validated, this same person will receive another e-mail when the application has been downloaded by the federal agency. To use Grants.gov, applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number and be registered in the Central Contractor Registry (CCR). Allow a minimum of five days to complete the CCR registration. (**Note:** Your organization's Employer Identification Number (EIN) will be needed on the application form.) With regard to rural areas for an applicant who does not have Internet access, application kits may be requested from Sam Thomas, Federal Program Officer for grants at 808–532–3960. These applicants are asked to mail one (1) hard copy of the entire application package, a CD copy of the package, including all forms with original signatures to the following address: NOAA Pacific Services Center, 737 Bishop Street, Suite 1550, Honolulu, Hawaii 96813, ATTN: Sam Thomas. The postmark will be used to determine the timeliness of the proposal.

Hand-delivered, facsimile transmissions and electronic mail submissions and proposals received after the deadline will not be accepted.

Information Contacts: For administrative issues and technical questions, please contact Sam Thomas, Federal Program Officer for Grants, NOAA Pacific Services Center office; 737 Bishop Street, Mauka Tower, Suite 1550, Honolulu, HI 96813–3212, or by phone at (808) 532–3960, or via *e-mail* at *Sam.Thomas@noaa.gov.*

Eligibility: Eligible applicants for Priority 1 and 2 are K–12 public and independent schools and school systems, institutions of higher education, commercial and nonprofit organizations, state or local government agencies, and Indian tribal governments. Applicants that are not eligible are individuals and Federal agencies. The Department of Commerce/National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of historically Black colleges and universities, Hispanic-serving institutions, Tribal colleges and universities, Alaskan Native and Native Hawaiian institutions, and institutions that service undeserved areas.

Cost Sharing Requirements: No cost sharing is required under this program, however, the NOAA Pacific Services Center strongly encourages applicants to share as much of the costs of the award as possible. Funds from other Federal awards may not be considered matching funds. The nature of the contribution (cash versus in-kind) and the amount of matching funds will be taken into consideration in the review process with cash being the preferred method of contribution.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

(7) CSCOR FY08 Regional Ecosystem Prediction Program

Summary Description: The purpose of this document is to advise the public that NOAA/NOS/NCCOS/CSCOR is soliciting proposals for three separate regional ecosystem prediction projects on Invasive Species in the Great Lakes—A Regional Scale Approach, Cumulative Impacts of Stressors at the Land-Water Interface in the Mid-Atlantic and Ecosystem Goal-Setting in Coastal Waters and Reefs of South Florida; for the Great Lakes and Mid-Atlantic programs, projects will be of up to 5 years in duration. In the Great Lakes, proposals are requested for a regional-scale ecosystem research study investigating recent and future changes in water quality, habitats and populations of living resources in the context of invasive species. For the Mid-Atlantic region, proposals are requested for a regional-scale ecosystem research study investigating the cumulative impacts of multiple stressors at the land-water interface of estuaries and bays on recreationally, economically or ecologically important living resource populations and communities. Proposals for these two programs should be regional in scale, interdisciplinary, comprehensive, integrated, and multiple investigator to develop capabilities for innovative forecasts and predictions for improved management and control capabilities. For the South Florida program, proposals will be 2–3 years in duration. In the South Florida program, proposals are solicited to develop, undertake and conclude a consensus-building process that results in scientifically-based quantifiable goals for aquatic resources and habitats of the Florida Bay and Keys. Proposals should include a diverse and comprehensive

team of managers, scientists and NGOs and be regional in scope. Proposals submitted to this solicitation should not have overlap with other active NCCOS/CSCOR programs including the Coastal Hypoxia Research Program (CHRP), Ecology and Oceanography of Harmful Algal Blooms (ECOHAB), Monitoring and Event Response for Harmful Algal Blooms (MERHAB), and the Ecological Effects of Sea Level Rise or previously awarded grants (see *http://www.cop.noaa.gov* for program descriptions). Funding is contingent upon the availability of Fiscal Year 2008 Federal appropriations. It is anticipated that final recommendations for funding under this announcement will be made by April 2008 and that projects funded under this announcement will have a June through August start date.

Electronic Access: Background information about the NCCOS/CSCOR efforts can be found at *http://www.cop.noaa.gov.* Proposals should be submitted through Grants.gov (*http://www.grants.gov*.)

Funding Availability: Funding is contingent upon availability of Federal appropriations. NOAA is committed to continual improvement of the grants process and accelerating the award of financial assistance to qualified recipients in accordance with the recommendations of the Business Process Reengineering Team. In order to fulfill these responsibilities, this solicitation announces that award amounts will be determined by the proposals and available funds. Funds for the Invasive Species in the Great Lakes—A Regional Scale Approach and for the Cumulative Impacts of Stressors at the Land-Water Interface in the Mid-Atlantic programs typically will not exceed $500,000–$1,000,000 per project per year, exclusive of ship costs. It is anticipated that 1–3 projects will be awarded for each of these two programs with project duration of 3 to 5 years. The Ecosystem Goal-Setting in Coastal Waters and Reefs of South Florida program is expected to have a project duration of 2 to 3 years with funds not to exceed $500,000 per project per year. It is anticipated that 1 project will be awarded for this program. Support in out years after FY 2008 is contingent upon the availability of funds.

Applicants are hereby given notice that funds have not yet been appropriated for this program. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program fails to receive funding or is cancelled because of other agency priorities. There is not guarantee that sufficient funds will be available to make awards for all qualified projects.

Publication of this notice does not obligate NOAA to award any specific project or to obligate any available funds. If one incurs any costs prior to receiving an award agreement signed by an authorized NOAA official, one would do so solely at one's own risk of these costs not being included under the award. Publication of this notice does not obligate any agency to any specific award or to obligate any part of the entire amount of funds available.

Recipients and subrecipients are subject to all Federal laws and agency policies, regulations and procedures applicable to Federal financial assistance awards.

Statutory Authority: For Invasive Species in the Great Lakes—A Regional Scale Approach and the Cumulative Impacts of Stressors at the Land-Water Interface in the Mid-Atlantic, the program authority is 16 U.S.C. 1456c. For Ecosystem Goal-Setting in Coastal Waters and Reefs of South Florida, the program authority is 33 U.S.C. 1442.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.478, Center for Sponsored Coastal Ocean Research—Coastal Ocean Program.

Application Deadline: The deadline for receipt of proposals at the NCCOS/CSCOR office is 3 p.m., Eastern Time for each of the three program elements for the Regional Ecosystem Prediction Program. Invasive Species in the Great Lakes—A Regional Scale Approach October 1, 2007, Cumulative Impacts of Stressors at the Land-Water Interface in the Mid-Atlantic October 15, 2007, Ecosystem Goal-Setting in Coastal Waters and Reefs of South Florida October 29, 2007.

Address for Submitting Proposals: Proposals must include evidence of linkages between the scientific questions and management needs, such as the participation of co-investigators from both scientific and management entities. Proposals previously submitted to NCCOS/CSCOR FFOs and not recommended for funding must be revised and reviewer or panel concerns addressed before resubmission. Resubmitted proposals that have not been revised will be returned without review.

Information Contacts: Technical Information. Program Managers contact information is: Invasive Species in the Great Lakes A Regional Approach, Felix Martinez (*felix.martinez@noaa.gov,* 301–713–3338 x 153); Cumulative Impacts of Stressors at the Land-Water Interface in the Mid-Atlantic, Elizabeth Turner (*elizabeth.turner@noaa.gov,* 603–862–4680) and; Ecosystem Goal-Setting in Coastal Waters and Reefs of South Florida, Larry Pugh (*larry.pugh@noaa.gov,* 301–713–3338 x 160). Business Management Information: Laurie Golden, NCCOS/CSCOR Grants Administrator, 301–713–3338/ext 151, Internet: *Laurie.Golden@noaa.gov.*

Eligibility: Eligible applicants are institutions of higher education, other non-profits, states, local governments, commercial organizations and Federal agencies that possess the statutory authority to receive financial assistance. Please note that: (1) NCCOS/CSCOR will not fund any Federal Full Time Employee (FTE) salaries, but will fund travel, equipment, supplies, and contractual personnel costs associated with the proposed work. (2) Researchers must be employees of an eligible entity listed above; and proposals must be submitted through that entity. Non-Federal researchers should comply with their institutional requirements for proposal submission. (3) Non-NOAA Federal applicants will be required to submit certifications or documentation showing that they have specific legal authority to receive funds from the Department of Commerce (DOC) for this research. (4) NCCOS/CSCOR will accept proposals that include foreign researchers as collaborators with a researcher who has met the above stated eligibility requirements. (5) Non-Federal researchers affiliated with NOAA-University Cooperative/Joint Institutes should comply with joint institutional requirements; they will be funded through grants either to their institutions or to joint institutes.

Cost Sharing Requirements: None.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs. It has been determined that this notice is not significant for purposes of Executive Order 12866. Pursuant to 5 U.S.C. 553(a)(2), an opportunity for public notice and comment is not required for this notice relating to grants, benefits and contracts. Because this notice is exempt from the notice and comment provisions of the Administrative Procedure Act, a Regulatory Flexibility Analysis is not required, and none has been prepared. It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

(8) Dr. Nancy Foster Scholarship Program

Summary Description: The Dr. Nancy Foster Scholarship Program provides support for independent graduate-level

studies in oceanography, marine biology or maritime archaeology (including all science, engineering, and resource management of ocean and coastal areas), particularly to women and minorities. Individuals who have been accepted into a graduate program and are U.S. citizens may apply. Scholarship selections are based on academic excellence, letters of recommendations, research and career goals, and financial need. Additional information about the scholarship can be obtained from the Web site: *http://www.fosterscholars.noaa.gov.* The program priorities for this opportunity support NOAA's mission support goal of: Critical support—facilities, ships, aircraft, environmental satellites, data-processing systems, computing and communications systems.

Funding Availability: Subject to appropriations, approximately $500,000 will be available for FY 2008. Approximately 5 to 10 new awards may be made, based on the availability of funds. The Dr. Nancy Foster Scholarship Program provides yearly support of up to $32,000 per student (a 12-month stipend of $20,000 in addition to a tuition allowance of up to $12,000), and up to $20,000 support for a four to six week research collaboration at a NOAA facility. A maximum of $84,000 may be provided to masters students (up to 2 years of support and one research collaboration opportunity) and up to $168,000 may be provided to doctoral students (up to 4 years of support and two research collaboration opportunities). Dr. Nancy Foster Scholarship Program recipients will also travel to Silver Spring, MD, for a mandatory NOAA orientation and to meet with leadership and staff from the National Marine Sanctuaries Program from May 26 to May 31, 2008. Awards will include travel expenses to attend the Scholarship Program orientation.

Statutory Authority: 16 U.S.C. 1445c–1.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.429, Marine Sanctuary Program.

Application Deadline: Completed applications must be received by the Program Manager between December 1, 2007 and February 8, 2008, at 5 p.m. Eastern Standard Time.

Address for Submitting Proposals: Applicants should submit their application via Grants.gov. Only those applicants who do not have access to the internet should submit a hard copy application. If a hard copy application is necessary, it should be sent to the Dr. Nancy Foster Scholarship Program, Attention: Priti Brahma, NOAA Office of Education, Room 10725, 1315 East-West Highway, Silver Spring, MD 20910 by 5 p.m. Eastern Standard Time.

Information Contacts: Send requests for information to *fosterscholars@noaa.gov* or mail requests to the attention of Priti Brahma, Dr. Nancy Foster Scholarship Program, Office of Education, 1315 East-West Highway, Room 10725, Silver Spring, MD 20910.

Eligibility: Only individuals who are United States citizens currently pursuing a masters or doctoral level degree in oceanography, marine biology or maritime archaeology (including all science, engineering, and resource management of ocean and coastal areas) are eligible for an award under this scholarship program. In addition, students must have and maintain a cumulative and term grade point average of 3.0 and maintain full-time student status every term for the duration of their award. Universities or other organizations may not apply on behalf of an individual. Prospective scholars do not need to be enrolled, but must be admitted to a graduate level program in order to apply for this scholarship. Eligibility must be maintained for each succeeding year of support and semi-annual reporting requirements, to be specified at a later date, will apply.

Cost Sharing Requirements: There are no matching requirements for this award.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

(9) FY 2008 Implementation of Regional Integrated Ocean Observing Systems

Summary Description: The Integrated Ocean Observing System (IOOS) will efficiently link national and regional observations, data management, and modeling to provide required data and information on local to global scales. Regional coastal ocean observing systems (RCOOSs) are designed to complement the observing systems managed directly by federal agencies that meet national priorities. With the guidance of Regional Associations to understand regional priorities, RCOOSs provide the types of data, information, and products needed to address the estuarine and coastal issues experienced by the different regions, and to leverage the delivery and applicability of data collected by local data network nodes. NOAA views this announcement as an opportunity to demonstrate the regional observing system concept. To assist in the implementation of the regional component of IOOS, NOAA seeks proposals for one- to two-year grant or cooperative agreement projects, with an optional third year, that will result in a regional system that has been optimized to provide data and products that are tailored to regional needs. The regional system will provide data and information in forms and at rates designed to meet the needs of regional decision makers. To accomplish that task, the regional system will integrate existing observing system components, prioritize additional observing system acquisition, and construct products and data management processes to deliver data and information to the regional stakeholders for the benefit of the region. Proposals submitted will demonstrate the approach and benefits of integration and implementation at the scale of the Regional Association and should address the following: a) Regional deployment, operation and maintenance of sensors and platforms to address needs for data and information that have been clearly articulated by the Regional Associations as representative of their stakeholders. b) Regional participation in developing a data integration framework for data streams, quality assurance procedures, and data delivery. c) Generation of regional or appropriately-scaled products, including data and model output, that facilitate the development of value-added, targeted products for identified users. NOAA anticipates making multiple awards in response to this announcement. The program priorities for this opportunity support NOAA's mission support goal of: Weather and Water Serve Society's Needs for Weather and Water Information. Other goals are supported, but this is the goal the opportunity most closely addresses.

Funding Availability: Total anticipated funding for all awards is approximately $25,000,000 and is subject to the availability of FY 2008 appropriations. Multiple awards are anticipated from this announcement. The anticipated federal funding per award (min-max) is approximately $500,000 to $3,500,000 per year. The anticipated number of awards ranges from four (4) to ten (10), approximately, and will be adjusted based on available funding.

Statutory Authority: Statutory authority for this program is provided under Coastal Zone Management Act, 16 U.S.C. 1456c (Technical Assistance); 33 U.S.C. 883d; and 33 U.S.C. 1442 (Research program investigating possible long-range effects of pollution, overfishing, and anthropogenically-induced changes of ocean ecosystems).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.473, Coastal Services Center.

Application Deadline: Letters of Intent (LOIs) must be received by the Coastal Services Center by 5 p.m. ET on September 12, 2007. Full proposals must be received by 5 p.m. ET, November 15, 2007.

Address for Submitting Proposals: A letter of intent (LOI) must be sent via e-mail to *IOOSfy2008@noaa.gov.* Applicants submitting a LOI should reference the Funding Opportunity Title (FY 2008 Implementation of Regional Integrated Ocean Observing Systems) as the subject line of the e-mail containing the LOI. If an applicant does not have Internet access, the applicant must submit through surface mail one original and two copies of the LOI to the Coastal Services Center. No fax copies will be accepted. LOIs submitted by mail must be received by NOAA Coastal Services Center no later than 5 p.m. ET, September 12, 2007. Any U.S. Postal Service correspondence should be sent to the attention of James Lewis Free, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413. Full proposal application packages should be submitted through Grants.gov. If an applicant does not have Internet access, the applicant must submit through surface mail one set of originals (signed) and two copies of the proposals and related forms to the Coastal Services Center. Full proposal application packages submitted by mail must be received by NOAA Coastal Services Center no later than 5 p.m. ET, November 15, 2007. Any U.S. Postal Service correspondence should be sent to the attention of James Lewis Free, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413.

Information Contacts: For administrative questions, contact James Lewis Free, NOAA CSC; 2234 South Hobson Avenue, Room B–119, Charleston, South Carolina 29405–2413; or by phone at 843–740–1185, or by fax 843–740–1290, or via e-mail at *James.L.Free@noaa.gov.* For technical questions regarding this announcement, contact: Mary Culver, NOAA CSC; 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413; or by phone at 843–740–1250, or by fax 843–740–1298, or via e-mail at *Mary.Culver@noaa.gov;* or Geno Olmi, NOAA CSC; 2234 South Hobson Avenue, Room 1–132, Charleston, South Carolina 29405–2413; or by phone at 843–740–1230, or by fax 843–740–1313, or via e-mail at *Geno.Olmi@noaa.gov.*

Eligibility: Eligible funding applicants are institutions of higher education, non-profit and for-profit organizations, and state, local and Indian tribal governments. Federal agencies or institutions and foreign governments may not be the primary recipient of awards under this announcement, but are encouraged to partner with applicants when appropriate. Federal partners must identify the relevant statutory authorities that will allow for the receipt of funds. If applicants will have partners who would receive grant funds, the lead grantee will be expected to provide funds using subcontracts or other appropriate mechanisms to the project partners. If the partners are federal agencies other than NOAA, the grantee and the federal partner must use interagency agreements or otherwise take steps relevant to their organizations to ensure that funds can be transferred by the primary grantee and received by any federal partners. If a federal partner is a NOAA office, the funds will be transferred internally. Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to accept funds in excess of their appropriation. Because of the nature of this competition, the Economy Act (31 U.S.C. 1535) is not an appropriate authority.

Cost Sharing Requirements: There is no requirement for cost sharing.

Intergovernmental Review: Funding applications under the Center are subject to Executive Order 12372, Intergovernmental Review of Federal Programs. It is the state agency's responsibility to contact their states Single Point of Contact (SPCO) to find out about and comply with the states process under EO 12372. To assist the applicant, the names and addresses of the SPOCs are listed on the Office of Management and Budget's Web site *http://www.whitehouse.gov/omb/grants/spoc.html.*

(10) FY 2008 Integrated Ocean Observing System Regional Association Support

Summary Description: The Integrated Ocean Observing System Development Plan (OceanUS, 2006) calls for an integrated system of observations that support national and regional priorities. Regional priorities are to be determined by a comprehensive effort to engage stakeholders at the local and regional level. The responsibility for such engagement is directed to IOOS Regional Associations. With the guidance of Regional Associations to understand regional priorities and coordinate regional observing implementation, regional coastal ocean observing systems RCOOSs provide the types of data, information, and products needed to address the estuarine and coastal issues experienced by the different regions. IOOS Regional Associations provide the network and organization to ensure that local and regional data collection meets national as well as local needs. For the past few years, NOAA has been funding entities, through competitively awarded cooperative agreements, to engage stakeholders in the formation of IOOS Regional Associations. Proposals submitted under this announcement will further engage stakeholders in the formalization of the IOOS Regional Association. Projects funded under this announcement are expected to build on previous progress of the IOOS Regional Association and engage stakeholders in the conduct of the regional association, design a regional system to optimize deployment to meet regional needs, and coordinate with stakeholders (data providers, information users, and other interested parties) to achieve a unified network of data acquisition, management, and product development. The program priorities for this opportunity support NOAAs mission support goal of: Weather and Water Serve Society's Needs for Weather and Water Information. Other goals are supported, but this is the goal the opportunity most closely addresses.

Funding Availability: Total anticipated funding for all awards is approximately $4,500,000 and is subject to the availability of FY 2008 and FY 2009 appropriations. Multiple awards are anticipated from this announcement. The anticipated federal funding per award (min-max) is $300,000 to $400,000 per year. The anticipated number of awards is approximately eleven (11).

Statutory Authority: Statutory authority for this program is provided under Coastal Zone Management Act, 16 U.S.C. 1456c (Technical Assistance); 33 U.S.C. 883d; and 33 U.S.C. 1442 (Research program investigating possible long-range effects of pollution, overfishing, and anthropogenically-induced changes of ocean ecosystems).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.473, Coastal Services Center.

Application Deadline: Proposals must be received by no later than 5 p.m. ET, August 22, 2007.

Address for Submitting Proposals: Proposal application packages should be submitted through Grants.gov. The standard NOAA funding application package is available at *http://www.grants.gov.* If an applicant does not have Internet access, the applicant must

submit through surface mail one set of originals (signed) and two copies of the proposals and related forms to the Coastal Services Center. No e-mail or fax copies will be accepted. Any U.S. Postal Service correspondence should be sent to the attention of Lisa Holmes, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413.

Information Contacts: For administrative questions, contact Lisa Holmes, NOAA CSC, 2234 South Hobson Avenue, Room 1–141, Charleston, South Carolina 29405–2413, or by phone at 843–740–1256, or by fax 843–740–1313, or via e-mail at *Lisa.Holmes@noaa.gov.* For technical questions regarding this announcement, contact Geno Olmi, NOAA CSC, 2234 South Hobson Avenue, Room 1–132, Charleston, South Carolina 29405–2413, or by phone at 843–740–1230, or by fax 843–740–1313, or via e-mail at *Geno.Olmi@noaa.gov.*

Eligibility: Eligible funding applicants are institutions of higher education, non-profit and for-profit organizations, and state, local and Indian tribal governments. Federal agencies or institutions and foreign governments may not be the primary recipient of awards under this announcement, but are encouraged to partner with applicants when appropriate. Federal partners must identify the relevant statutory authorities that will allow for the receipt of funds. If applicants will have partners who would receive grant funds, the lead grantee will be expected to provide funds using subcontracts or other appropriate mechanisms to the project partners. If the partners are federal agencies other than NOAA, the grantee and the federal partner must use interagency agreements or otherwise take steps relevant to their organizations to ensure that funds can be transferred by the primary grantee and received by any federal partners. If a federal partner is a NOAA office, the funds will be transferred internally. Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to accept funds in excess of their appropriation. Because of the nature of this competition, the Economy Act (31 U.S.C. 1535) is not an appropriate authority.

Cost Sharing Requirements: N.A.

Intergovernmental Review: Funding applications under the Center are subject to Executive Order 12372, Intergovernmental Review of Federal Programs. It is the state agency's responsibility to contact their states Single Point of Contact (SPCO) to find out about and comply with the states process under EO 12372. To assist the applicant, the names and addresses of the SPOCs are listed in the Office of Management and Budgets home page at *http://www.whitehouse.gov/omb/grants/spoc.html.*

(11) FY 2008 Oceans and Human Health Initiative, External Grants Program

Summary Description: This funding opportunity is offered as part of NOAAs Oceans and Human Health Initiative (OHHI) External Grants Program. The OHHI was established by the Secretary of Commerce pursuant to the Oceans and Human Health Act of 2004 and by the recognition of the Undersecretary of Commerce for Oceans (NOAA Administrator) that a national investment in research on oceans and human health would improve understanding of ocean and coastal ecosystems, allow prediction and prevention of ocean and coastal public health problems, and assist in realizing the potential of the oceans to contribute to the development of effective new treatments for human diseases and a greater understanding of human biology. The mission of the OHHI is to improve understanding and management of the ocean, coasts and Great Lakes to enhance benefits to human health and reduce public health risks. Toward that end, as the nations lead ocean agency, NOAAs OHHI investigates the relationship between environmental stressors, coastal condition and human health to maximize health benefits from the oceans, improve the safety of seafood and drinking waters, reduce beach closures, and detect emerging health threats. This funding opportunity is intended to engage the non-federal research community in research across the physical, chemical, biological, medical, public health and social sciences on priority issues for the OHHI. The specific priority areas for this funding opportunity are: (1) Develop methods, tools, and technologies to identify, detect, or predict ocean-related public health risks from pathogens and chemical pollutants; (2) Assess the economic and socio-cultural risk of ocean-related health threats from pathogens or chemical pollutants, and the benefits and value of health early warning systems or related information; (3) Improve the healthful characteristics and minimize ocean-related contamination of seafood through either aquaculture techniques or tools to rapidly identify presence or virulence of toxins (e.g., ciguatera, domoic acid), chemical contaminants (including but not limited to pharmaceuticals and personal care products, flame retardants, current-use pesticides, surfactants and stain repellants), or pathogens. Research proposed under this priority area should engage public health and natural resource managers and decision-makers in order to optimize relevance of the proposed research for the development and delivery useful products and services. Links to ocean observing systems and their enabling regional governance structures or public health surveillance systems are strongly encouraged. The program priorities for this opportunity support NOAAs mission support goal of: Ecosystems To Protect, Restore, and Manage the Use of Coastal and Ocean Resources through an Ecosystem Approach to Management. Other goals are supported, but this is the goal the opportunity most closely addresses.

Funding Availability: Total anticipated funding for all awards is expected to be between $1,000,000 and $5,000,000 and is subject to the availability of FY 2008 appropriations for the OHHI. Multiple awards are anticipated from this announcement. The anticipated federal funding per award (min-max) is $100,000 to $1,000,000. The anticipated number of awards ranges from 7 to 14, approximately, and will be adjusted based on available funding.

Statutory Authority: 31 U.S.C. 3102(d).

Catalog Of Federal Domestic Assistance (CFDA) Number: 11.473, Coastal Services Center.

Application Deadline: Letters of Intent (LOIs) must be received by 5 p.m. ET on August 15, 2007. Full proposals must be received by 5 p.m. ET, November 15, 2007.

Address for Submitting Proposals: LOIs must be sent via e-mail to *OHHI2008LOI@noaa.gov.* Funding applicants submitting a LOI should reference the Funding Opportunity Title (FY 2007 OHHI External Grant-LOI) as the subject line of the e-mail containing the LOI. Applicants submitting more than one LOI must submit separate e-mails containing each LOI. The lead PI identified in the LOI cover page should be from the organization that would receive the grant award. If an applicant does not have Internet access, the applicant must submit through surface mail one original and two copies of the LOI to the Coastal Services Center. No fax copies will be accepted. LOIs submitted by mail must be received by NOAA Coastal Services Center no later than 5 p.m. ET, September 12, 2007. Any U.S. Postal Service correspondence should be sent to the attention of James Lewis Free, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413.

Full proposal application packages should be submitted through Grants.gov APPLY. If an applicant does not have Internet access, the applicant must submit through surface mail one set of originals (signed) and two copies of the proposals and related forms to the Coastal Services Center. No e-mail or fax copies will be accepted. Full proposal application packages submitted by mail must be received by NOAA Coastal Services Center no later than 5 p.m. ET, November 15, 2007. Any U.S. Postal Service correspondence should be sent to the attention of James Lewis Free, NOAA Coastal Services Center, 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413. All proposal package material must be submitted through Grants.gov or through surface mail by the submission deadline, including any letters of support.

Information Contacts: For administrative questions, contact James Lewis Free, NOAA CSC; 2234 South Hobson Avenue, Room B–119, Charleston, South Carolina 29405–2413; or by phone at 843–740–1185, or by fax 843–740–1290, or via e-mail at *James.L.Free@noaa.gov.* For technical questions regarding this announcement, contact Paul A. Sandifer, NOAA, National Ocean Service, c/o Hollings Marine Laboratory; 331 Fort Johnson Road, Room A112; Charleston, SC 29412, or by phone at 843–762–8814, or by fax 843–762–8737, or via e-mail at *Paul.Sandifer@noaa.gov.*

Eligibility: Eligible funding applicants are institutions of higher education, non-profit and for-profit organizations, international organizations, and state, local and Indian tribal governments. Federal agencies or institutions and foreign governments may not be the recipient of awards under this announcement or receive any federal funds, but are encouraged to partner with applicants. If applicants will have partners who would receive grant funds, the lead grantee will be expected to move funds using subcontracts or other appropriate mechanisms to the project partners.

Cost Sharing Requirements: There is no requirement for cost sharing.

Intergovernmental Review: Funding applications under the Center are subject to Executive Order 12372, Intergovernmental Review of Federal Programs. It is the state agencys responsibility to contact their states Single Point of Contact (SPCO) to find out about and comply with the states process under EO 12372. To assist the applicant, the names and addresses of the SPOCs are listed in the Office of Management and Budgets home page at *http://www.whitehouse.gov/omb/grants/spoc.html.*

(12) International Coral

Summary Description: The NOAA Coral Reef Conservation Grant Program, as authorized under the Coral Reef Conservation Act of 2000, provides matching grants of financial assistance for international coral reef conservation projects. The Program solicits proposals under four funding categories: (1) Promote Watershed Management in the Wider Caribbean, Brazil, and Bermuda; (2) Regional Enhancement of Marine Protected Area Management Effectiveness; (3) Encourage the Development of National Networks of Marine Protected Areas in the Wider Caribbean, Bermuda, Brazil, Southeast Asia, and the South Pacific; and (4) Promote Regional Socio—Economic Training and Monitoring in Coral Reef Management in the Wider Caribbean, Brazil, Bermuda, the Western Indian Ocean, the Red Sea, the South Pacific, South Asia, and Southeast Asia. Each funding category has specific applicant and project eligibility criteria.

Funding Availability: NOAA announces the availability of up to $500,000 in FY 2008 to support grants and cooperative agreements under the International Coral Reef Grant Program. These funds will be used to support financial assistance awards under the program categories listed in section IV. Applicants that are invited to submit a final application may be requested to revise award objectives, work plans, or budgets prior to submittal of the final application. The amount of funds to be awarded and the final scope of activities will be determined in pre-award negotiations among the applicant, NOAA Grants Management Division (GMD) and relevant NOAA staff. Up to approximately $500,000 may be available in FY 2008 to support grants and cooperative agreements under this program. Approximately $75,000–$100,000 may be allocated to each of the four project categories listed below, with the following award ranges: 1. Watershed Management: $30,000–$50,000 2. Regional Management Effectiveness capacity building projects: up to $80,000 3. MPA National Networks: $40,000–$50,000 4. Regional Socio—Economic Monitoring projects: $15,000–$35,000 Pre- and final applications with requests over the limit of each category will NOT be accepted. Pre- and final applications must be submitted under only one of the above mentioned categories. Funding will be subject to the availability of federal appropriations. Support in outyears after FY 2008 is contingent upon the availability of funds. Applicants should never begin a project in expectation of funds under this program. IPO reserves the right to transfer any given proposal to another category within the International program if the proposal better addresses the criteria of another category.

Statutory Authority: Authority for the NOAA Coral Reef Conservation Grant Program is provided by Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*).

Catalog of Federal Domestic Assistance (CFDA) Number: 11.463, Habitat Conservation.

Application Deadline: Pre-applications must be received by NOAA by 11:59 p.m., U.S. Eastern Time, on Tuesday, Nov. 6, 2007. Final applications must be received by NOAA by 11:59 p.m. U.S. Eastern Time, on Friday, Feb. 22, 2008.

Address for Submitting Proposals: The application process required by this FFO requires both a pre-application and final application, subject to the submission dates and times listed below. 1. Pre-application Submission Information Pre-applications may be submitted by surface mail or e-mail. Submissions by e-mail to *coral.grants@noaa.gov* are preferred. Electronic acceptable formats are limited to Adobe Acrobat (.PDF), WordPerfect or Microsoft Word files. If submitting by surface mail, applicants are encouraged to include an electronic copy of the pre-application or final application on disk or CD. Federal financial assistance forms are not required to be submitted with the pre-application. Paper pre-applications must be submitted to: David Kennedy, NOAA Coral Reef Conservation Program Coordinator, Office of Response and Restoration, N/ORR, Room 10102, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910. Fax submittals will also be accepted for pre-applications (Fax: 301–713–4389). 2. Final Application Submission Information: Applicants who are invited to submit a final application may be required to make modifications or revisions to the project and budget narratives and must submit a Federal financial assistance award application package (federal forms described below). Only applicants who submitted pre-applications by the deadline will be eligible to be considered for invitations to submit a final application. The applicant may submit the final application (narratives, federal forms, and supporting documentation) in one of two ways: a. The preferred method is

www.grants.gov: applicants will be strongly encouraged to submit the final applications through this secure Web site and guidance will be sent to those who will be chosen to submit a final application. Applicants are encouraged to log on to this portal Web site and begin a registration process at any time in preparation for this potential funding opportunity as well as other federal grant opportunities. The registration process can take 2–4 weeks. b. By electronic mail to *scot.frew@noaa.gov* including signed and scanned copies of all pages requiring original signatures and signed and scanned copies of original support letters. c. If internet access is not available, send one original signed copy by surface mail to Scot Frew, NOAA/NOS International Program Office, 1315 East West Highway, 5th Floor, N/IP, Room 5735, Silver Spring, MD 20910. Applicants should consider the delivery time when submitting their pre- and final applications from international or remote areas. Late applications by any method cannot be accepted under any circumstances. The required Federal financial assistance forms to accompany the final application are SF–424, SF–424A, SF–424B, CD–511, CD–512, and if applicable, CD–346 and/or SF–LLL. These forms can be obtained from the NOAA grants Web site at *http://www.rdc.noaa.gov/grants/pdf.* If internet access is not available, please contact: Scot Frew, NOAA/NOS International Program Office, 1315 East West Highway, 5th Floor, N/IP, Room 5735, Silver Spring, MD 20910, or telephone 301–713–3078 extension 220; or fax 301–713–4263.

Information Contacts: Technical point of contact for International Coral Reef Conservation is Scot Frew, NOAA/NOS International Program Office, 301–713–3078, extension 220 or e-mail at *scot.frew@noaa.gov.*

Eligibility: Eligible applicants include all international, governmental (except U.S. federal agencies), and non-governmental organizations. For specific country eligibility per category, please refer to individual category descriptions in Section V. The proposed work must be conducted at a non-U.S. site. Eligible countries are defined as follows: The Wider Caribbean includes the 37 States and territories that border the marine environment of the Gulf of Mexico, the Caribbean Sea, and the areas of the Atlantic Ocean adjacent thereto, and Brazil and Bermuda, but excluding areas under U.S. jurisdiction. The South Pacific Region includes South Pacific Regional Environment Programs Pacific island countries and territories, including the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands, but excluding U.S. territories and four developed country members. South Asia includes India, Sri Lanka, the Maldives, Pakistan, and Bangladesh. Southeast Asia Region includes Brunei, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam. The Western Indian Ocean Region includes Comoros, France (La Reunion), Kenya, Madagascar, Mauritius, Mozambique, Seychelles, the United Republic of Tanzania, and South Africa. The Red Sea Region includes five member countries of the Regional Organization for the Conservation of the Environment of the Red Sea and Gulf of Aden (PERSGA): Djibouti, Egypt, Jordan, the Kingdom of Saudi Arabia, and Yemen.

Cost Sharing Requirements: The International Coral Grant Program is subject to the matching fund requirements described below. As per section 6403(b)(1) of the Coral Reef Conservation Act of 2000, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total cost of the projects. Therefore, any coral conservation project under this program requires a 1:1 match. Match can come from a variety of public and private sources and can include in-kind goods and services such as private boat use and volunteer labor. Federal sources cannot be considered for matching funds, but can be described in the budget narrative to demonstrate additional leverage. Applicants are permitted to combine contributions from multiple non-federal partners in order to meet the 1:1 match recommendation, as long as such contributions are not being used to match any other funds.

Applicants must specify in their proposal the source(s) of match and may be asked to provide letters of commitment to confirm stated match contributions. Applicants whose proposals are selected for funding will be bound by the percentage of cost sharing reflected in the award document signed by the NOAA Grants Officer. Applicants should be prepared to carefully document matching contributions for each project selected to be funded. As per section 6403(b)(2) of the Coral Reef Conservation Act of 2000, the NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements: 1. No reasonable means are available through which an applicant can meet the matching requirement, and 2. The probable benefit of such project outweighs the public interest in such matching requirement. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match, and any other extenuating circumstances preventing the availability of match. Match waiver requests including the appropriate justification should be submitted as part of the final application package. Notwithstanding any other provisions herein, and in accordance with 48 U.S.C. 1469a(d), the Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Please Note: eligible applicants choosing to apply 48 U.S.C. 1469a(d) should note the use of the waiver and the total amount of funds requested to be waived in the matching funds section of the respective pre- and final applications.

Intergovernmental Review: Applications under the International Coral Reef Grant program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

National Environmental Satellite Data and Information Service

(1) Research in Primary Vicarious Calibration of Ocean Color Satellite Sensors

Summary Description: The Center for Satellite Applications and Research (STAR) announces the availability of Federal assistance in the research area of ocean color satellite sensor calibration and validation. STAR is committed to improving the vicarious calibration capabilities of a Marine Optical Buoy (MOBY) system located in Hawaii, with an ultimate goal of a continuous, climate-quality time-series of normalized water-leaving spectral radiances across multiple agency missions and ocean color satellite sensors. Research efforts are focused on the reduction of the total uncertainty budget in the determination of the normalized water-leaving radiances from MOBY measurements, improvements in the process used with the MOBY system for validation of ocean color satellite sensor retrievals of water-leaving spectral radiances, and the development of new MOBY system

components which would increase measurement integrity. These advances in vicarious calibration capabilities would improve the quality and accuracy of ocean color satellite sensor bio-optical product retrievals. The program priorities for this opportunity support NOAAs mission support goal of: Mission Support—Provide Critical Support for NOAA's Mission.

Funding Availability: Funding availability is anticipated to range from a minimum of $700,000 to a maximum of $1,300,000 per year for no more than three years. Only one applicant will receive an award.

Statutory Authority: Statutory authority for this program is provided under 33 U.S.C. 883d and 33 U.S.C. 1442.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.440, Environmental Sciences, Applications, Data, and Education.

Application Deadline: Proposals must be received by 4 p.m., Eastern Daylight Savings Time on September 28, 2007.

Address for Submitting Proposals: For proposals submitted through *http://www.grants.gov,* a date and time receipt indication is included and will be the basis of determining timeliness. Hard copy proposals will be date and time stamped when they are received in the program office. Hard copy proposals should be sent to Marilyn Yuen-Murphy; DOC/NOAA/NESDIS/STAR; 5200 Auth Rd., Rm. 104; Camp Springs, MD 20746.

Information Contacts: Marilyn Yuen-Murphy by telephone (301–763–8102 x159), fax (301–763–8020), or e-mail (*Marilyn.Yuen.Murphy@noaa.gov*); or Patty Mayo by telephone (301–763–8127 x107), fax (301–763–8108), or e-mail (*Patty.Mayo@noaa.gov*).

Eligibility: Eligible applicants are U.S. institutions of higher education, other non-profits, commercial organizations, and state, local and Indian tribal governments.

Cost Sharing Requirements: None.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

(2) Research in Satellite Data Assimilation for Numerical Weather, Climate, and Environmental Forecast Systems

Summary Description: The NOAA/NASA/DOD Joint Center for Satellite Data Assimilation (JCSDA) announces the availability of Federal assistance for research in the area of Satellite Data Assimilation in Numerical Weather, Climate, and Environmental Forecast Systems. The goal of the JCSDA is to accelerate the use of observations from earth-orbiting satellites in operational numerical prediction models for the purpose of improving weather, ocean mesoscale, and other environmental forecasts, improving seasonal to interannual climate forecasts, and increasing the physical accuracy of climate reanalysis. The advanced instruments of current and planned NOAA, NASA, DOD, and international agency satellite missions will provide large volumes of data on atmospheric, oceanic, and land surface conditions with accuracies and spatial resolutions never before achieved. The JCSDA will strive to ensure that the Nation realizes the maximum benefit of its investment in space as part of an advanced global observing system. Funded proposals will help accelerate the use of satellite data from both operational and experimental spacecraft in operational weather, ocean mesoscale, climate, and environmental prediction environments, improve community radiative transfer models and surface emissivity models, improve characterization of the error covariances related to forecast models, radiative transfer models and satellite observations. The program priorities for this opportunity support NOAA's mission support goal of: Weather and Water—Serve Societys Needs for Weather and Water Information.

Funding Availability: Total funding available for this Notice is anticipated to be approximately $600,000. Individual annual awards in the form of grants or cooperative agreements are expected to range from $50,000 to $150,000, although greater amounts may be awarded. It is anticipated that 4–6 awards will be made.

Statutory Authority: Statutory authorities for this program are provided under 15 U.S.C. 313, 49 U.S.C. 44720(b); 15 U.S.C. 2901.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.440, Environmental Sciences, Applications, Data, and Education.

Application Deadline: Letters of Intent (LOI) must be received by NOAA/NESDIS no later than 5 p.m. eastern time, August 10, 2007. Full proposals must be received no later than 5 p.m. eastern time, October 2, 2007.

Address for Submitting Proposals: Letters of intent must be submitted to the JCSDA, NOAA/NESDIS, Attn: Dr. Fuzhong Weng, 5200 Auth Road, Room 808, Camp Springs, MD 20746. Letters of Intent can be faxed to 301–763–8149, or e-mailed to *Fuzhong.Weng@noaa.gov* with a copy to *Ada.Armstrong@noaa.gov.* Full proposals should be submitted through Grants.gov at *http://www.grants.gov* or those applicants without internet access, hard copy proposals (1 unbound original and 1 copy) may be sent to the above address. No facsimile applications will be accepted.

Information Contacts: Administrative questions: Ms. Ada Armstrong, by phone at 301–763–8172 ext. 188, fax: 301–763–8149, or e-mail: *Ada.Armstrong@noaa.gov.* Technical questions: Fuzhong Weng (NOAA Program Officer), by phone at 301–763–8172 ext. 123, fax: 301–763–8149, or via e-mail: *Fuzhong.Weng@noaa.gov.*

Eligibility: Eligible applications can be from institutions of higher education, other non-profits, international organizations, state, local and Indian tribal governments. U.S. Federal agencies or institutions are eligible to receive Federal assistance under this Notice.

Please Note: Before non-NOAA Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another Federal agency in excess of their appropriation. The only exception to this is governmental research facilities for awards issued under the authority of 49 U.S.C. 44720(b). Because this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

Cost Sharing Requirements: No cost sharing nor matching is required under this program.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

National Weather Service (NWS)

(1) Collaborative Science, Technology, and Applied Research (CSTAR) Program

Summary Description: The CSTAR Program represents an NOAA/NWS effort to create a cost-effective transition from basic and applied research to operations and services through collaborative research between operational forecasters and academic institutions which have expertise in the environmental sciences. These activities will engage researchers and students in applied research of interest to the operational meteorological community and will improve the accuracy of forecasts and warnings of environmental hazards by applying scientific knowledge and information to operational products and services. The NOAA CSTAR Program is a contributing element of the U.S. Weather Research Program. NOAA's program is designed to complement other agency contributions to that national effort. The

CSTAR Program addresses NOAA's Mission Goal 3—Serve society's needs for weather and water information.

Funding Availability: The total funding amount available for proposals is anticipated to be approximately $250,000 per year. However, there is no appropriation of funds at this time and no guarantee that there will be. Individual annual awards in the form of cooperative agreements are limited to a maximum of $125,000 per year for no more than three years. We anticipate making 1–4 awards.

Statutory Authority: Authority for the CSTAR program is provided by the following: 15 U.S.C. 313; 49 U.S.C. 44720(b); 33 U.S.C. 883d; 15 U.S.C. 2904; 15 U.S.C. 2934.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.468, Applied Meteorological Research.

Application Deadline: Proposals must be received by the NWS no later than 5 p.m., EDT, October 19, 2007.

Address for Submitting Proposals: Proposals should be submitted through *www.grants.gov.* For those organizations without internet access, proposals may be sent to Sam Contorno, CSTAR Program Manager, NOAA/NWS, 1325 East-West Highway, Room 15330, Silver Spring, Maryland 20910.

Information Contacts: Contact Sam Contorno, NOAA/NWS; 1325 East-West Highway, Room 15330; Silver Spring, Maryland 20910–3283, or by phone at 301–713–3557 ext. 150, by fax to 301–713–1253, or via e-mail at *samuel.contorno@noaa.gov.*

Eligibility: Eligible applicants are institutions of higher education and federally funded educational institutions such as the Naval Postgraduate School. This restriction is needed because the results of the collaboration are to be incorporated in academic processes which ensure academic multidisciplinary peer review as well as Federal review of scientific validity for use in operations.

Cost Sharing Requirements: No cost sharing is required under this program.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

Oceanic and Atmospheric Research

(1) Climate Program Office for FY 2008

Summary Description: The NOAA Climate Program represents a contribution to national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. The Program builds on NOAAs mission requirements and long-standing capabilities in climate and global change research and prediction. The Program is a key contributing element of the U.S. Climate Change Science Program (CCSP) that is coordinated by the interagency Committee on Environmental and Natural Resources (CENR). NOAAs Climate Program is designed to complement other agencies contributions to that national effort.

Funding Availability: NOAA believes that the Climate Program will benefit significantly from a strong partnership with outside investigators. Please be advised that actual funding levels will depend upon the final FY 2008 budget appropriations. In FY 2006, $6M in first year funding was available for 54 new awards; similar funds and number of awards are anticipated in FY 2008. Total Anticipated Federal Funding for FY 2008 is $6M in first year funding for 40–60 number of awards. Federal Funding for FY 2009 may be used in part to fund some awards submitted under this competition. Current plans assume that 100% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. Past or current grantees funded under this announcement are eligible to apply for a new award, which builds on previous activities or areas of research not covered in the previous award. Current grantees should not request supplementary funding for ongoing research through this announcement. We anticipate that the annual cost of most funded projects will fall between $50,000 and $200,000 per year. The exact amount of funds that may be awarded will be determined in pre-award negotiations between the applicant and NOAA representatives. Neither NOAA nor the Department of Commerce is responsible for proposal preparation costs if this program is not funded for whatever reason.

Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds. Awards are to be up to three years in length except where noted otherwise by the Program.

Statutory Authority: 49 U.S.C. 44720(b), 33 U.S.C. 883d, 15 U.S.C. 2904, 15 U.S.C. 2931–2934.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.431, Climate and Atmospheric Research.

Application Deadline: Letters of Intent for all Program Elements other than Assessing Meridional Overturning Circulation Variability: Implications for Rapid Climate Change should be received by 5 p.m. Eastern Time, July 23, 2007. Full proposals for all Program Elements other than Assessing Meridional Overturning Circulation Variability: Implications for Rapid Climate Change must be received no later than 5 p.m. Eastern Time, September 24, 2007. Letters of Intent to the Assessing Meridional Overturning Circulation Variability: Implications for Rapid Climate Change Program Element should be received by 5 p.m. Eastern Time October 5, 2007. Full proposals to the Assessing Meridional Overturning Circulation Variability: Implications for Rapid Climate Change Program Element must be received no later than 5 p.m. Eastern Time December 7, 2007.

Anticipated Award Date: May 1, 2008.

Address for Submitting Proposals: To apply for this NOAA federal funding opportunity, please go to *http://www.grants.gov,* and use the following funding opportunity # OAR–CPO–2008–2000994 to obtain a complete application package. If the applicant does not have Internet access, and would like to request a hard copy of a full application, please contact the CPO Grants Manager, Diane Brown, NOAA Climate Program Office (R/CP1), SSM3, Room 12112, 1315 East-West Highway, Silver Spring, MD 20910, by phone at 301–734–1206, or e-mail: *cpogrants@noaa.gov.*

Other Submission Requirements: (1) Location for Letter of Intent Submission: LOIs are encouraged to be submitted by e-mail to the identified NOAA program elements Program Manager. If an applicant does not have Internet access, LOI hard copies should be sent to the Program Managers listed with each program in the Program Priorities section.

(2) *Location for Application Submission:* Applications should be submitted through Grants.gov APPLY (*http://www.grants.gov*). If an applicant does not have Internet access, please contact the CPO Grants Manager (see below) for hard copy instructions.

Information Contacts: Please visit the CPO Web site for further information *http://www.climate.noaa.gov/* or contact the CPO Grants Manager, Diane Brown, NOAA Climate Program Office (R/CP1), SSM3, Room 12112, 1315 East-West Highway, Silver Spring, MD 20910 Phone: 301–734–1206 Fax: 301–713–0158 E-mail: *cpogrants@noaa.gov.*

Eligibility: Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, international organizations, and state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this notice.

Cost Sharing Requirements: None of the Competitions have Cost Sharing requirements.

Intergovernmental Review: Applications under this program are not subject to Executive Order 12372, Intergovernmental Review of federal programs.

Office of the Under Secretary (USEC)

(1) Environmental Literacy Grants for Spherical Display Systems for Earth System Science-Installations and Content Development

Summary Description: The NOAA Office of Education (OEd) is issuing a request for applications from institutions with interest in developing exhibits featuring spherical display systems showing Earth system science, or developing science modules for these display systems. Spherical display systems are sphere-shaped ''screens'' onto which global data and other imagery can be shown. Awards will be offered in two priorities, with priority 1 supporting installation of spherical displays systems into public exhibits and priority 2 supporting development and evaluation of Earth system science modules for the spherical display systems. Awards in priority 1 will be made as one-year cooperative agreements and grants. Awards in priority 2 will be made as one or two-year grants. Successful priority 1 projects will support installation of spherical displays systems into public exhibits with an Earth system science theme. Successful priority 2 projects will support partnerships designed to create content focused on Earth system science topics for spherical display systems. The goal of this program is to build environmental literacy among the general public through increased use of NOAA and NOAA-related data and data products in informal education institutions. It is anticipated that recommendations for funding under this announcement will be made by January 30, 2008 and that projects funded under this announcement will have a start date no earlier than April 30, 2008, and possibly as late as March 30, 2009. This program meets NOAA's Mission Goal to provide Critical Support for NOAA's Mission.

Funding Availability: NOAA anticipates the availability of approximately $4,000,000 of funding from FY08 and FY09. Actual funding availability for this program is contigent upon Fiscal Year 2008 and 2009 appropriations. Approximately $500,000 for each fiscal year may be dedicated to awards in priority 1. The total Federal amount that may be requested from NOAA for projects in priority 1 shall not exceed $100,000 including direct and indirect costs. Approximately $1,500,000 for each fiscal year may be dedicated to awards in priority 2. The total Federal amount that may be requested from NOAA for projects in priority 2 shall not exceed $300,000 including direct and indirect costs.

Statutory Authority: Authority for this program is provided by the following: 15 U.S.C. 1540.

Catalog of Federal Domestic Assistance (CFDA) Number: 11.469, Congressionally Identified Awards and Projects.

Application Deadline: The deadline for applications is 5 p.m. EDT on October 30, 2007.

Address for Submitting Proposals: Applications should be submitted through Grants.gov APPLY (*http://www.grants.gov*). If an applicant does not have Internet access, paper applications will be accepted submitted by express delivery (U.S. mail is not recommended as it can take up to 4 weeks to reach the program office). Paper applications should be delivered to: Carrie McDougall, Dept. of Commerce, NOAA Office of Education, 1401 Constitution Avenue, NW., Room 6863, Washington, DC 20230. See the Office of Education's frequently asked questions site *http://www.oesd.noaa.gov/dataviz_faqs.html* for more details.

Information Contacts: Please visit the OEd Web site for further information at *http://www.oesd.noaa.gov/funding_opps.html* or contact Carrie McDougall at (202) 482–0875 or *carrie.mcdougall@noaa.gov;* or John McLaughlin at (202) 482–2893 or *john.mclaughlin@noaa.gov.* For those applicants without Internet access, please contact Carrie McDougall via mail at DOC/NOAA Office of Education, 1401 Constitution Avenue, NW., Room 6863, Washington, DC 20230.

Eligibility: Eligible applicants are institutions of higher education, other nonprofits, and state, local and Indian tribal governments in the United States. For profit organizations, foreign institutions, foreign organizations and foreign government agencies are not eligible to apply. For-profit organizations can be project partners. Federal agencies are not eligible to receive Federal assistance under this announcement, but may be project partners. An individual may apply only once per priority as principal investigator (PI) through this funding opportunity. However institutions may submit more than one application and individuals may serve as co-PIs or key personnel on more than one application.

Cost Sharing Requirements: There are no cost-sharing requirements. Applicant resource commitment will, however, be considered in the competitive selection process (see Evaluation Criteria, Project Costs in the Federal Funding Opportunity).

Intergovernmental Review: Applications submitted to this funding opportunity are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

Limitation of Liability

Funding for programs listed in this notice is contingent upon the availability of Fiscal Year 2008 appropriations. Applicants are hereby given notice that funds have not yet been appropriated for the programs listed in this notice. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

Universal Identifier

Applicants should be aware that, they are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. See the October 30, 2002 **Federal Register**, (67 FR 66177) for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or via the Internet *http://www.dunandbradstreet.com.*

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/,* including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216_6_TOC.pdf,* and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm.*

Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species

and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

Compliance With Department of Commerce Bureau of Industry and Security Export Administration Regulations

(a) This clause applies to the extent that this financial assistance award involves access to export-controlled information or technology.

(b) In performing this financial assistance award, the recipient may gain access to export-controlled information or technology. The recipient is responsible for compliance with all applicable laws and regulations regarding export-controlled information and technology, including deemed exports. The recipient shall establish and maintain throughout performance of the financial assistance award effective export compliance procedures at non-NOAA facilities. At a minimum, these export compliance procedures must include adequate controls of physical, verbal, visual, and electronic access to export-controlled information and technology.

(c) Definitions.

(1) *Deemed export.* The Export Administration Regulations (EAR) define a deemed export as any release of technology or source code subject to the EAR to a foreign national, both in the United States and abroad. Such release is ''deemed'' to be an export to the home country of the foreign national. 15 CFR 734.2(b)(2)(ii).

(2) *Export-controlled information and technology.* Export-controlled information and technology is information and technology subject to the EAR (15 CFR 730 *et seq.*), implemented by the DOC Bureau of Industry and Security, or the International Traffic I Arms Regulations (ITAR) (22 CFR parts 120–130), implemented by the Department of State, respectively. This includes, but is not limited to, dual-us items, defense articles and any related assistance, services, software or technical data as defined in the EAR and ITAR.

(d) The recipient shall control access to all export-controlled information and technology that it possesses or that comes into its possession in performance of this financial assistance award, to ensure that access is restricted, or licensed, as required by applicable Federal laws, Executive Orders, and/or regulations.

(e) Nothing in the terms of this financial assistance award is intended to change, supersede, or waive and of the requirements of applicable Federal laws, Executive Orders or regulations.

(f) The recipient shall include this clause, including this paragraph (f), in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve access to export-controlled information technology.

NOAA implementation of Homeland Security Presidential Directive—12

If the performance of a financial assistance award, if approved by NOAA, requires recipients to have physical access to Federal premises for more than 180 days or access to a Federal information system. Any items or services delivered under a financial assistance award shall comply with the Department of Commerce personal identity verification procedures that implement Homeland Security Presidential Directive—12, FIPS PUB 201, and the Office of Management and Budget Memorandum M–05–24. The recipient shall insert this clause in all subawards or contracts when the subaward recipient or contractor is required to have physical access to a Federally controlled facility or access to a Federal information system.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements. The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of December 30, 2004 (69 FR 78389) are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424 and 424A, 424B, SF LLL, CD–346, SF 424 Research and Related Family, SF 424 Short Organizational Family, SF 424 Individual Form family has been approved by the Office of Management and Budget (OMB) under the respective control numbers 4040–0004, 0348–0044, 0348–0040, 0348–0046, 0605–0001, 4040–0001, 4040–0003, and 4040–0005. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: June 26, 2007.

Helen Hurcombe,

Director, Acquisition and Grants Office, National Oceanic and Atmospheric Administration.

[FR Doc. E7–12653 Filed 6–29–07; 8:45 am]

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Federal Register

Monday,
July 2, 2007

Part V

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 35

Wholesale Competition in Regions With Organized Electric Markets; Proposed Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket Nos. RM07–19–000 and AD07–7–000]

Wholesale Competition in Regions With Organized Electric Markets

June 22, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing an Advance Notice of Proposed Rulemaking (ANOPR) with regard to potential reforms to improve the operation of organized wholesale electric markets. The Commission invites all interested persons to submit comments in response to specific questions.

DATES: Comments on this ANOPR are due on August 16, 2007.

ADDRESSES: You may submit comments identified by Docket Nos. RM07–19–000 and AD07–7–000 by one of the following methods:

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

FOR FURTHER INF0RMATION CONTACT:

David Kathan (Technical Information), Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, *David.Kathan@ferc.gov*, (202) 502–6404.

Elizabeth Rylander (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, *Elizabeth.Rylander@ferc.gov*, (202) 502–8466.

SUPPLEMENTARY INFORMATION:

I. Introduction

1. The Federal Energy Regulatory Commission (Commission) is considering potential reforms to improve the operation of organized wholesale electric markets.[1] In response to issues raised by various market participants and industry observers about improvements to enhance wholesale electric markets, the Commission held two conferences, on February 27, 2007 and May 8, 2007, to learn more about these issues. The first dealt with all wholesale power markets while the second focused on organized RTO/ISO markets. Based on the comments received at these two conferences, the Commission identified four specific and narrow issues, as described below, that are not already being fully addressed by the Commission in other proceedings and that may be appropriate to address in a generic proceeding.

2. *These issues are:* (1) The role of demand response in organized markets, including greater reliance on market prices to elicit demand reductions during power shortages; (2) increasing opportunities for long-term power contracting; (3) strengthening market monitoring; and (4) the responsiveness of RTOs and ISOs to customers and other stakeholders. This Advance Notice of Proposed Rulemaking (ANOPR) identifies specific concerns in these four areas and presents the Commission's preliminary views on proposed reforms.[2] The Commission seeks

[1] Organized market regions are areas of the country in which a regional transmission organization (RTO) or independent system operator (ISO) operates day-ahead and/or real-time energy markets.

[2] Throughout this document, the term ''propose'' is used as a short form of stating that it is the Commission's preliminary view that the proposal that follows may be a reasonable way to achieve a regulatory objective, and that the Commission requests comments on the proposal and on

comments on the proposed reforms. After receiving and considering these comments, the Commission will determine whether to issue a Notice of Proposed Rulemaking (NOPR) and the scope of the proposed rule, if a NOPR is warranted.

3. Finally, the actions proposed here are intended to complement other Commission actions, discussed further below, intended to improve the operation of wholesale competition in regions with and without RTOs and ISOs and their organized markets. There are opportunities to improve the operation of wholesale markets in both types of regions. Many of the Commission's prior actions—such as Order No. 890 [3]—apply to both types of regions, while others by their nature apply only to RTO/ISO regions, such as assuring load-serving entities (LSEs) of long-term transmission rights in regions with locational marginal pricing and congestion hedges. The issues being explored in this proceeding are discrete and apply to regions with organized spot markets, market monitors, and an RTO or ISO. The actions considered address concerns that numerous market participants and many of our state colleagues have raised in this proceeding and elsewhere. The Commission is not seeking to fundamentally redesign organized markets or to appropriate jurisdiction from our state colleagues. Our goal is to make incremental improvements to the operation of organized markets without undoing or upsetting the significant efforts that have already been made in providing demonstrable benefits to wholesale customers. In particular, we acknowledge and commend the ISOs and RTOs and their respective transmission owners and stakeholders for their work over the past several years in fulfilling the Commission's policies supporting wholesale competition and non-discriminatory access to transmission.

II. Background

4. National policy for many years has been, and continues to be, to foster competition in wholesale power markets. As the third major federal law enacted in the last 30 years to embrace wholesale competition, the Energy Policy Act of 2005 (EPAct 2005) [4] strengthened the legal framework for continuing wholesale competition as federal policy for this country.

5. The Commission's core responsibility is to ''guard the consumer from exploitation by non-competitive electric power companies.'' [5] The Commission has always used two general approaches to meet this responsibility—regulation and competition. The first was the primary approach for most of the last century and remains the primary approach for wholesale transmission service, and the second has been the primary approach in recent years for wholesale generation service.

6. The Commission has never relied exclusively on competition to assure just and reasonable rates and has never withdrawn from regulation of wholesale electric markets. Rather, the Commission has shifted the balance of the two approaches over time as circumstances changed. Advances in technology, exhaustion of economies of scale in most electric generation, and new federal and state laws have changed our views of the right mix of these two approaches. Our goal has always been to find the best possible mix of regulation and competition to protect consumers from the exercise of monopoly power.

7. In each major energy bill over the last few decades, Congress has acted to open up the wholesale electric power market by facilitating entry of new generators to compete with traditional utilities. The Commission has acted quickly and strongly over the years to implement this national policy.

8. Congress has not deregulated the wholesale electric power business, however, and the Commission has not done so by regulation. To the contrary, the Commission has issued many new regulations and orders designed to foster competition nationally and to support competitive markets in specific regions. Because the United States does not have a national electric power market, our approach to implementing competition has been to recognize and foster the development of regional markets.

9. There are significant differences among the regional wholesale power markets. There are differences in industry structure, differences in the mix of ownership (such as investor-owned, cooperatively-owned, and publicly-owned utilities), differences in the mix of fuels and energy sources for electric generation, and differences in population densities and weather patterns, to name a few. Some regions pursue wholesale competition exclusively by relying on direct bilateral contracting between sellers and buyers, and others employ a mix of bilateral contracting with organized spot markets and other markets to increase opportunities for the sale or purchase of electric power. In regions with organized spot markets, the markets are administered by an RTO or ISO, which themselves have differences regarding such matters as market design, transmission responsibilities, and decision-making procedures. The Commission's approach to supporting wholesale competition is to recognize and respect these differences in market structure and other differences across the various regions.

10. Wholesale competition can serve customers well in all regions, including RTO and ISO regions with organized markets and regions without such organizations and markets. There are strengths and weaknesses to the approach taken by each, and wholesale competition faces challenges in both areas.

11. The best way to address these challenges may differ among the regions, however. For example, in all regions the cost of the fuels used for electric generation has increased in recent years, as it has throughout the world. Those regions of the United States that depend on natural gas for electric generation have felt this the most. Competitive spot markets reflect these cost changes quickly in market prices, while longer-term fixed price bilateral contracts or cost-of-service regulation may reflect cost increases or decreases more gradually in the wholesale price. Wholesale customers in all regions want better long-term contracting opportunities. All regions face the problem that retail customers are often unaware of supply shortages and continue their normal consumption even on days when supplies are tight and wholesale prices are high. Allocating the costs of a major new regional transmission facility fairly is a challenge faced by every region.

12. Regions with an RTO or ISO may be better able than other regions to address some of these issues, but they may also face more difficult challenges. For example, much of the recent dissatisfaction with organized competitive markets appears to be directly linked to rising natural gas prices.

13. National policy is to promote wholesale competition in all regions, and customers now are calling especially for actions to improve the operation of wholesale competitive

alternative recommendations for achieving the objective.

[3] *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, 72 FR 12,266 (Feb. 16, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), *reh'g pending* (Reform of the Open Access Transmission Tariff (OATT) rules or OATT Reform).

[4] Pub. L. No. 109–58, 119 Stat. 594 (2005).

[5] *National Association for the Advancement of Colored People* v. *FPC*, 520 F.2d 432, 438 (D.C. Cir. 1975), *aff'd*, 425 U.S. 662 (1976).

markets in the organized market regions. Hence, the focus of this ANOPR is not whether wholesale competition is the correct federal policy; the focus is on further improving the operation of wholesale competitive markets in organized market regions.[6] The Commission seeks comment on proposed reforms to improve the operation of wholesale markets in these regions.

A. Brief History

14. Numerous federal and state legislative and regulatory activities have supported competition in the U.S. electric industry over the last three decades. Congress enacted the Public Utility Regulatory Policies Act of 1978 (PURPA)[7] as a response to the energy crises of the 1970s. PURPA required electric utilities to interconnect with, and offer to purchase power from, qualifying cogeneration and small power production facilities at avoided cost rates set by state regulatory authorities. It gave the Commission limited authority to order wholesale transmission on a case-by-case basis, upon application by an eligible entity. A consequence of PURPA was the emergence of a new class of power generators that were independent of traditional utilities.

15. Beginning in the 1980s, the Commission allowed independent power producers to sell electric energy at wholesale at negotiated rates instead of the traditional cost-based rates.[8] Development of a competitive generation sector was impeded, however, because independent power producers were discouraged from entering the generation business by certain provisions of the Public Utility Holding Company Act of 1935 (PUHCA)[9] and because the new power suppliers could not readily gain access to the transmission grid to reach wholesale buyers.

16. Congress addressed these problems in the Energy Policy Act of 1992 (EPAct 1992).[10] EPAct 1992 eased PUHCA restrictions so that independent and affiliate generators could more easily enter the market to compete at wholesale and it expanded the Commission's authority to order a transmitting utility to provide wholesale power transmission service, upon application on a case-by-case basis, to anyone selling power at wholesale. By the mid-1990s, the Commission found that ordering wholesale transmission services case-by-case did not adequately address problems with undue discrimination in transmission access, which limited opportunities for wholesale power competition. In 1996, the Commission used its authority under section 206 of the Federal Power Act (FPA)[11] to issue Order No. 888, remedying undue discrimination in access to transmission by requiring all public utilities with transmission to provide transmission service under an OATT.[12] The Commission recently issued Order No. 890 to remedy remaining opportunities for undue discrimination in the provision of open access transmission service.

17. Also during the 1990s, many states began to allow retail customers to choose their power supplier. Retail competition was expected to lower retail prices, protect customers from shouldering generation investment risk, and introduce innovative retail services including demand response services. By 2000, 24 states and the District of Columbia had enacted legislation or issued regulatory orders to restructure their electric power industries.[13]

18. In addition to requiring open transmission access in Order No. 888, FERC also encouraged the formation of ISOs. The Commission encouraged transmission-owning utilities to voluntarily transfer operating control of their transmission facilities to an ISO to ensure independent operation of the transmission grid. Several ISOs—some based on longstanding power pools such as PJM and ISO–NE—formed after that. Early experience with open transmission access led the Commission to issue Order No. 2000 in December 1999,[14] which encouraged transmitting utilities, including those that were not public utilities, to join an RTO.[15] More than half the United States' load is now served by RTOs or ISOs.[16] Most RTOs and ISOs have adopted some forms of organized markets, which have continued to evolve with operating experience.[17] RTOs and ISOs have improved transmission reliability and enabled greater coordination and efficiency in the dispatch of resources and provision of transmission service over regions served previously by separate entities. Further, they have supported competitive power markets by eliminating pancaked rates in the region, as well as by providing a spot market to supplement traditional means of selling and buying power.

19. While RTOs and ISOs have produced benefits, they also have encountered many challenges. Security constrained least cost dispatch over a large region can reveal transmission constraints and higher locational prices in constrained areas. Previously, average prices for the large region masked these constraints. Higher prices in certain locations and the lack of investment to relieve chronic congestion are criticisms of RTOs and ISOs. Concerns about transmission investment are common to both the RTO and ISO regions and the other regions.

20. Competitive wholesale markets for electric energy, including RTO and ISO spot markets, have had successes and failures. Competitive markets have stimulated generation investment, with much of the new generation supplied by merchant generating companies.[18] According to data from the Energy

[6] There are organized markets in the following RTOs and ISOs: PJM Interconnection, L.L.C. (PJM), New York Independent System Operator, Inc. (NYISO), Midwest Independent Transmission System Operator, Inc. (Midwest ISO), ISO New England, Inc. (ISO-NE), California Independent Service Operator Corp. (CAISO), Southwest Power Pool, Inc. (SPP), and the Electric Reliability Council of Texas (ERCOT).

[7] Pub. L. No. 95–617, 92 Stat. 3117 (codified in scattered sections of 15, 16, 26, 30, 42, and 43 U.S.C.) (1978).

[8] *See* The Electric Energy Market Competition Task Force, *Report to Congress on Competition in Wholesale and Retail Markets for Electric Energy*, Docket No. AD05–17–, at 22 (April 2007).

[9] 15 U.S.C. 79a *et seq*. (2000).

[10] Pub. L. No. 102–486, 106 Stat. 2776 (1992).

[11] 16 U.S.C. 824e (2000).

[12] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities,* Order No. 888, FERC Stats. & Regs., Regulations Preambles January 1991–June 1996 ¶ 31,036 (1996), *order on reh'g*, Order No. 888–A, FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,048 (1997), *order on reh'g*, Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part, remanded in part on other grounds sub nom. Transmission Access Policy Study Group, et al.* v. *FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York* v. *FERC*, 535 U.S. 1 (2002).

[13] U.S. Department of Energy, Energy Information Administration, *Status of State Restructuring of the Electric Power Industry,* at *http://www.eia.doe.gov/cneaf/electricity/epar1/state.html.*

[14] *Regional Transmission Organizations,* Order No. 2000, FERC Stats. & Regs. ¶ 31,089 (1999), *order on reh'g,* Order No. 2000–A, FERC Stats. & Regs ¶ 31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington* v. *FERC,* 272 F.3d 607 (D.C. Cir. 2001).

[15] *See* Order No. 2000, FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,089 at 31,028.

[16] The Commission has approved RTOs or ISOs in several regions including the Northeast (PJM, NYISO, and ISO–NE), California (CAISO), the Midwest (Midwest ISO) and the Southwest (SPP).

[17] RTOs and ISOs currently operate various combinations of the following organized markets: energy markets (day-ahead and real-time balancing markets), transmission rights, installed capacity markets, and other ancillary services markets.

[18] *See* Platts Research and Consulting/RDI, *Review and Assessment of New Competitive-Market Sources of Power Generation* (February 5, 2003); Paul L. Joskow February 27, 2007 Comments, Docket No. AD07–7–000; New England Power Generators Association, Inc., *Meeting New England's Supply Needs: Regulated vs. Unregulated Generation,* at *http://www.nepga.org/contents/factsheet9041006.pdf.*

Information Administration (EIA), the percentage of generating capacity in the United States owned by independent power producers has grown from less than 2 percent in 1990 to more than 35 percent by 2005.[19] A result has been to shift the risk of investment from customers to shareholders. In addition, under wholesale competition, the efficiency of existing nuclear, coal, and other types of generation has improved significantly, lowering costs to consumers and reducing environmental effects, and the increased capacity factors and availability of these units has further lowered electric generating costs.[20] The RTO and ISO-organized markets opened opportunities for renewable energy sources; an increasing fraction of new generation is from non-traditional sources such as wind generators. In fact, more wind generation has been added in RTO and ISO regions than in other regions, even though there are many areas with good wind availability.[21] RTO and ISO regions with organized markets report that competitive markets promote significant investment in new transmission, improve transmission reliability, and open new opportunities for demand response.[22]

21. Despite all of the successes attributable to wholesale competition, there have been difficulties. The most prominent is that spot markets in California during 2000 and 2001 experienced sustained high wholesale prices resulting from supply shortages, market design flaws, and market abuses. In other RTOs and ISOs, prices in the day-ahead and real-time balancing markets have been volatile at times. This volatility can present issues for both buyers and sellers as buyers try to hedge the volatility and sellers try to project revenues from the organized markets. Even with the volatility, the RTO and ISO markets have provided wholesale customers and suppliers with a new and constantly available opportunity to buy or sell power and transparent price information.

22. Much of the concern about competition in wholesale power markets can be traced to the effects of higher natural gas prices on wholesale electric power prices. As the Commission's staff reports, ''natural gas currently functions as the most significant price-setting fuel in U.S. electric generation.'' [23] Natural gas prices have increased significantly over the last decade. According to the Energy Information Administration, the average U.S. wellhead price of natural gas increased from $2.17 in 1996 to $6.42 in 2006 (which was down from $7.33 in 2005).[24] The summer 2007 futures prices from the New York Mercantile Exchange (NYMEX) for natural gas at Henry Hub, Louisiana are up 21 percent over last summer's actual average prices traded on the Intercontinental Exchange (ICE).[25] As reported by Commission staff, wholesale prices for electricity are expected to be higher in the summer of 2007 in all regions of the United States, regardless of regional market structure.[26] The principal reason is higher expected prices for natural gas. As the United States has increased its reliance on natural gas for electricity generation, particularly to meet peak loads, the forward price of natural gas has had an increasing effect on the forward price of wholesale electric power, especially during electric peak periods. The effect of wholesale prices is felt in parts of the United States that have no organized markets as well as regions with organized markets.

23. Some perceived challenges in the organized wholesale markets may be closely related to difficulties in state retail choice programs. Retail choice programs tend to be in areas served by organized wholesale markets, and the distinction between wholesale and retail competition challenges is often blurred. It appears that some areas with retail choice depend on their RTO or ISO to provide or arrange for the provision of some functions previously carried out by vertically integrated utilities. This has created challenges for wholesale market design, particularly with regard to whether it effectively provides for resource adequacy. Because wholesale and retail markets are intertwined, any examination of retail choice typically involves a critique of the combination of the particular retail choice program and the RTO's or ISO's wholesale market design.

24. The Commission continues to believe that wholesale competition benefits customers by providing more choice, spurring innovative services and technologies, shifting risk away from customers, improving efficiency, and providing incentives for cost reductions and for the construction of new resources. As stated above, the purpose of this ANOPR is to explore reasonable proposals for improving wholesale organized markets.

B. Competition Issues and Commission Actions

25. In proceedings outside this ANOPR, the Commission has addressed or is addressing many issues related to improving wholesale electric power competition in all regions, both with and without organized markets. The Commission has taken actions to improve wholesale transmission and competitive wholesale power opportunities.

26. The Commission's transmission actions have included reform of the OATT, development of long-term transmission rights policies, incentives for new transmission infrastructure, and approval of transmission cost allocation policies. OATT reform applies to transmission-owning and operating public utilities in all regions. It adds greater consistency and transparency to available transfer capability calculations, requires an open and coordinated regional transmission planning process, and reforms energy imbalance charges. Additionally, it provides for a new ''conditional firm'' point-to-point transmission service. Long-term transmission rights in RTOs and ISOs were strengthened in Order Nos. 681 and 681–A. These orders, as directed by EPAct 2005, provide for long-term transmission price certainty in the organized electricity markets, which supports long-term power supply arrangements. In Order No. 679,[27] the

[19] U.S. Department of Energy, Energy Information Administration, *Electric Power Annual 2005,* Table 2.1 (November 2006), at *http://www.eia.doe.gov/cneaf/electricity/epa/epat2p1.html.*

[20] North American Electric Reliability Corporation, *Generating Availability Report* (November 2006).

[21] Michael Skelly February 27, 2007 Comments, Docket No. AD07–7–000, at 1 (submitted on behalf of Horizon Wind Energy and the American Wind Energy Association) (reporting that ''[w]ell-structured regional wholesale electricity markets operated independently allow far greater amounts of renewable energy and demand response resources to be integrated into the nation's electric grid. In fact, approximately 73 percent of installed wind capacity is now located in regions with such markets, while only 44 percent of wind energy potential is found in these areas. Large, regional energy markets provide for cost-effective balancing of generation and load with significant penetrations of variable, nondispatchable power sources, and they facilitate delivery of resources remote from load centers.'')

[22] *See, e.g.*, ISO/RTO Council, *The Value of Independent Regional Grid Operators* (November 2005), *http://www.caiso.com/14c6/14c6c4291aa40.pdf.*

[23] Stephen Harvey, Office of Enforcement, Federal Energy Regulatory Commission, Presentation at the May 17, 2007 Commission Meeting: 2007 Summer Energy Market Assessment (May 17, 2007) (Summer Market Assessment), at *http://www.ferc.gov/EventCalendar/Files/20070517112506-A-3.pdf [to fix].*

[24] *See Id. See also* U.S. Department of Energy, Energy Information Administration, *U.S. Natural Gas Wellhead Price,* at *http://tonto.eia.doe.gov/dnav/ng/hist/n9190us3a.htm.*

[25] *See* Summer Market Assessment. These NYMEX and ICE prices are not estimates but prices actually produced on those two trading systems.

[26] *Id.*

[27] *Promoting Transmission Investment through Pricing Reform,* Order No. 679, 71 FR 43,294 (July

Continued

Commission acted to bolster investment in the nation's transmission infrastructure in response to section 1241 of EPAct 2005.[28] This rule allows those building transmission to apply for recovery of prudently incurred costs for construction work in progress, pre-operations, and abandoned facilities, and it provides for application for an incentive rate of return on equity for new transmission investment. To further encourage transmission investment, and provide certainty about who pays for new transmission, the Commission, in separate orders for each RTO or ISO—including two this year[29]—has approved cost allocation policies for new and existing transmission, thereby removing any barrier to new investment caused by uncertainty about transmission cost allocation.

27. The Commission also has undertaken numerous actions in support of competitive wholesale power opportunities. For example, the Commission established interconnection rules for large, small and wind generators. In addition, the Commission has not only granted initial approval to the organized markets of the RTO and ISO regions but has continued to work with each region to improve the design of its markets as the region and the Commission have gained experience with the different regional approaches. Further, we have approved various market power mitigation rules and provided for market monitoring in the organized markets of RTOs and ISOs. Also, in response to EPAct 2005, the Commission prepared a report that assesses electric demand response resources by region.[30] The Commission has also opened a proceeding on demand response in wholesale markets, and we held a technical conference on April 23, 2007, to examine demand resources in markets, grid operations and expansion, and best practices for the measurement and evaluation of demand response resources.[31] These Commission actions, along with other prior actions of the Commission, are intended to work together to improve the operation of competitive wholesale markets across the nation, in regions with and without organized markets. The proposals in this ANOPR complement these actions and are part of our ongoing effort to maintain and encourage competitive wholesale electric energy markets.

28. With the passage of EPAct 2005, Congress granted the Commission additional authorities to support wholesale competition. Key provisions in EPAct 2005 include authority to impose civil penalties for market manipulation, to prevent exercise of market power through expanded power to review mergers and generation facility transfers, and to require market transparency. EPAct 2005 also included a number of provisions designed to strengthen the interstate power grid, both to assure reliability and support competitive markets, encouraging the Commission to increase transmission investment through incentives, providing for backstop federal siting of transmission facilities, encouraging the deployment of advanced technologies, and authorizing the Commission to approve and enforce mandatory reliability standards. The Commission has taken these and other new responsibilities seriously and has complied with all Congressional directives and deadlines.

29. In addition, the Commission has recognized that there are issues that need to be addressed where the Commission and state commissions share an interest, such as demand response and competitive procurement. The Commission is engaged with the National Association of Regulatory Utility Commissioners (NARUC) in two collaborative efforts, the NARUC–FERC Collaborative Dialogue on Demand Response and the NARUC–FERC Competitive Procurement Collaborative.

C. Issues Addressed in the ANOPR

30. Competition remains national policy with respect to wholesale power markets. Competition continues to be sound policy in wholesale markets, when combined with effective regulation. The Commission has a duty to improve the operation of wholesale power markets to support competition. One way to accomplish that is by pursuing regulatory reform. To that end, the Commission initiated this proceeding, designed to identify the challenges facing competitive wholesale power markets, identify workable solutions to those challenges that will complement other Commission actions to improve the operation of competitive wholesale markets, and determine which solutions are within the Commission's authority. This proceeding also responds to concerns raised by market participants regarding needed improvements to the operation of competitive wholesale markets.

31. In order to gather more information and allow public comment, the Commission held a conference on competition issues on February 27, 2007. At this first competition conference, most speakers addressed issues affecting the RTO and ISO regions, including the level of wholesale prices, the need for long-term power contracts, the effectiveness of market monitoring, and the lack of adequate demand response. The Commission held a second competition conference on May 8, 2007, to examine in more detail several specific concerns and challenges identified in the first conference. This second conference focused on regions with RTOs and ISOs and organized markets and dealt with: (1) Demand response and market prices during a power shortage; (2) fostering long-term power contracting; and (3) the responsiveness of RTOs and ISOs to customers and other stakeholders. The panel on demand response emphasized allowing customers to respond to high prices, particularly when generating capacity falls short of demand, providing adequate compensation for demand reductions, and allowing many small retail demand reductions to be aggregated for use in the wholesale power market. The panel on long-term power contracting discussed the role and availability of long-term contracts, as well as the importance of long-term transmission service and a robust transmission system. The RTO and ISO accountability panel discussed the need for RTOs and ISOs to be more responsive to their stakeholders; it considered several means of achieving this such as allowing a few stakeholder representatives to serve on hybrid boards of RTOs or ISOs. On April 5, 2007, the Commission also held a technical conference on market monitoring policies and heard from interested commenters on issues such as the development of the concept and

31, 2006), FERC Stats. & Regs. ¶ 31,222, *order on reh'g,* Order No. 679–A, 72 FR 1,152 (January 10, 2007), FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh'g,* 119 FERC ¶ 61,062 (2007).

[28] Section 1241 of EPAct 2005 is to be codified at section 219 of the FPA, 16 U.S.C. 824s.

[29] PJM Interconnection, L.L.C., Opinion No. 494, 119 FERC ¶ 61,063 (2007), *reh'g pending* (approving PJM's cost allocation proposal for existing transmission facilities, and requiring revisions to its proposal for new transmission facilities); *Midwest Independent Transmission System Operator, Inc.,* 118 FERC ¶ 61,209 (2007), *reh'g pending* (conditionally approving cost allocation for economic upgrades). In 2006, the Commission approved the Midwest ISO's proposed cost allocation for reliability upgrades. *Midwest Independent Transmission System Operator, Inc.,* 114 FERC ¶ 61,106, *order on technical conference,* 117 FERC ¶ 61,241 (2006), *order on reh'g,* 118 FERC ¶ 61,208 (2007), *reh'g pending.*

[30] Federal Energy Regulatory Commission, *Assessment of Demand Response and Advanced Metering: Staff Report,* Docket No. AD06–2–000 (August 8, 2006) (*FERC Staff Demand Response Assessment).*

[31] *See* Supplemental Notice, *Demand Response in Wholesale Markets,* Docket No. AD07–11–000 (April 6, 2007).

functions of market monitoring and the MMUs' role with respect to the Commission, ISOs and RTOs, and various stakeholders.

32. Based on comments received at these three conferences, the Commission decided to consider in this ANOPR four issues in organized market regions that are not already being fully addressed by the Commission in other proceedings. These areas are: (1) The role of demand response in organized markets and greater use of market prices to elicit demand reductions during a power shortage; (2) increasing opportunities for long-term power contracting; (3) strengthening market monitoring; and (4) enhancing the responsiveness of RTOs and ISOs to customers and other stakeholders.

33. At this time, the Commission is not addressing in this ANOPR potential reforms outside the organized market regions. As discussed in our first technical conference, the primary concerns of wholesale customers and competitors in other regions are nondiscriminatory access to transmission and nondiscriminatory rules for power procurement. These two areas, although critically important, are being addressed by the Commission in other proceedings. In Order No. 890, the Commission reformed the OATT to ensure that it continues to provide nondiscriminatory access to transmission service. Much work remains to be done, however, and the Commission is focusing on the compliance phase of OATT reform to ensure that it is implemented properly, particularly in the area of regional transmission planning and the calculation of available transfer capability. With regard to power procurement, the Commission believes that competitive procurement can enhance the ability of LSEs to acquire reliable wholesale power supplies at reasonable prices. The Commission recognizes, however, that wholesale power procurement raises issues that are important to both the Commission and state commissions. The Commission is therefore pursuing a cooperative dialogue with NARUC to develop guidelines for best practices for power procurement. Since these two main areas of concern are being pursued in other proceedings, the Commission will not address reforms outside the RTO/ISO regions in this proceeding. Similarly, issues related to demand response are important to both this Commission and state commissions. Concerns with participation of demand response in organized and bilateral markets were voiced in our technical conferences. The Commission is pursuing a collaborative dialogue with state commissions on best practices and coordination on demand response issues, and lessons learned there may be applicable to bilateral markets.

III. Demand Response and Pricing During Power Shortages in Organized Markets

34. A well-functioning competitive wholesale electric market should reflect current supply and demand conditions. The Commission has expressed the view on numerous occasions that the wholesale electric power market works best when demand can respond to the wholesale price.[32] The Commission's policy is to facilitate the participation of demand response in the organized power markets, in part because demand response helps to hold down wholesale power prices, increases awareness of energy usage, provides for more efficient operation of markets, mitigates market power, and enhances reliability. This policy reflects the Commission's view that the value of electric power to customers is not always the same. It changes over time and varies from place to place. The value can be very different for two customers at the same time and place, one of whom may prefer to reduce consumption if the price is high and another who may be willing to pay a high price to avoid curtailment in an emergency.

35. While the Commission and the various RTOs and ISOs have done much to facilitate demand response in organized power markets, more can be done. In response to a requirement of EPAct 2005 to assess demand response capability nationally, the August 2006 *FERC Staff Demand Response Assessment* estimated the total installed demand response capability from existing programs nationally to be 37,500 megawatts (MW), or about five percent of current peak demand. Several reports indicate that the potential demand response capability available in the United States may be much greater than this.[33] The Commission's preliminary view is that RTO and ISO wholesale market design changes or additions, particularly for energy and ancillary services markets, may be needed to help tap that potential. Our goal is for RTOs and ISOs to develop rules to ensure the treatment of supply and demand resources on a comparable basis to the extent each is technically capable of providing the service. Our aim is not to afford demand resources preferential treatment over supply resources. For example, even under the mechanisms contemplated by this ANOPR, demand resources must satisfy all requirements for service provision comparable to those applied to supply resources, including but not limited to procedures for measurement and verification of performance, as well as penalties. Further, our aim is not to require demand resources to participate in these or any other resource programs. Rather, we are merely ensuring that the wholesale markets are designed to accommodate demand resources in a manner comparable to supply resources, unless not permitted by state law. Therefore, the mechanisms should not intrude on state jurisdiction. The Commission's proposals do not require action by states but can benefit from such action.

A. Importance of Demand Response to Competition in RTO/ISO Areas

36. The value of demand response to properly functioning RTO and ISO markets has been described in detail by many experts, such as Nobel Prize-winning economist Vernon Smith and Lynne Kiesling, in their paper titled ''A Market-Based Model for ISO-Sponsored Demand Response Programs.'' [34] Demand response assists competitive wholesale markets in at least three ways.

37. First, demand response can help reduce wholesale prices and wholesale price volatility. The reduction is valued especially during peak periods, but demand response can also lower price and volatility during off-peak periods. Demand response can lower wholesale prices directly and indirectly. The direct effect occurs when a demand reduction is bid directly into the wholesale market: lower demand means a lower wholesale price. Demand response at retail, if not bid directly into the wholesale market by a large retail customer, affects the wholesale market indirectly because it reduces the need for power by the retail customers' LSE and in turn reduces that LSE's need to purchase power from the wholesale market. For example, where an LSE offers retail customers some form of

[32] *New England Power Pool and ISO New England, Inc.,* 101 FERC ¶ 61,344, at P 44–49 (2002), *order on reh'g,* 103 FERC ¶ 61,304, *order on reh'g,* 105 FERC ¶ 61,211 (2003); *PJM Interconnection, L.L.C.,* 95 FERC ¶ 61,306 (2001); *PJM Interconnection, L.L.C.,* 99 FERC ¶ 61,227 (2002); *Southwest Power Pool, Inc.,* 116 FERC ¶ 61,289 (2006).

[33] *See, e.g.*, Ahmad Faruqui *et al.*, The Brattle Group, *The Power of Five Percent: How Dynamic Pricing Can Save $35 Billion in Electricity Costs* (May 16, 2007), *http://www.brattle.com/_documents/Publications/ArticleReport2441.pdf.*

[34] Vernon Smith and Lynne Kiesling, *Market-Based Model for ISO-Sponsored Demand Response Programs,* (September 2005), *http://www.defgllc.com/Downloads/051018_DEFG_DRwp02.pdf .*

time-of-use rates, the retail customers' response to rates during a higher-priced period reduces the LSE's wholesale demand and helps lower wholesale prices. This lower wholesale price may result in lower retail prices.

38. Second, demand response tends to flatten an area's load profile. With a flatter load profile, the distribution of generation types tends to shift toward lower-cost base load generation and away from higher-cost peaking generation, and this tends to lower the overall average cost to produce energy.

39. Third, demand response can help reduce the potential for market manipulation by reducing generator market power. As more demand response is available during peak periods, power suppliers need to account more for the price responsiveness of load when they consider higher-price bids. The more demand response is able to reduce the peak price, the more downward pressure it places on generator bidding strategies by increasing the risk to a supplier that it will not be dispatched if it bids too high.

40. RTOs such as PJM, NYISO, and ISO–NE have quantified the cost-effectiveness of demand response in their wholesale markets. They assessed both the reduction in market prices due to demand reductions and the value of demand response to system reliability. These assessments conclude that the demand response programs they operate produce net benefits associated with lower wholesale prices. For example, ISO–NE found that the benefits of its various economic and emergency demand response programs in 2005 more than compensate for its costs, largely payments to demand response participants and its own extra operating costs.[35] PJM and NYISO found similar positive results in evaluations of their programs.[36]

B. Prior Commission Actions To Address Demand Response

41. The Commission has issued numerous orders over the last several years on various aspects of electric demand response in organized markets. A goal of most of these orders was to remove unnecessary obstacles to demand response participating in the wholesale power markets of RTOs and ISOs.[37]

42. These orders approved various types of demand response programs, including programs to allow demand response to be used as a capacity resource and as a resource during system emergencies,[38] programs to allow wholesale buyers and qualifying large retail buyers to bid a demand reduction directly into the day-ahead and real-time energy markets and certain ancillary service markets, particularly as a provider of operating reserves, as well as programs to accept bids from aggregators of retail customers (ARCs).[39] The Commission also has approved special demand response applications such as use of demand response for synchronized reserves and regulation service.[40] The theme underlying the Commission's approval of these programs has been to allow demand resources to participate in these markets on a basis that is comparable to other resources.

43. An important type of demand response program is one that allows demand response bids in the day-ahead and real-time energy markets by a group of retail customers. There is usually a minimum size bid allowed in an RTO or ISO market for any participating retail customer. The Commission has approved programs that allow smaller retail customers to combine their individual demand reductions into a larger block for bidding into the organized markets, if permitted by state law, without having to go through their LSE.[41] A third party ARC, often called a curtailment service provider, typically provides this aggregation service. The aggregate demand reduction may be bid directly into the energy and ancillary services markets.

44. In addition, the Commission has explicitly addressed demand response in its recent final rules on OATT Reform (Order No. 890) and reliability standards (Order No. 693).[42] Order No. 890 requires any public utility with an OATT to allow qualified demand resources to participate in its regional transmission planning process on a comparable basis and to allow qualified demand response to provide certain ancillary services. Specifically, we agreed with a request by Alcoa that load resources (*i.e.*, demand response) should be permitted to self-supply and sell ancillary services to third parties.[43] In doing so, we also made clear that a Transmission Provider may use non-generation resources in meeting its OATT obligation to provide ancillary services, so long as those resources are capable of providing the service.[44] Order No. 890 did not require Transmission Providers to purchase ancillary services from non-generation resources or generation resources. Our proposal here would require RTO/ISO ancillary service markets to allow bidding by non-generation resources if they are capable of providing such services. Order No. 693 requires the Electricity Reliability Organization to revise its reliability standards so that all technically feasible resource options, including demand response and generating resources, may be employed in the management of grid operations and emergencies.[45]

45. The Commission has also encouraged demand response outside of its orders. The Commission has conducted several technical conferences on demand response over the last several years, most recently on April 23, 2007.[46] The NARUC–FERC

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[35] ISO–NE, *An Evaluation of the Performance of the Demand Response Programs Implemented by ISO–NE in 2005,* Docket No. ER02–2330–040 (Dec. 30, 2005).

[36] *NYISO, NYISO 2006 Demand Response Programs,* Docket No. ER01–3001–016 (Feb. 16, 2007); PJM, *Assessment of PJM Load Response Programs,* Docket No. ER02–1326–006 (Aug. 29, 2006).

[37] *See, e.g., New York Independent System Operator, Inc.,* 92 FERC ¶ 61,073, *order on clarification,* 92 FERC ¶ 61,181 (2000), *order on reh'g,* 97 FERC ¶ 61,154 (2001); *New England Power Pool and ISO New England, Inc.,* 100 FERC ¶ 61,287, *order on reh'g,* 101 FERC ¶ 61,344 (2002), *order on reh'g,* 103 FERC ¶ 61,304, order on reh'g, 105 FERC ¶ 61,211 (2003); *PJM Interconnection, L.L.C.,* 95 FERC ¶ 61,306 (2001); *PJM Interconnection, L.L.C.,* 99 FERC ¶ 61,139 (2002); *PJM Interconnection, L.L.C.,* 99 FERC ¶ 61,227 (2002).

[38] *See, e.g., PJM Interconnection, L.L.C.,* 117 FERC ¶ 61,331 (2006); *Devon Power L.L.C.,* 115 FERC ¶ 61,340 (2006). These orders allow demand resources to provide capacity resources.

[39] We will use the phrase ''aggregation of retail customers'' to refer to RTOs and ISOs accepting bids from parties that aggregate demand response bids (which are mostly from retail loads), or ARCs. *See, e.g., New York Independent System Operator, Inc.,* 95 FERC ¶ 61,223 (2001); *New England Power Pool and ISO New England, Inc.,* 100 FERC ¶ 61,287, *order on reh'g,* 101 FERC ¶ 61,344 (2002), *order on reh'g,* 103 FERC ¶ 61,304, *order on reh'g,* 105 FERC ¶ 61,211 (2003); *PJM Interconnection, L.L.C.,* 99 FERC ¶ 61,227 (2002).

[40] *See, e.g., PJM Interconnection, L.L.C.,* 114 FERC ¶ 61,201 (2006).

[41] *See, e.g., New York Independent System Operator, Inc.,* 95 FERC ¶ 61,223 (2001); *New England Power Pool and ISO New England, Inc.,* 100 FERC ¶ 61,287, *order on reh'g,* 101 FERC ¶ 61,344 (2002), *order on reh'g,* 103 FERC ¶ 61,304, *order on reh'g,* 105 FERC ¶ 61,211 (2003); *PJM Interconnection, L.L.C.,* 99 FERC ¶ 61,227 (2002).

[42] *See Mandatory Reliability Standards for the Bulk Power System,* Order No. 693, 72 FR 16,416 (April 4, 2007), FERC Stats. & Regs. ¶ 31,242 (2007).

[43] Order No. 890 at P 887–88.

[44] *E.g.,* Order 890, OATT Schedule 5 (Operating Reserve—Spinning Reserve Service).

[45] Order No. 693 directed the Electricity Reliability Organization to develop new versions of its BAL–002, BAL–005, and EOP–002 reliability standards to allow demand side resources to provide contingency reserves. Order No. 693 at ¶ 330–35, 404–06, 573.

[46] For example, the Commission conducted a technical conference on January 25, 2006 to support the *FERC Staff Demand Response Assessment* in Docket No. AD06–2–000. The April 23, 2007 conference was convened in Docket No. AD07–11–000.

Collaborative Dialogue on Demand Response began in November 2006 to explore state/federal coordination of efforts to promote and integrate demand response into retail and wholesale markets and planning. Also, as mentioned, in August 2006 the Commission published the staff report on demand response and advanced metering as directed by EPAct 2005 section 1252(e)(3).[47]

46. In this ANOPR, the Commission's focus is on exploring market rules that allow both wholesale and qualifying retail customers to bid demand response into the day-ahead, real-time energy, and ancillary services markets.

C. Remaining Problems With Demand Response in Organized Markets

47. While progress has been made to increase demand-responsiveness and price-responsiveness in organized markets, more needs to be done.

48. An effective way for demand to respond to price is at the retail level, through some form of time-based retail rates (time-based retail rates include rates that vary by hour, such as real-time pricing, or by blocks of time, such as time-of-use rates or critical peak pricing). Demand response is more effective when retail rates are tied to current wholesale market-clearing prices. Effective demand response can be achieved by linking the wholesale and retail markets. While the Commission can remove some obstacles to demand participation in organized markets, more effective demand response also requires the action of state commissions.

49. As discussed in the *FERC Staff Demand Response Assessment,* some forms of demand response are well-suited to provide the ancillary services of spinning reserves, supplemental reserves, energy imbalance, and regulation and frequency response.[48] Because demand is always connected and demand reduction, in principle, can always be available, some forms of demand resources may be able to provide a rapid, near real-time response.[49] Nevertheless, except for a few markets, demand response is not able to participate in these ancillary services markets. ISO–NE, NYISO, and CAISO allow demand resources to provide supplemental (non-spinning) reserves. As of mid-2007, only PJM allows demand resources to provide synchronized reserves (PJM's term for spinning reserves) and regulation service (although no resource has yet qualified to provide this service in PJM).

50. Several factors may account for the lack of participation of demand resources in some ancillary services markets. System operators responsible for maintaining reliable operation have little or no experience with the responsiveness of demand resources and may lack confidence in them. To qualify to provide ancillary services, a resource must satisfy certain requirements such as having a minimum size[50] and real-time telemetry. These requirements can limit which customers may participate and may also obligate customers to invest in real-time metering and monitoring equipment at their sites.

51. In addition, market rules for bidding and participating in ancillary services markets were developed with generation in mind and may not make sense for demand response resources. Distinguishing among rules that must apply to all resources to maintain reliability and those that can be amended to accommodate inflexible or special case resources is an important market design issue. For example, many demand resources can respond quickly and at a low cost if called on for a short duration, which may make them well suited for providing operating reserves. A large industrial customer, such as a steel mill, provides an operating reserve when it reduces its load quickly within seconds or minutes, in response to direction from a system operator. However, if market rules require that bids be made into a joint energy-plus-reserves market, those offering operating reserves must also be available to provide energy or other ancillary services. The result is that the operating reserve provider that risks being called on frequently or for a prolonged period in the energy market may simply decide not to participate in the energy market, and consequently not provide demand reduction as operating reserves. Because energy use is necessary to a customer's business, frequent or lengthy unplanned interruptions could disrupt that business. As a result, market rules that do not allow a demand response provider to limit the frequency and duration of interruption creates a disincentive for a demand resource to bid into the operating reserves market.[51]

52. Demand response providers need market rules that allow bids to be flexible and that reflect bidders' willingness to offer various levels of service depending on the market prices. In fact, the design of today's organized markets does allow some flexible and some price-sensitive bidding into day-ahead and real-time energy markets. Nevertheless, the Commission is concerned that some market features may inhibit LSEs and other demand response providers from bidding load reductions into energy markets. For example, in most organized markets, if an LSE's actual purchase from the real-time market differs from the purchase it scheduled in the day-ahead market, it may be assessed an uplift charge (separate from any imbalance charge)[52] While it is important to have mechanisms in place that encourage LSEs to accurately forecast and schedule their loads in the day-ahead market, these types of charges may unnecessarily discourage an LSE from urging retail customers to conserve energy during a system emergency.

53. Organized energy market rules may restrict the type of bid that a LSE or ARC may submit. In some cases, this may be intended to treat a demand response bid the same as a generation bid, but, in other cases there may be a restriction on a demand response bid that does not apply to a generation bid. Bidding features available to generation, such as a guaranteed minimum price and a minimum duration of service, are often not available to demand reductions. Some generators need such features if, for example, they are not able to start and stop frequently or if cycling output up and down produces excessive stress on their equipment. Providers of demand reductions may have their own limitations on cycling but not be allowed to express these in their bids. For example, if a factory reduces consumption in response to a dispatch signal, it may be required to stop production for an entire work shift

[47] *See FERC Staff Demand Response Assessment.*

[48] For an explanation of each of these ancillary services, see the *pro forma* OATT, Schedules 3 through 6, contained in Order No. 890.

[49] For example, electric-arc steel furnaces have the capability to adjust their consumption rapidly, and air conditioner cycling programs can respond within several minutes of execution.

[50] ISO-NE places a minimum size of 5 MW for participation. *See* ISO–NE, *ISO New England Manual for Market Rule 1 Accounting* (May 31, 2007), at section 12.3.5.3, *http://www.iso-ne.com/rules_proceds/isone_mnls/m_28_market_rule_1_accounting_(revision_27)_05_31_07.doc.*

[51] *See FERC Staff Demand Response Assessment* at 123.

[52] During reserve shortages on August 1 in the Midwest ISO region, LSEs contributed close to 3,000 MW of demand reductions but were assessed revenue sufficiency guarantee charges—charges that ensure that any generator scheduled or dispatched by the Midwest ISO after the close of the day-ahead energy market will receive no less than its offer prices for start-up, no-load and incremental energy. Wisconsin Public Service Commission Chairperson Daniel Ebert reported on these charges at the April 23, 2007 technical conference on demand response. *See* Technical Conference on Demand Response in Wholesale Markets on April 23, 2007, Tr. 83–84 (Daniel Ebert, Wisconsin Public Service Commission) (Docket No. AD07–11–000).

or until equipment can be restarted. Frequent directions to reduce load for short durations could be disruptive to production. Allowing demand response providers to make bids with provisions for minimum duration and price limits would make participation by such customers in the energy market more attractive.

54. As mentioned above, the Commission has approved some demand response programs that allow retail customers, if it is consistent with state law, to bid their combined demand reductions through an ARC into wholesale day-ahead and real-time markets. PJM, ISO–NE and NYISO have allowed such ARCs to become market participants, and these RTOs accept bids from ARCs.[53] If these load reduction bids are accepted, the RTO or ISO directs the customers to reduce their consumption as bid and the customers are paid the market-clearing price. The aggregation of retail customers programs in PJM and ISO–NE allow program participants to reduce their demand before the real-time market runs without being subject to uplift charges for unscheduled changes from the day-ahead schedule.

55. Another factor that may limit participation by LSEs and retail customers in demand response programs is the use of bid caps and price caps in the market design. Bid caps and price caps in RTO and ISO markets are designed to limit the opportunity to exercise market power in these markets, but they also may prevent the markets from expressing prices that are legitimately high due to a shortage. These caps may not permit buyers in RTO and ISO wholesale energy markets to see prices high enough to signal that there is a power shortage and reliability is at risk. Moreover, when power is in short supply and price is high, retail prices remain fixed, and retail customers do not adjust their demand to react to wholesale price signals because these price signals are not seen. Consequently, both generation and demand response can be in short supply at once, and the market-clearing price may not reflect the actual cost of providing more power or the value to customers of not being interrupted. Further, as discussed in the long-term contracting section below, capping the exposure of LSEs to higher prices may reduce their incentive to explore various hedging activities, such as participating in interruptible demand response programs, entering into long-term contracts or similar power supply procurement options, and building new generating units.

56. Certain demand response programs may themselves act to dampen prices during a power shortage. Emergency demand response programs are those intended to ensure reliability, which are called on by RTOs and ISOs only during a system emergency. They may be paid a fixed price such as $500 per MWh when called on. Typically, these emergency resources are not paid the market-clearing price. As a result, the market-clearing price may decrease because demand is reduced when an emergency demand response resource is used, even though it is the highest-valued resource used at the time. The reduced price signals that buyers should consume more and suppliers produce less, which is contrary to the signal that should be sent in an emergency. Only NYISO has integrated its emergency demand response programs into the market-clearing process,[54] and Midwest ISO is discussing a similar integration based on its 2006 experience.

D. Proposed Commission Actions To Improve Demand Response and Market Pricing During a Power Shortage

57. The Commission's preliminary view is that the following proposals, if adopted, would address market rules to ensure that demand response can participate directly and would be treated on a comparable basis to supply resources in the organized electric energy and ancillary services markets. This would benefit customers by allowing market prices to reflect the need for demand response (or more generation) during a power shortage. The Commission seeks comment on these proposals. In addition, the Commission does not intend the following proposals to be the only mechanisms open to consideration for ensuring that demand resources be treated comparably to supply resources. Commenters may propose other mechanisms for the organized markets to adopt that would ensure that demand resources and supply resources are treated on a comparable basis in the energy and ancillary services markets.

58. The Commission is considering four proposals to modify the design of wholesale RTO and ISO markets to ensure that demand resources may participate directly in the energy and ancillary services markets on a comparable basis to supply resources. As a complement to these potential reforms, the Commission is also considering revisions to existing mitigation rules to enable the wholesale market prices to help balance supply and demand when power supplies are tight so as to better ensure power system reliability.

59. First, the Commission is considering a proposal to obligate each RTO or ISO to purchase demand resources in its markets for certain ancillary services, similar to any other resources, if the resources meet the necessary technical requirements and the resources submit a bid under the generally-applicable bidding rules at or below the market-clearing price, unless the seller is not permitted to do so by state retail laws or regulations. The Commission proposes modifications to RTO and ISO tariffs that would apply this requirement for energy imbalance, spinning reserves, and supplemental reserves, as defined in the *pro forma* OATT, or their functional equivalents in an RTO or ISO tariff.[55] To be eligible to supply these ancillary services, demand resources must be capable of reducing demand within seconds or minutes. Demand resources must meet the RTO's or ISO's reasonable size, telemetry, metering, and bidding requirements. For example, the Commission approved a one-megawatt minimum bid by demand resources to provide certain operating reserves in PJM. The RTO or ISO may propose reasonable standards for metering and telemetry needed by system operators to call on these reserves and measure their compliance. Bidding rules for demand resources should not differ from the rules for generation resources unless the reason for the difference is adequately explained and justified. An RTO or ISO may propose other requirements for demand resources to provide these ancillary services that are necessary for reliability and effectiveness.

60. The Commission also proposes to modify RTO and ISO tariffs to provide that demand resources must be allowed to provide spinning and supplemental reserves without also being required to sell into the energy market. This change to market rules is intended to address the disincentive for demand response to be an operating reserve. Without this modification, customers may hesitate to offer demand reductions as operating

[53] These aggregation of retail customers programs go by various names. PJM operates the Economic Load Response Program that allows direct bidding in day-ahead and real-time markets. NYISO operates the Day-Ahead Demand Response Program. ISO–NE operates the Day-Ahead Load Response Program and the Real-Time Price Response Program.

[54] The Commission approved this change in 2003. *New York Independent System Operator, Inc.,* 102 FERC ¶ 61,313 (2003).

[55] Order No. 890 also allows qualified demand resources to provide the other ancillary services of reactive supply and voltage control, regulation and frequency response and generator imbalance.

reserves due to concerns about disruptions to their businesses. The Commission has approved market rules adopted by the California ISO and PJM that reduce this disincentive.[56]

61. The Commission requests comment on the feasibility and effectiveness of the proposal to require RTOs and ISOs to allow demand resources to provide these ancillary services. It also requests comment on whether to allow each RTO and ISO to propose its own minimum requirements (for example, as to minimum size bids, measurement and telemetry) or to specify appropriate minimum requirements in a Commission rule. In particular, the Commission requests comment on what size a minimum bid should be. Any proposal must comply with the ERO mandatory reliability standards.[57]

62. Second, the Commission is considering a proposal to modify RTO and ISO tariffs to eliminate, during a system emergency, a charge to a buyer in the energy market for taking less electric energy in the real-time market than purchased in the day-ahead market. This proposal is intended to eliminate a disincentive for demand response in the real-time market. We refer to the charge that we propose to eliminate during an emergency as a ''deviation charge,'' which covers certain uplift costs, as explained below.

63. Before setting out the specific proposal to eliminate this deviation charge, it is necessary to summarize first how the day-ahead and real-time markets relate. A buyer that makes a purchase in the day-ahead market has a commitment to pay for the amount of energy it purchases at the day-ahead market price. If that buyer consumes more energy in real-time than it bought the day before, it pays the day-ahead market price for the amount purchased in the day-ahead market and in addition pays the real-time market price for the extra energy consumed. The real-time price may be higher or lower than the day-ahead price. If the buyer takes less energy in the real-time market than it purchased in the day-ahead market, in effect it sells the reduction back to the market at the real-time market price. The buyer profits if it sells the energy reduction back when the real-time price is higher than the day-ahead price, and suffers a loss when the real-time price is lower.[58] Nothing in the proposal here would change this effect. If many buyers were to systematically purchase more energy in the day-ahead market than they expect to take in real time, the reduced real-time demand is likely to result in a lower real-time price. The potential loss to the buyers should effectively discourage purchasing more energy than needed in the day-ahead market.

64. Aside from the buyer's market profit or loss, some RTOs and ISOs assess buyers a charge when real-time consumption deviates from day-ahead purchases. This charge recovers at least some types of ''uplift'' costs, which are the portion of the generators' costs (such as start-up costs) that exceed their energy market revenues. These uplift costs may include the cost of the extra operating reserves needed when the total real-time demand of all buyers exceeds the total scheduled day-ahead demand. The extra reserves are not needed, however, when real-time demand is less than the day-ahead demand. Nevertheless, the deviation charge may apply to any deviation from the day-ahead schedule.[59]

65. Notwithstanding that these charges are typically meant to serve as an incentive for accurate scheduling, they tend to discourage demand response. When supplies are tight and the real-time price is high, a buyer that reduced load but nevertheless has to pay a deviation charge may be penalized for taking the appropriate action. This unintended disincentive may lead a buyer to maintain a high load or discourage an LSE from calling on the demand response capabilities of its retail customers. This negative incentive is especially troublesome during a system emergency when load reduction is needed most.

66. The Commission requests comment on a proposal to require RTOs and ISOs to eliminate this deviation charge for a load reduction during a system emergency. The Commission has already approved a PJM proposal to apply no deviation charge for a load reduction from day-ahead to real-time during a system emergency.[60]

67. The Commission also requests comment on whether an RTO or ISO should assess a deviation charge for a day-ahead to real-time load reduction when there is no system emergency. Eliminating the charge would encourage demand response, but might have unintended consequences. The Commission understands that these deviation charges cover real costs. Would eliminating the deviation charge for taking less energy in real-time result in an unfair reallocation of these costs to others? Would the incentive described above—for a buyer to avoid purchasing more than it needs in the day-ahead market—adequately discourage poor scheduling practices, or is it important to retain the deviation charge for this reason? Would eliminating the deviation charge for a real-time load reduction introduce any new opportunity for gaming behavior?

68. As background for the third proposal, demand resources currently participate in every organized real-time market, with the exception of SPP, which is considering such a proposal. Demand resources also currently participate in the organized day-ahead markets of NYISO, ISO–NE, and PJM, while CAISO and the Midwest ISO are considering such a proposal. In addition to participation by individual customers, ARCs aggregate demand reductions by retail customers and bid these aggregated reductions into the energy markets. The *FERC Staff Demand Response Assessment* and comments during our technical conferences indicate that more needs to be done to facilitate direct participation in the energy markets by ARCs who bid into the wholesale markets aggregated demand reductions on behalf of retail customers and other customers. The potential contribution from ARCs has increased with technological developments that make demand response more automated.

69. The Commission is considering a proposal to require RTOs and ISOs to amend their market rules as necessary to permit an ARC to bid a demand reduction on behalf of retail customers directly into the RTO's or ISO's organized markets. This proposal is intended to remove a barrier to demand response in some RTO and ISO energy markets[61] by allowing an ARC to act as an intermediary for many small retail loads that cannot individually participate in the organized market

[56] *See, e.g., PJM Interconnection, L.L.C.,* 114 FERC ¶ 61,201 (2006) (approving the use of demand resources as operating reserves in PJM). PJM allows demand resources to submit separate bids in its various energy and operating reserve markets.

[57] In particular, any proposal must comply with BAL–002 (Disturbance Control Performance) and EOP–002 (Capacity and Energy Emergencies).

[58] This true-up process substitutes for an energy imbalance charge in most RTO and ISO spot markets.

[59] Although covering operating reserve costs, the deviation charge may also cover other costs not affected by the direction of the deviation.

[60] During an emergency situation a deviation is only assessed if ''that deviation increases [the load's] spot market purchases * * *'' PJM, *Manual 28: Operating Agreement Accounting,* at 65 (March 7, 2007), *http://www.pjm.com/contributions/pjm-manuals/pdf/m28.pdf.*

[61] Aggregation of retail customers is used now in the energy markets of PJM, ISO–NE, and NYISO and in PJM's Synchronized Reserve and Regulation Service market in PJM. PJM's aggregation of retail customers is integrated into its market rules for PJM's Interchange Energy Market. Aggregation of retail customers in ISO–NE and NYISO are separate programs that are not yet part of the market rules.

because they lack standing as an LSE or because they individually cannot meet a requirement that a demand response bid be of minimum size.

70. Under this proposal, the market rules may not exclude a demand response bid from a third-party ARC that is not a LSE unless state retail electric laws or regulations do not permit this. This proposal would apply to each of the RTO's or ISO's organized markets into which an LSE may submit a demand response bid. The market rules for ARCs may not differ from the rules for LSEs, except as needed to comply with state retail service laws and regulation, unless the RTO or ISO satisfactorily explains the reason for any such difference in its compliance filing. RTOs and ISOs may, however, set rules for ARC participation that are the same as or equivalent to its rules for LSEs. Such rules may address such subjects as bidding requirements; technical requirements for communicating demand response bids and measuring demand response performance; a minimum organized market price above which the ARC may offer to reduce load and below which it may not; a minimum or maximum number of contiguous hours for which the load reduction must be committed; and how to account for start-up costs associated with reducing load, creditworthiness, and settlement procedures.

71. Under this proposal, the Commission also would direct the RTOs and ISOs to coordinate to identify common issues, best practices solutions, and market rules that are consistent between regions, particularly in the areas of market procedures, bidding protocols, communication protocols, and measurement and verification. The Commission would direct the RTOs and ISOs to report, within 90 days of the effective date of any Final Rule in this proceeding, on how they intend to explore best practices, common issues, and market rules for the direct participation of demand resources in their markets.[62] Although we would direct RTOs and ISOs to consider best practices, the Commission does not intend that every region would have to adopt the same practices, rules, or procedures.

72. The Commission requests comments on the proposal to require RTOs and ISOs to amend their market rules to permit demand response of aggregated retail customers. Are there other requirements the Commission should consider to improve the efficiency of aggregation of retail customers? The Commission also requests comments on the conditions under which a RTO or ISO aggregation of retail customers program would no longer be needed.

73. The Commission also requests comment on whether aggregation of retail customers allows inappropriate compensation when a retail customer is paid for wholesale demand reduction and also saves in its retail bill from the same demand reduction. The Edison Electric Institute (EEI) has argued that the payments to customers represent subsidies that are not justified or a form of double payment.[63] For example, because a customer's bill decreases for every megawatt-hour (MWh) not consumed, if that customer is also paid an amount by the RTO or ISO for the same MWh not consumed, EEI and others allege that the customer has been compensated twice. They contend that use of time-based rates is the correct way to achieve price-responsive demand and that any additional payment to retail customers by RTOs and ISOs is inappropriate and should be considered a temporary measure at best. Others disagree with this criticism, arguing that the price reduction does not fully reflect the social benefits produced by the demand reduction.[64] Further, critics of aggregation of retail customers programs charge that the incentives for aggregation of retail customers programs in energy markets are inconsistent across RTOs and ISOs and the programs are susceptible to gaming behavior.[65]

74. The Commission requests comments on how to appropriately compensate a customer for demand response. We seek comment on whether there is any inappropriate double compensation. We also solicit comments on whether providing an additional payment is appropriate to compensate for the value of the demand response. For example, PJM pays the market-clearing price less the generation and transmission component of each retail customer's retail rate (this price reduction is sometimes called the generation offset).[66] Would a PJM-type generation offset reduce the amount of the alleged double compensation?[67] Would a generation offset encourage demand response more so during a period of high price, when it is needed most?

75. Fourth, the Commission is considering whether to modify RTO and ISO market power mitigation rules and other market rules when demand is nearing the amount of available supply. When supplies are short relative to demand and reliability is threatened, market rules that limit the market price may have the unintended effect of making demand response less attractive to its providers. The Commission seeks comment on four potential ways to modify mitigation rules to allow the market price to better reflect the value of lost load in an emergency situation.

76. One way to address this issue to require that RTOs and ISOs increase the energy bid caps and price caps above the current levels only during an emergency. When the market price is constrained, it is not possible to distinguish customers who place a high value on uninterrupted electric service from other customers who would reduce demand rather than pay a price that reflects that high value. An emergency situation typically occurs when a system faces a shortage of operating reserves—a reliability standard violation. Demand for energy in the real-time market then competes with the need for spare generation for operating reserves to maintain grid reliability. To maintain operating reserves, electric energy service must be reduced immediately, either by prorating the load reduction across all customers or by using the market price to allocate the limited energy available to those who value it most. In defined periods of tight supply, PJM's market rules remove sellers' bid caps, but keep the market-wide $1,000 per MWh offer cap. If the market-wide cap was also raised, the

[62] The Commission would also encourage the RTOs and ISOs to work within the ISO/RTO Council to consider best practices that may be applicable to the members' regions. The Commission also encourages continued participation in the North American Energy Standards Board's (NAESB) measurement and verification initiative.

[63] *See* Technical Conference on Demand Response and Advanced Metering on January 25, 2006, Tr. 26 (Richard Tempchin, EEI) (Docket No. AD06–2–000), *http://elibrary.ferc.gov:0/idmws/file_list.asp?document_id=4378387.*

[64] R.N. Boisvert and B.F. Neenan, Neenan Associates, *Social Welfare Implications of Demand Response Programs in Competitive Electricity Markets* (August 2003), *http://eetd.lbl.gov/ea/EMP/reports/LBNL-52530.pdf.*

[65] The potential for gaming occurs if an aggregator submits a demand reduction bid on behalf of customers that will have reduced consumption anyway for another reason such as maintenance, vacation, or holiday. The Commission approved NYISO's bid floor of $75/MWh in its Day Ahead Demand Response Program to eliminate or reduce the incentive for this behavior. *New York Independent System Operator, Inc.,* 109 FERC ¶ 61,101 (2004).

[66] For example, if the market-clearing price is $100 per MWh and the generation component of a customer's retail rate is $75 per MWh, the payment for the load curtailment would be $25 per MWh ($100–$75). In PJM's Economic Load Response Program, this netting is applied when the market-clearing price is below $75/MWh. *See* section 3.3A.4(d) of the PJM Operating Agreement.

[67] PJM Interconnection, L.L.C., 99 FERC ¶ 61,227 (2002).

real-time market could clear at a price above the current cap, customers could decide whether to purchase energy at this higher price, and those who place a higher value on energy could continue to buy it while those who do not value it as highly could reduce their demand. All bid caps could be raised to a high level, for example, when ten-minute operating reserves are about to drop below required levels. Raising caps in an emergency would allow each customer to decide the value of its own lost load. To use this method, an RTO and ISO would have to establish market rules to specify the emergency conditions for raising the caps and the higher bid levels allowed. RTO and ISO markets would have to establish procedures for vigorous oversight and monitoring for the exercise of market power during a system shortage.

77. The Commission requests comment on this proposal to raise energy bid caps and market-wide caps in an emergency, and on what operating conditions should constitute an emergency shortage.

78. A second way to allow the market price to reduce demand during an emergency is to raise bid caps above the current level only for demand bids [68]—the offers by buyers to purchase a certain amount of energy at a given price—in the day-ahead and real-time markets, while keeping generation bid caps in place. That is, a buyer would be allowed to inform the RTO or ISO about how much energy it would purchase at various prices above the current bid caps. Under this proposal, such high demand bids would not only be allowed but also would be allowed to set the market price if they clear the market.[69] The high market price under this approach would create an incentive for all buyers to lower their demands during an emergency. To the extent the buyers are not also sellers, this approach raises fewer concerns about market power than the first approach, which raises bid caps for all market participants. The Commission requests comment on whether this method would be more effective, less subject to the exercise of market power, or otherwise easier to implement than raising all bid and price caps.

79. A third way to allow the market price to reduce demand during an emergency is to require a demand curve for operating reserves in each RTO or ISO market. Under this approach, when available generating capacity falls short of combined energy demand and operating reserve requirements, the market price for energy and operating reserves would increase to specified levels (typically above the market-wide seller offer cap) and the price level would increase with the severity of the shortage. This approach would ensure that market prices reflect tight conditions on the grid without altering any of the market power mitigation restrictions on either supply or demand bids. The market rules in NYISO and ISO-NE include a demand curve for operating reserves that sets the real-time market price when operating reserves are low. These rules are intended to help assure reliability by reducing demand significantly during a shortage. The Commission could require each RTO and ISO to establish market rules that set real-time market prices at specific pre-determined values during an emergency when operating reserves are low. The Commission requests comment on whether it should require all ISOs and RTOs to adopt such a demand curve, how to set its parameters, and how to apply these rules to any local shortages with high locational prices that do not have a significant effect throughout the entire RTO or ISO region. In particular, how should an emergency be defined now that mandatory reliability rules are in effect?

80. A fourth way to allow the market price to reduce demand during an emergency is to set the market-clearing price at the payment made to participants in an emergency demand response program, described above. For example, if payments to participants in emergency demand response programs are set at $500 per MWh, the market-clearing price when these resources are called would be set at $500 per MWh. This approach would avoid the problem caused by the drop in market price that results from calling on an emergency demand response provider, which sends the wrong price signal to both suppliers and consumers. To implement this approach, the Commission would propose to amend RTO and ISO market rules to allow the payment to emergency demand response providers to set the market-clearing price for all supply and demand resources dispatched. RTOs and ISOs would have to amend their market rules on unit commitment and settlement to adjust wholesale energy prices outside the normal clearing process. RTOs and ISOs may also have to review and adjust the emergency conditions under which these emergency demand response resources would be called.

81. The Commission requests comment on these four ways to allow the market price to reduce demand during an emergency. Should any be used and, if so, which way or combination of ways would be most beneficial? For any of these ways to allow the market price to elicit demand reduction during an emergency, the Commission requests comments on whether it should require a specific method, or, given the differences in market design among the RTOs and ISOs, adopt the general requirement and direct each RTO and ISO to develop its own compliance mechanism.

82. Finally, as discussed above, some RTOs and ISOs have quantified the cost-effectiveness of demand response in their wholesale power markets. The Commission requests comments on whether it should require all RTOs and ISOs to do this for their markets that have demand response.

IV. Long-Term Power Contracting in Organized Markets

83. Competitive wholesale markets need a strong infrastructure—both adequate electricity supply and a robust interstate transmission grid. Long-term contracts are an important tool to achieve and maintain a strong power infrastructure, particularly for new entrants into the generation sector and especially for many renewable energy developers. Long-term contracts are important to effective competition both in regions with organized wholesale markets and in regions without organized markets. Competitive solicitation is a sound vehicle to support long-term contracts in regions with and without organized markets. Order No. 890 and long-term firm transmission rights support long-term transmission service contracts in both kinds of regions. In this proceeding, the Commission proposes additional steps to facilitate opportunities for long-term power contracting in organized markets. Although long-term contracts are important in all regions, the

[68] A demand bid is different from a demand reduction bid. The first is an offer by a potential purchaser to buy a certain amount of energy at a given market price, and the second is an offer by a purchaser to reduce his normal purchase by a given amount in return for compensation.

[69] For example, a demand bid of $1,500 could set the market price under the following conditions. If there is not enough generation capacity to meet all demand after the RTO or ISO reserves enough generating capacity to meet ancillary service requirements and if there is just enough generating capacity to meet the combination of: (1) All ancillary service requirements, (2) all price-insensitive demand (*i.e.*, buyers who are willing to purchase energy at any price), and (3) all demand with price bids above $1,500 per MWh, the market would clear at a price of $1,500 per MWh. In this case, a demand bid of $1,500/MWh would set the market price. Buyers bidding less than this price for all or part of their total demand are in effect choosing not to purchase energy for $1,500 per MWh, and thus would have to reduce their demand accordingly. All other buyers would receive their requested energy.

Commission has a special responsibility in organized markets to ensure that our market rules support long-term contracting. The Commission seeks comment on whether there are additional steps that can be taken to support increased long-term contracting. The Commission discusses below the advantages of long-term power contracting in organized market regions and various factors that affect the degree to which such contracts are executed. The Commission then considers potential steps that could facilitate greater long-term power contracting in organized market regions, such as encouraging or requiring development of standardized long-term products and providing greater market transparency by posting on the internet information about recent long-term power contracts and offers for future long-term sales and purchases. Given the importance of long-term contracts to development of the strong infrastructure necessary to support competitive markets, the Commission also recognizes the need to provide contract certainty. The Commission believes it can discharge its legal duties under the FPA while providing contract certainty.

A. Importance of Long-Term Power Contracts and Factors Affecting Contracting Decisions by Buyers and Sellers

84. The Commission believes that the organized market regions facilitate long-term contracting in several ways, such as eliminating pancaked rates for long distance power sales, eliminating internal loop flow problems that might otherwise lead to unplanned curtailment of long distance transmission service, and ensuring reliable transmission operation over a large area that encompasses many potential sellers and buyers of long-term power. These and other features of RTO and ISO transmission services expand the geographic scope of markets available to sellers and buyers of long-term power. Our goal here is to further improve opportunities for long-term contracting in RTO and ISO regions.

85. It is important that wholesale sellers and buyers have adequate opportunities to sell and buy electric power through long-term power contracts to allow them to manage their exposure to uncertain future spot market prices. Sellers and buyers should also have the opportunity to sell and buy electric power in the spot market. The Commission believes that it is important for buyers and sellers in organized markets to be able to choose a portfolio of short-term, intermediate-term, and long-term power supplies. Having portfolio choice allows market participants to manage the risk that comes from uncertainty. Forward power contracting by buyers combined with purchases from a spot market with demand response can be an efficient and low-cost way of meeting customer needs because both buyers and sellers can hedge risk as well as adapt to actual real-time supply and demand conditions. Competitive forward power contracting allows many sellers to compete to provide electric service, and greater reliance on long-term power contracting could decrease the incentive for sellers to exercise market power in the spot market if there is reduced opportunity to profit from such action.

86. At the Commission's technical conference on May 8, 2007, speakers on the long-term power contracting panel agreed that long-term power contracts are important to a well functioning electric market.[70] Customers argued that long-term contracts are essential to providing price stability and supporting the adequacy of supply over the long run.[71] Sellers argued that long-term contracts are important and often essential to financing new generation sources.

87. Customers and sellers differed sharply, however, on the nature and extent of any impediments to long-term contracts. Customers argued that suppliers are reluctant to sell power under long-term contracts at a price attractive to those customers.[72] They argued that the presence of liquid spot markets gives suppliers an incentive to sell most of their output on a daily or hourly basis, not through long-term contracts. By contrast, suppliers and their representatives said they are willing to sign long-term power contracts but asserted that buyers simply do not want to pay the long-term cost of power. In particular, they alleged that customers do not want to pay enough to finance new generation and any needed transmission investment. With respect to existing assets, suppliers argued that customers often want a price pegged to a particular fuel (*e.g.*, coal or nuclear), even if that price does not reflect the long-term market value of electric power.

[70] Transcript of Conference at 111, Conference on Competition in Wholesale Power Markets, Docket No. AD07–7–000 (May 8, 2007).

[71] *Id.* at 107.

[72] *See, e.g.*, Post-Technical Conference Comments of the American Public Power Association, Docket No. AD07–7–000 (Mar. 13, 2007); Supplemental Comments of the Electricity Consumers Resource Council, Docket No. AD07–7–000 (Mar. 12, 2007).

B. Commission Actions To Support Long-Term Power Contracts

88. The Commission fully supports reliance on long-term contracts to provide price stability, hedge risk, and support financing for new investments. In this regard, the Commission has taken a number of steps to facilitate long-term contracting. The Commission adopted a final rule on long-term transmission rights for organized market regions in Order No. 681.[73] The assurance of long-term transmission availability at a predictable cost is an important component of a buyer's decision to sign a long-term power contract with a distant supplier.

89. Also, the Commission adopted transmission planning reforms in Order No. 890. These reforms provide an open and transparent process for wholesale entities and transmission providers to plan for the long-term needs of their customers, including making transmission investments that can support long-term contracts for generation.

90. The Commission has also sought to lower barriers to entry for new generation that can support long-term contracts. In a series of orders (Order Nos. 2003, 2006, and 661),[74] the Commission adopted interconnection rules for large, small, and wind generators that provide a known and stable process for requesting interconnection, receiving timely responses from transmission service providers, and determining who pays for various costs associated with the interconnection process and facilities. The Commission also reformed capacity

[73] *Long-Term Firm Transmission Rights in Organized Electricity Markets,* Order No. 681, 71 FR 43,564 (August 1, 2006), FERC Stats. & Regs. ¶ 31,226, *order on reh'g,* Order No. 681–A, 117 FERC ¶ 61,201 (2006).

[74] *Standardization of Generator Interconnection Agreements and Procedures,* Order No. 2003, FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,146 (2003), *order on reh'g,* Order No. 2003–A, FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,160, *order on reh'g,* Order No. 2003–B, FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,171 (2004), *order on reh'g,* Order No. 2003–C, FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs* v. *FERC,* 475 F.3d 1277 (D.C. Cir. 2007); *Standardization of Small Generator Interconnection Agreements and Procedures,* Order No. 2006, FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,180, *order on reh'g,* Order No. 2006–A, FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,196 (2005), *order granting clarification,* Order No. 2006–B, FERC Stats. & Regs. ¶ 31,221 (2006), *appeal pending sub nom. Consolidated Edison Co. of New York, Inc., et al.* v. *FERC* (U.S.C.A., D.C. Circuit, Docket Nos. 06–1018, *et al.*); *Interconnection for Wind Energy,* Order No. 661, FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,186, *order on reh'g,* Order No. 661–A, FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,198 (2005).

markets in several regions to shift reliance from short-term purchases to forward markets held sufficiently in advance of delivery (*e.g.*, three years) to be more consistent with the time necessary to construct new generation.[75]

91. Through this ANOPR the Commission intends to consider whether there are other concrete steps that can be taken to facilitate long-term contracting.

C. Proposed Commission Actions To Facilitate Long-Term Power Contracting

92. The Commission seeks comments on any concrete steps it can take to facilitate voluntary long-term power contracting in organized market regions. In seeking comment on this issue, however, the Commission is mindful of the limits of its jurisdiction. The Commission cannot compel buyers and sellers to enter into long-term contracts, and the purchasing practices of LSEs are often dictated by state policies, not those of this Commission.

93. Based on the comments received in the technical conferences and other actions being considered in various markets, the Commission seeks comment on whether it should:

- Provide greater market transparency by requiring RTOs and ISOs to post information that could facilitate long-term contracts, such as by aggregating and posting information on long-term contract prices and quantities on a periodic basis. Would this information prove helpful to buyers and sellers? If so, how could the information be reported in a way that protects the confidentiality of individual contracts? Would other information be helpful to long-term contracting, such as the posting of estimates of transmission constraints and congestion costs on a long-term basis?
- Require or encourage efforts to develop new standardized forward products. Would standardized products better facilitate long-term contracting? If so, what role should the Commission play? Should it encourage RTOs or ISOs to play an active role in this area or would that place them in a position of undertaking commercial functions? Is this a role better played by NAESB or other industry groups?
- Take other steps such as having a dedicated portion of the ISO or RTO Web site for market participants to post offers to buy or sell power long-term? Would this prove helpful or is it a service that is better provided by the market?

94. Further, the Commission requests comments on whether we should consider any modification of the data requirements of the Electric Quarterly Report (EQR)—for example, to report the start date, term, and end date of long term power contracts—to provide information that would make transparent the average prices of long term power contracts of various terms and vintages.

V. Market Monitoring Policies

95. Market monitors have played an integral role in the organized electric markets since the latter's inception, providing valuable reporting and analysis services not only to the Commission, but also to the RTOs and ISOs, to market participants, and to state commissions. In light of their importance, the Commission has required that all RTOs and ISOs incorporate a market monitoring function.[76]

96. Market monitoring units (MMUs) take different forms and perform differing functions, depending on the individual tariffs of their respective RTO or ISO. The span of years over which market monitors have been in existence has given the Commission and others in the industry a track record upon which to evaluate the appropriate roles MMUs should play and the protections that might be adopted to assist them in performing those roles. Based both on our own experience with MMUs and on concerns raised by many interested entities, the Commission decided to initiate a comprehensive review of its market monitoring policies. To that end, the Commission held a technical conference on April 5, 2007, and received comments from 29 entities and individuals.

97. The Commission has considered those comments and drawn on our own extensive interaction with market monitors in formulating a proposed set of market monitoring policies. In this ANOPR, the Commission solicits comments and suggestions from the industry regarding these proposals.

A. History of Market Monitoring

1. Order No. 2000

98. The Commission undertook its first generic consideration of market monitoring in Order No. 2000, which was issued in 1999 to encourage the formation of RTOs. In that Order, the Commission required an RTO to include market monitoring as one of its minimum functions, and to submit a market monitoring plan as part of its RTO proposal. The Order did not, however, impose a specific MMU structure on the RTOs.[77]

99. The Commission noted in Order No. 2000 that while MMUs were not intended to supplant Commission authority, they should be designed in such a way as to provide the Commission with an additional means of detecting market power abuses, market design flaws and opportunities for improvements in market efficiency.[78] The Commission ordered RTOs to incorporate in their market monitoring plans certain standards to be met by the MMUs, which include ensuring objective information about the markets that the RTO operates or administers, proposing appropriate action regarding opportunities for efficiency improvement, identifying market design flaws or market power abuses, and evaluating whether market participants comply with market rules.[79] The Commission observed that the information to be gleaned from market monitoring would be beneficial not only to the Commission, but also to state commissions and market participants.[80]

2. Market Behavior Rules Order

100. The Commission next addressed the role of market monitors in its 2003 Order Amending Market-Based Rate Tariffs and Authorizations,[81] issued in connection with the promulgation of Market Behavior Rules applicable to entities possessing market-based rate authority. In that order, the Commission clarified the duties of MMUs in connection with enforcement matters, directing that MMUs refer compliance issues to the Commission and limiting direct enforcement action by the MMUs to objectively identifiable and

[75] *See Devon Power L.L.C.,* 115 FERC ¶ 61,340, *order on reh'g,* 117 FERC ¶ 61,133 (2006); *PJM Interconnection, L.L.C.,* 117 FERC ¶ 61,331 (2006).

[76] Order No. 2000, FERC Stats. and Regs., Regulations Preambles July 1996-December 2000 ¶ 31,089 at ¶ 31,016 (regarding RTOs).

[77] Prior to this first generic consideration of MMUs, the Commission addressed market monitoring in connection with individual RTO/ISO proposals. *See Pacific Gas and Electric Co.,* 77 FERC ¶ 61,265 (1996), *order on reh'g,* 81 FERC ¶ 61,122 (1997), *order on clarification,* 83 FERC ¶ 61,033 (1998) (requiring the ISO to file a detailed monitoring plan and listing minimum elements for such a plan); *Pennsylvania-New Jersey-Maryland Interconnection,* 81 FERC ¶ 61,257 (1997) (*PJM Formation Order*) (requiring PJM to develop a market monitoring program to evaluate market power and design flaws).

[78] Order No. 2000, FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,089 at ¶ 31,156.

[79] *Id.*

[80] *Id.*

[81] *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations,* 105 FERC ¶ 61,218 (2003) (*Market Behavior Rules*), *order on reh'g,* 107 FERC ¶ 61,175 (2004) (*Market Behavior Rules Rehearing Order*).

sanctioned behavior expressly set forth in the RTO/ISO tariffs.[82]

101. In its subsequent Order on Rehearing, the Commission clarified that MMU personnel were not a substitute for Commission enforcement staff.[83] Rather, the Commission held that MMUs were to provide information to the Commission and its staff, so that the Commission could take appropriate action under the FPA. The Commission also announced the intention to make a thorough evaluation of the appropriate role of MMUs, which would lead to the issuance of a policy statement on the subject.[84]

3. Policy Statement

102. The Commission issued the Policy Statement on Market Monitoring Units in May of 2005.[85] In this Policy Statement, the Commission identified four tasks which MMUs perform,[86] and for which they needed access to data and other resources.[87] Those duties were listed as follows:

a. To identify ineffective market rules and tariff provisions and recommend proposed rule and tariff changes to the ISO or RTO that promote wholesale competition and efficient market behavior.

b. To review and report on the performance of wholesale markets in achieving customer benefits.

c. To provide support to the ISO or RTO in the administration of Commission-approved tariff provisions related to markets administered by the ISO or RTO (*e.g.*, day-ahead and real-time markets).

d. To identify instances in which a market participant's behavior may require investigation and evaluation to determine whether a tariff violation has occurred, or which may be a potential Market Behavior Rule violation, and immediately notify appropriate Commission staff for possible investigation.

103. In an Appendix to the Policy Statement, the Commission set forth detailed Protocols for the MMUs to follow in referring potential tariff or Market Behavior Rule violations to the Commission.[88] This Policy Statement, together with the Protocols it incorporates, represents the last generic pronouncement by the Commission on the duties of MMUs.

104. In 2006, PJM Interconnection, L.L.C. (PJM) filed proposed revisions to the MMU sections of its tariff, with the general aim of conforming its tariff to the provisions of the Policy Statement. Several parties filed comments, declaring a need to safeguard and advance the independence, clarity of function, and transparency of the MMU. The commenters argued that PJM's tariff should contain a clear statement of the MMU's independence, and should set forth all the rules relevant to the responsibilities and functions of the MMU. In the Order on Rehearing and Compliance Filing, the Commission noted that these concerns were of a generic nature and not necessarily limited to PJM.[89] The Commission decided to initiate a generic review of our MMU policies and announced that it would hold a technical conference to explore the issues raised by the commenters.[90]

4. Technical Conference

105. The Commission held the technical conference on market monitoring policies on April 5, 2007. At the conference, the Commissioners heard from interested commenters on the following general subjects: the development of the concept and functions of market monitoring, the MMUs' role with respect to the Commission, the MMUs' role with respect to ISOs and RTOs, and the MMUs' role with respect to the various stakeholders such as states, generators, transmission providers, and customers.[91]

106. Two principal issues received the bulk of attention from the commenters at the technical conference. Those were: (i) The need for, and suggested methods of achieving, independence on the part of MMUs so they can perform their assigned functions; and (ii) the content and proper recipients of the market data and analysis developed by the MMUs. Every commenter touched upon these issues in one fashion or another.

107. The Commission is mindful of the fact that both independence and information sharing raise complex concerns, which require a careful weighing of the needs of various interests and constituencies. Nonetheless, the Commission is in general agreement with the importance both of safeguarding MMU independence and ensuring useful and transparent market analysis by the MMUs. Indeed, since the very beginnings of market monitoring, the Commission has emphasized the importance of independence and objectivity on the part of market monitors,[92] and has required that MMUs analyze and report on any inefficiencies and structural flaws they detect in the market.[93] In our own independent review of our market monitoring policies, the Commission has identified concerns which also fall within both these areas. Therefore, in this ANOPR, the Commission structures the proposals for modifying and standardizing the market monitoring function within these two general categories.

B. Independence and Function

108. The functions MMUs are expected to perform, as well as the independence needed to carry out those functions, have always been critical concerns in discussions of market monitoring. There were some differences of opinion expressed at the technical conference regarding the appropriate functions MMUs should perform, but virtually every commenter agreed with the need for independence. The commenters, however, offered many varying proposals as to how to achieve that goal, as well as how to provide for MMU accountability. The Commission believes that there are several means by which to balance independence and accountability on the part of MMUs, and therefore proposes a balanced and flexible approach to the problem which includes oversight protection, tariff safeguards and tools, and the elimination of conflicts of interest. The Commission also proposes certain changes in the functions MMUs are expected to perform, which we believe will strengthen both their independence and accountability. We

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[82] *Market Behavior Rules,* 105 FERC ¶ 61,218 at P 182, 184.

[83] *Market Behavior Rules Rehearing Order,* 107 FERC ¶ 61,175 at P 165.

[84] *Id.* P 168.

[85] *Market Monitoring Units in Regional Transmission Organizations and Independent System Operators,* 111 FERC ¶ 61,267 (2005) (*Policy Statement*).

[86] *Id.* P 2.

[87] *Id.* P 3.

[88] *Id.* at Appendix A. The Market Behavior Rules extant at the time of the *Policy Statement* have since been in part rescinded, with the remainder codified. *See Conditions for Public Utility Market-Based Rate Authorization Holders,* Order No. 674, FERC Stats. & Regs. ¶ 31,208 (2006). Rescinded Market Behavior Rule 2 has been replaced by the Commission's Anti-Manipulation Rules. *See Prohibition of Energy Market Manipulation,* Order No. 670, FERC Stats. & Regs. ¶ 31,202 (*Market Manipulation Order*), *order on reh'g,* 114 FERC ¶ 61,300 (2006).

[89] *PJM Interconnection, L.L.C.,* 117 FERC ¶ 61,263, at P 19 (2006) (*PJM Tariff Rehearing Order*).

[90] *Id.* P 20.

[91] *Review of Market Monitoring Policies,* Second Notice of Technical Conference, Docket No. AD07–8–000 (2007).

[92] *PJM Formation Order,* 81 FERC at 62,282; Order No. 2000, FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,089 at 31,061.

[93] *PJM Formation Order,* 81 FERC at 62,282; Order No. 2000, FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,089 at 31,156.

solicit comments regarding our proposed changes, as well as comments as to whether the MMUs' existing functions need to be clarified and whether MMUs should perform any additional functions.

1. Structure and Tools

109. The Commission has never required that MMUs conform to any standardized organizational structure. As a result, RTOs and ISOs have developed varying structural relationships between themselves and their MMUs. PJM, for instance, has an internal market monitor; MISO has an external market monitor, and the other RTOs and ISOs have hybrid structures. Some commenters at the technical conference favored an internal market monitor, one whose personnel are employees of the RTO or ISO. These commenters contended that such employees are closer to the actual operations of the RTO or ISO and as a result have better access to information. Other commenters favored an external market monitor, an independent contractor who is hired by the RTO or ISO. These commenters contended that such an entity inherently has more independence from the RTO or ISO than do employees of the organization. However, most commenters were of the opinion that the particular structural relationship between the MMU and the RTO or ISO was of secondary importance, provided that the RTO/ISO tariff contained provisions ensuring independence on the part of the MMU.

110. From our own experience, the Commission has observed no appreciable difference among the performance of the market monitors that can be attributed to whether they are external or internal to their RTO or ISO. The Commission therefore declines to impose a ''one size fits all'' approach toward the structure of MMUs.

111. It is axiomatic that independence can be achieved only if MMUs have adequate tools with which to perform their job. Therefore, the Commission proposes requiring each RTO and ISO to include in its tariff a provision imposing upon itself the obligation to provide its MMU with access to market data, resources, and personnel sufficient to enable the MMU to carry out its functions.[94] In addition, the tariff should include a provision directing the MMU to report to the Commission any concerns it has with inadequate access to market data, resources, or personnel, and describe the steps it has taken with the RTO or ISO to resolve these concerns. We also seek comment on the question of how independence on the part of MMUs can best be achieved.

2. Oversight

112. As several commenters pointed out at the technical conference, there is an inherent tension in a structure that requires MMUs to report to RTO/ISO management yet, at the same time, perform evaluations and issue reports that may be critical of that management. For example, MMUs are expected to evaluate and report on RTO/ISO market designs and performance, and to include RTO/ISO operations in their analyses of market flaws or inefficiencies. Further, if an MMU detects a potential tariff violation on the part of its RTO or ISO, it is obligated to bring the matter to the attention of the Commission. It can be difficult for an MMU to discharge these oversight and reporting obligations effectively unless it has some degree of independence from RTO/ISO management. Such a reporting relationship can create a conflict of interest because the MMU may temper its opinions out of deference to management, or those opinions may be overruled by management. Importantly, these concerns can be present whether the MMU personnel are in an internal or external structural relationship to their RTO or ISO.

113. Therefore, the Commission proposes that each RTO and ISO, in addition to maintaining a market monitoring function, be required to have its MMU report either directly to the RTO's or ISO's board of directors or directly to a committee of independent board directors. This requirement would apply to all structural types of MMU, whether internal, external or a hybrid combination of the two.[95] The Commission is of the view that it has the authority to impose this type of requirement on RTOs and ISOs, but seeks comment on this issue as well as on the proposal itself.

3. Functions

114. The issue of independence is integrally related to the functions that the MMUs are expected to perform. Most of the functions performed by MMUs have remained relatively constant since the inception of market monitoring, and center around market analysis and the evaluation of participant behavior. Commenters at the technical conference were generally supportive of the functions which the Commission identified in its 2005 Policy Statement, with one exception discussed below.

115. The MMU functions upon which there was general agreement at the technical conference were: (1) Identifying ineffective market rules and tariff provisions and recommending proposed rule and tariff changes, (2) reviewing and reporting on the performance of the wholesale markets, and (3) identifying and notifying the Commission staff of instances in which a market participant's behavior may require investigation. The Commission supports these three functions and proposes to continue them, with one important modification. In the Policy Statement, the MMUs were directed to advise the RTO or ISO of any recommendations for rule or tariff changes, with no mention being made of also advising the Commission. The Commission proposes adding the requirement that the MMUs also advise the Commission and other interested entities, which would include relevant state commissions and market participants. This added requirement would go a long way toward ensuring the transparency desired by many of the commenters. Furthermore, as noted above, MMUs should refer to the Commission any suspected rule or tariff violation committed by an RTO or ISO, as well as those committed by market participants.

116. The Commission also proposes retaining the Protocols governing referral of potential market violations to the Commission, which are included as an Appendix to the Policy Statement. However, since issuance of the Policy Statement, Market Behavior Rule 2, referred to in the Protocols, has been rescinded and replaced by the Commission's Anti-Manipulation Rules.[96] Therefore, violations currently to be referred to the Commission include conduct suspected of violating the Anti-Manipulation Rules, as well as tariff violations and violations of the remaining, codified Market Behavior Rules. In addition, the Commission proposes that the MMU also refer any suspected violations of other Commission-approved rules and

[94] PJM's tariff, for instance, requires PJM to provide appropriate staffing for its MMU, and to ensure that the MMU has adequate resources, access to required information, and the cooperation of PJM staff. PJM Interconnection, L.L.C., FERC Electric Tariff, Attachment M, Section V.

[95] The Commission notes that, if adopted, this policy would mark a departure from the holding in *PJM Interconnection, L.L.C.*, 116 FERC ¶ 61,038, at P 38, *order on reh'g* 117 FERC ¶ 61,263 (2006). After giving due consideration to the comments submitted at the technical conference, and for the reasons stated above, the Commission believes that a generic change in policy may be appropriate and is therefore seeking comment on the issue.

[96] *See Market Manipulation Order*, FERC Stats. & Regs. ¶ 31,202.

regulations, such as Codes of Conduct [97] and Standards of Conduct.

4. Mitigation and Operations

117. As mentioned, one of the four MMU functions listed in the Policy Statement was the source of some debate at the technical conference. The function in question is that of providing support to the RTO or ISO in the administration of its tariff, which usually takes the form of MMU-conducted market power mitigation.[98] Certain commenters were concerned that such mitigation is being conducted without an adequate theoretical or empirical basis and is having a deleterious effect on the electric power market.

118. The Commission does not believe this rulemaking is the appropriate forum to address issues of market power and mitigation. However, the Commission is concerned that an MMU's performance of these mitigation functions can compromise its independence in evaluating and reporting on market performance. In order for the MMU to support the RTO or ISO in tariff administration, it must be subordinate to RTO and ISO management. The operations and mitigation functions performed by MMUs directly affect market outcomes and performance. Because of this, there is an inherent conflict between an MMU reporting on market outcomes that the MMU itself has influenced. This conflict is of particular concern where the MMU has significant discretion in affecting offers, bids, and prices. There is significant potential for conflict between an MMU maintaining independence of RTO and ISO management and supporting tariff administration in a subordinate capacity. It may not be possible for MMUs to maintain independence while supporting tariff administration.

119. For the foregoing reasons, the Commission believes operational activities affecting the market, including mitigation, are more properly performed by the RTOs and ISOs themselves as part of their responsibility to administer their Commission-approved tariffs. Maintaining a clear functional separation in this regard between RTOs and ISOs and the MMUs would free the MMUs to report objectively on whether the RTOs and ISOs have done an appropriate job in designing and administering wholesale power markets. Therefore, the Commission proposes requiring that MMUs refrain from assisting the RTO or ISO in tariff administration, from participating in RTO/ISO market operations, and from taking direct actions to influence the market, and instead concentrate on their role of providing market evaluation, reports, and advice.

5. Ethics

120. In order for an MMU to carry out its functions, an activity which requires disinterested objectivity, it is vital that MMU personnel maintain the highest ethical standards. Removal of the conflicts of interest noted above should go a long way toward facilitating the achievement of those standards. However, as a further safeguard, the Commission proposes imposing certain minimum ethics standards upon market monitor personnel, whether the MMU is internal or external to its RTO or ISO, in particular prohibiting such personnel from owning financial interests in any market participants. The Commission notes that all existing RTOs and ISOs have some type of conflict of interest or standard of conduct provision, although not always in their tariffs. The Commission proposes standardizing such provisions and requiring their inclusion in the tariffs themselves. The Commission solicits comments as to whether the provisions should be standardized and, if so, what particular provisions would be appropriate.

6. Tariff Provisions

121. In order for MMUs to achieve transparency of function, the detailed obligations imposed upon them must be made clear and accessible. Likewise, the provisions safeguarding MMU independence and delineating MMU functions must be included in the tariffs of the RTOs and ISOs in order to be reviewed, approved and enforced by the Commission. Currently, MISO and SPP are the only RTOs or ISOs that centralize the MMU provisions in their tariffs.[99] Others scatter their MMU provisions in multiple sections of their tariffs and in other documents or, in the case of NYISO, not in the tariff at all.[100] The Commission proposes that each RTO and ISO set forth all its provisions involving market monitoring in one section of its tariff.

C. Information Sharing

122. As noted in the Policy Statement, a key function which MMUs are expected to perform is that of analyzing the markets to determine if they are competitive, and proposing actions which might be useful in eliminating design flaws. Although RTOs and ISOs are subject to the exclusive jurisdiction of the Commission, we recognize the relationship between wholesale and retail markets. The Commission also recognizes the state commission interest in the performance of wholesale power markets. In Order No. 2000, the Commission acknowledged that information developed by MMUs would be beneficial not only to itself, but to others as well.[101] However, inasmuch as there is a wealth of data gathered by MMUs, it is important to identify the types of information that each constituency needs to assist it in performing its tasks. The Commission favors both a fuller sharing of information and identification of the relevant information desired, so that the needs of the Commission, the state commissions, market participants, and the public may be satisfied.

1. Information Needs

123. Representatives of state commissions and several other interested parties submitted comments at the technical conference expressing their desire to receive more information from the MMUs. The state commission representatives argue that they need such information to assist them in performing their regulatory functions, given the integral relationship between wholesale and retail rates. The Commission is sympathetic to these requests. The Commission recognizes that state commissions are not stakeholders, but a separate class from market participants. As noted above, although RTOs and ISOs are subject to the exclusive jurisdiction of the Commission, state commissions have a legitimate interest in the performance of wholesale power markets. However, their requests for information must be balanced, in some cases, against confidentiality concerns. Public disclosure of certain information, such as participant-specific offers or cost data, could harm market participants or could facilitate collusion under some circumstances. The Commission must therefore balance state concerns

[97] The term ''Code of Conduct'' has been replaced by ''Affiliate Restrictions'' in the Final Rule for *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities*, 119 FERC ¶ 61,295 (2007).

[98] This function was not part of the original conception of market monitoring as expressed in Order No. 2000.

[99] Midwest Independent Transmission System Operator, Inc., Open Access Transmission and Energy Markets Tariff, Module D; Southwest Power Pool, Inc., Open Access Transmission Tariff, Attachments AG, AH.

[100] NYISO's market monitoring plan is available on its Web site and may be found at *http://www.nyiso.com/public/documents/tariffs/market_services.jsp*.

[101] Order No. 2000, FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,089 at 31,156.

regarding information access with these countervailing confidentiality concerns.

124. The comments submitted at the technical conference did not identify the particular categories of information needed by state commissions. The Commission therefore proposes below general areas of information which it believes could be provided to the states without jeopardizing the need for confidentiality on the part of market participants. The Commission requests comments as to whether our proposal meets the needs of the state commissions, and whether there are other kinds of information that are needed by state commissions to fulfill their regulatory responsibilities. We further request comment on whether there is a generic standard or test that could be used to determine what specific information should be provided to a state commission. The Commission also proposes that some, but not all, of the information to be supplied to the state commissions also be made available to market participants. Finally, the Commission sets forth the information which it believes must remain protected, and solicits comment on whether harm could result from our proposed information disclosures.

2. Information To Be Provided

125. The Commission proposes that MMUs be required to report comprehensively on aggregate market and RTO/ISO performance on a regular basis, no less frequently than quarterly, to the Commission staff, to staff of interested state commissions, and to the management and board of directors of the RTOs and ISOs. The MMUs would be required to deliver materials supporting their conclusions, and make one or more of their staff members available for a conference call attended by representatives of these constituencies. During this process, the MMU representative would be expected to work cooperatively to develop any further materials which might be useful to the Commission, to the state commissions and to the RTOs and ISOs. The Commission envisions that such combined reporting and conference calls would permit targeted requests for information and encourage a fuller exchange of relevant data than may be provided in the MMUs' yearly State of the Market reports, which are currently required by tariff or the internal policies of all the RTOs and ISOs.

126. The Commission cautions that such reports and meetings are in no way intended to restrict the MMU from meeting individually with Commission staff, staff of state commissions, market participants, or other stakeholders, or sharing information with these various constituencies, subject to appropriate restrictions on confidentiality. The Commission is of the view that, in general, as much helpful and appropriate information about the performance of RTO/ISO markets as possible should be made public.

127. The Commission proposes that offer and bid data, without identification of the market participants, be posted on the RTO's or ISO's Web site, where it will be available to the Commission, to interested state commissions, and to stakeholders. The Commission proposes a lag of three months for posting this data and solicit comments as to whether that time period is sufficient to protect commercially sensitive data and to guard against misuse of the data.

3. Tailored Requests for Information

128. The Commission proposes that state commissions may make requests for additional information from the MMUs. The Commission understands that information such as general analyses of the market and aggregated price data may assist state commissions in performing their regulatory functions, and believes reasonable requests along those lines may be appropriate. The Commission seeks comment on how to structure this proposal to ensure that the information requests are useful to the states, while at the same time respectful of the limited resources of the MMUs, and how to ensure confidentiality with respect to certain market data.

129. The Commission believes that the foregoing proposal allowing states to request tailored information should be for information regarding general market trends and performance, not information designed to aid state enforcement or related actions against individual companies. States have their own enforcement agencies which are more properly employed for such tasks. The limited resources of the MMUs should be confined to providing information regarding the workings of the market itself and identifying any structural flaws which the MMUs think should be addressed.[102] However, a state commission would remain free, on a case-by-case basis, to request that the Commission authorize the release of otherwise proscribed data. The Commission would evaluate any such request to determine if it demonstrates a compelling need for the requested information, and decide whether adequate protections can be fashioned for commercially sensitive material.

4. Commission Referrals

130. The Commission continues to believe that MMUs should respect the confidentiality of their referrals of suspected tariff and rule violations to the Commission, and not disclose such referrals to other entities, including state commissions.[103] Nor does the Commission intend to share such information, or the result of its activities that are initiated based upon a MMU referral, on a generic basis. The Commission notes that its rules require that such information be kept nonpublic unless the Commission authorizes, in any given case, that it be publicly disclosed.[104] Such disclosure is the exception and not the rule, and each such instance is carefully considered by the Commission with due regard to the commercially sensitive nature of the material and to the effect disclosure may have on the willingness of jurisdictional entities to file self reports with the Commission and otherwise cooperate in its investigations. As the Commission has observed previously, confidentiality provides reasonable protection to persons who become involved in these investigations and fosters cooperation with the Commission. It also protects innocent persons who might be erroneously alleged to have committed wrongdoing or be otherwise adversely affected by simply being associated with an investigation.[105] The Commission notes, however, that its staff does give MMUs generic feedback regarding enforcement issues, and we intend to continue this practice in order to provide guidance in matters relating to their referral function.

D. Pro Forma Tariff Section

131. The Commission intends to include in its subsequent Notice of Proposed Rulemaking a proposed pro forma MMU section for the RTOs' and ISOs' OATTs. The Commission anticipates that each RTO and ISO may wish to modify certain provisions, or add others, to such pro forma tariff to suit its particular needs. Nonetheless, the Commission believes it will be useful to develop specific core provisions that are standardized across the various RTOs and ISOs, particularly

[102] However, if during the ordinary course of its activities an MMU were to discover evidence of wrongdoing that was within a state commission's jurisdiction, it is expected that the MMU would report such information to the state commission.

[103] *See PJM Tariff Rehearing Order*, 117 FERC ¶ 61,263 at P 27.

[104] 18 CFR 1b.9 (2006). Other exceptions include cases where the information has been made a matter of public record in an adjudicatory proceeding, and where disclosure is required by the Freedom of Information Act, 5 U.S.C. 552 *et seq.* (2006).

[105] *PJM Tariff Rehearing Order,* 117 FERC ¶ 61,263 at P 27.

in the areas of independence, MMU functions, and information sharing. The Commission anticipates including in the pro forma tariff protocols for the referral of tariff and market manipulation violations to the Office of Enforcement, as well as protocols for the referral of perceived market design flaws and recommended tariff changes to the Office of Energy Markets and Reliability. The Commission solicits comments on the structure and content of such a pro forma section.

E. Conclusion

132. The Commission's goal is to strengthen market monitoring, and we advance proposals in this ANOPR that respond to concerns expressed by commenters at the technical conference, as well as that reflect our own observations formed over the years from working within the framework of the existing market monitoring provisions. The Commission seeks comment on its proposals and on other matters germane to market monitoring.

VI. Responsiveness of RTOS and ISOS

133. This section of the ANOPR addresses proposals to increase RTO/ISO responsiveness to stakeholders. The Commission proposes one reform to increase the responsiveness of RTO/ISO boards and seeks comment on whether any other reforms are necessary.

A. The Challenge of Improving RTO and ISO Responsiveness to Stakeholders

134. Order Nos. 888 and 2000 require that an ISO or RTO be independent from market participants. The Commission requires this independence to ensure that market participants have nondiscriminatory access to the grid and market rules are developed and administered in a manner that does not favor one market participant over another. After five to ten years of experience with several such entities, however, some stakeholders are concerned that RTOs and ISOs have achieved independence without being adequately sensitive to the needs of their customers and members.

135. Given the size and complexity of RTOs and ISOs today, it is not surprising that tension has arisen between the goals of independence and responsiveness. An RTO or ISO cannot satisfy every group on every issue. When an RTO or ISO makes a difficult decision, those who support the decision often believe it has acted ''objectively'' and ''independently,'' while those who oppose that decision often believe the RTO or ISO has not been ''responsive'' to their concerns.

136. This natural tension between independence and responsiveness is compounded by the number of functions that an RTO or ISO performs and for which it is ultimately held accountable by these several types of entities. An RTO or ISO has the primary responsibility to operate the regional transmission system safely in accordance with good utility practice and reliably in accordance with Commission-approved reliability standards. It is responsible for providing open and non-discriminatory transmission access under a regional transmission tariff. The provision of open-access transmission service in itself requires that many subordinate functions be carried out, such as maintaining an efficient transmission reservation system, scheduling transmission services, managing congestion on the grid, coordinating local transmission system enhancements, and developing the region's long-term transmission plan. RTOs and ISOs typically have adopted innovative transmission pricing mechanisms such as locational pricing with allocations or auctions of financial transmission rights that hedge transmission congestion.

137. An RTO or ISO is also responsible for administering the organized energy markets. Depending on the region, there are day-ahead and real-time energy markets, markets for various ancillary services, and forward capacity markets, with provisions for ensuring that demand response resources can participate in these markets. It is responsible for all aspects of operation of these markets and for providing an independent market monitor. The RTO or ISO may also have responsibilities regarding resource adequacy. Every RTO or ISO must maintain a reliable system for metering and measuring power flows and customer services systems for billing and settling accounts for many large financial transactions.

138. As an RTO's or ISO's functional responsibilities grow, some customers may value the new functions while others prefer the regional organization to focus on its original basic functions. New services come at a cost. Start-up costs can be significant for new services, and the RTO or ISO must decide how to recover the costs from its customers. These decisions may be controversial. In particular, determining who benefits from new transmission facilities and how their costs should be allocated can be very contentious and can lead to customer dissatisfaction with the RTO or ISO. Decisions related to resource adequacy, such as whether to adopt capacity markets or to rely more heavily on energy price signals to incent new generation and demand response, have also become very contentious.

139. Given these challenges, the Commission is considering, as discussed further below, proposals to improve RTO/ISO responsiveness in a manner that does not compromise their independence.

B. Prior Commission Actions Regarding RTO and ISO Responsiveness

140. In Order No. 888, the Commission encouraged but did not require the formation of ISOs. Order No. 888 delineated eleven principles defining the operations and structure of a properly functioning ISO.[106] Similarly, in Order No. 2000, the Commission encouraged utilities to join RTOs voluntarily and set out the characteristics that an RTO must possess and the minimum functions that it must perform.[107] Embodied in both Order Nos. 888 and 2000 is the requirement that the regional transmission entity be independent from market participants so that it can provide regional transmission and energy market services on a non-discriminatory basis.

141. Although it required independence, Order No. 2000 did not mandate detailed governance requirements for an RTO board of directors. Instead, it stated that the Commission would review governance proposals on a case-by-case basis.[108] The Commission emphasized the importance of stakeholder input regarding both RTO formation and ongoing operations, and it required the RTO or ISO to consult with its members and other stakeholders through an advisory committee prior to taking action. The Commission stated that, because there is a non-stakeholder board, it is important that this board not become isolated.[109] For this reason, the Commission explained that there should be both formal and informal mechanisms to ensure that stakeholders can convey their concerns to the non-stakeholder board.

142. The Commission also required that RTOs have an ''open architecture'' so that the organization and its members have the necessary flexibility to improve the structure, geographic scope, market scope, and operations of the

[106] Order No. 888, FERC Stats. & Regs., Regulations Preambles January 1991–June 1996 ¶ 31,036 at 31,730–32.

[107] Order No. 2000, FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,089 at 30,993–94.

[108] *Id.* at 31,073–74.

[109] *Id.*

organization, as long as proposed changes continue to satisfy RTO minimum characteristics and functions.[110] Stated another way, ''open architecture'' meant that the original RTO design could evolve as needed to reflect changes in member needs.

143. Over the past few years, many RTO and ISO customers have raised concerns at the Commission about RTO or ISO responsiveness to customers on such matters as the level or growth rate of RTO or ISO administrative costs and the effectiveness of the customer voice in processes for deciding whether to undertake new expenditures. In response to concerns over accounting and financial reporting rules for RTOs and ISOs, the Commission issued a Financial Reporting Notice of Inquiry (NOI) on September 16, 2004. It asked for comments on RTO and ISO accounting matters and whether RTOs and ISOs have appropriate incentives to be cost-effective.[111] This led directly to Commission Order No. 668, *Accounting and Financial Reporting for Public Utilities Including RTOs.*[112] Order No. 668 amended the Commission's regulations to update the accounting requirements for public utilities and licensees, including RTOs and ISOs. Specifically, Order No. 668 created new financial accounts to better categorize costs and changed the reporting requirements for all public utilities, including RTOs and ISOs, to improve financial reporting of operations, revenue, and expense accounts. The new financial reporting requirements allow the Commission and other interested persons to compare public utility expenditures more readily than under the prior rule, which improves the transparency of financial information and facilitates clear understanding of RTO/ISO costs.[113]

144. In addition to Commission actions, RTOs and ISOs themselves have undertaken efforts to improve relations and communications with customers and other stakeholders. For example, the CAISO has enhanced its participatory budget development process to allow stakeholders to ask questions and raise concerns well before the budget becomes final. PJM, at the request of its stakeholders, has introduced procedures under which stakeholder issues may be immediately reviewed by the board.[114] PJM has also proposed to reintroduce a stakeholder ''liaison committee''—a committee of stakeholder representatives that will advise the PJM board directly—and is seeking stakeholder input on how that committee should be structured.[115]

145. The Commission is considering below whether additional reforms should be adopted to further increase RTO and ISO responsiveness.

C. Proposed Commission Action To Improve RTO and ISO Responsiveness

146. In this section, the Commission proposes reforms related to ISO and RTO boards and seeks comment on whether any other reforms are appropriate.

1. A Responsive RTO or ISO Board of Directors [116]

147. Customer responsiveness must begin with the RTO/ISO board. A well-functioning and responsible board of directors is necessary for establishing the strategic direction of the RTO or ISO, including customer orientation. Board members are expected to have the expertise needed to set such direction and assess whether it is being followed successfully. When approving an application for RTO status, the Commission has considered primarily the independence of board members in the board selection process.[117]

148. The Commission's preliminary conclusion is that representatives of customers and other stakeholders must have some form of effective direct access to the board of directors. Each RTO or ISO would be required to develop and implement a means to ensure that customers and other stakeholders have effective direct access to the board. The mechanism would not have to be the same for each RTO or ISO. One RTO or ISO might choose to form a committee of stakeholder representatives with some form of direct access to the board, and this committee may be distinct from the various technical committees that have already been formed. Another RTO or ISO might choose to create direct access by having a hybrid board of directors composed of both independent members and representatives of stakeholders. A third RTO or ISO might devise a distinct third means. However, each mechanism would have to be effective in allowing customers and other stakeholders to present their views on major issues directly to the board.

149. The Commission seeks comment on whether RTO or ISO responsiveness to stakeholders requires some form of direct board access. If so, what steps can be taken to ensure that both majority and minority interests have access to the board? If not, is there a better way to ensure that RTO and ISO boards of directors are responsive to customers?

150. The Commission stresses its intent to be flexible regarding how the RTOs and ISOs may improve responsiveness to stakeholders. As mentioned, at least two mechanisms, if carefully designed and implemented, could accomplish this, hybrid boards and board advisory committees.

151. A hybrid board would be composed of both independent members and stakeholder members. Each member would have a seat on the board and participate fully in board decisions with an equal vote. The Commission believes it should be possible to structure a hybrid board that does not sacrifice overall board independence.[118] Adding non-independent stakeholders to the board would expose the board to the concerns of stakeholders in the most direct manner.

152. An RTO or ISO that intends to satisfy this proposed requirement with a hybrid board would have to address certain matters. Stakeholder members must not be allowed to serve their own interests inappropriately. Accordingly, the Commission presents here for comment certain restrictions that may be necessary for a hybrid board proposal. First, the number of stakeholder members must be a minority of the board. The stakeholder members cannot make up more than forty-nine percent of the board, and a lower percentage such as twenty-five percent may be more appropriate. Second, all subcommittees of the board should be structured so that the

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[110] *Id.* at 31,170.

[111] *Financial Reporting and Cost Accounting and Recovery Practices for Regional Transmission Organizations and Independent System Operators,* Notice of Inquiry, FERC Stats. & Regs. ¶ 35,546 (2004).

[112] *Accounting and Financial Reporting for Public Utilities Including RTOs,* Order No. 668, 70 FR 77,626 (Dec. 30, 2005), FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,199 (2005), *order on reh'g,* Order No. 668–A, 71 FR 28,513 (May 16, 2006), FERC Stats. and Regs. ¶ 31,215 (2006).

[113] Order No. 668, FERC Stats. & Regs., Regulations Preambles 2001–2005 ¶ 31,199 at P 5.

[114] *See* May 4, 2007 letter from Phillip G. Harris, Chairman and CEO, PJM Interconnection, L.L.C., to PJM Members and Stakeholders, at *http://www.pjm.com/committees/members/postings/20070504-letter-to-members-post.pdf. See also* Transcript of Conference at 204, Conference on Competition in Wholesale Power Markets, Docket No. AD07–7–000 (May 8, 2007).

[115] *Id.*

[116] The term ''board of directors'' is used in this ANOPR to refer to the highest governing body. Certain RTOs and ISOs may use another term. For example, the California Independent System Operator Corporation uses the term ''Board of Governors.''

[117] *Grid Florida, L.L.C.,* 94 FERC ¶ 61,020 (2001); *Arizona Public Service Co.,* 101 FERC ¶ 61,033, *order on reh'g,* 101 FERC ¶ 61,350 (2002).

[118] We remind RTOs and ISOs that the Commission's regulations regarding RTO governance require periodic audits of the RTO or ISO governance by an independent auditor. *See* 18 CFR 35.34(j)(1)(iv)(A) (2006).

stakeholder members together cannot overcome the unanimous vote of the independent board members. Third, any appointment to an RTO or ISO board of a senior official or director of a stakeholder company that would constitute an interlocking directorate position under FPA section 305 [119] would require prior Commission approval before the member would join the RTO/ISO board.[120]

153. A second way to satisfy the proposed requirement would be a board advisory committee. It would be comprised of senior executives of the various stakeholder groups, serving as an expert panel that would inform the board of stakeholder views. The board advisory committee would have no voting authority on board decisions. It would, however, have authority to make recommendations directly to the board on matters before the board and on matters it believes the board should address. The board advisory committee could advise the board about the expected effect on customers and other stakeholder groups of proposals before the board. The board advisory committee would not necessarily make decisions on what to recommend to the board; instead, minority views could also be presented directly to the board.

154. The Commission envisions a board advisory committee of senior stakeholder representatives that would not necessarily consist of those on technical stakeholder committees in RTOs and ISOs today. Members of the board advisory committee would be selected to represent a reasonable range of diverse interests. The number of members should be decided with attention to forming a committee of reasonable size that can engage the board in thoughtful discussion.

155. The Commission encourages interested parties to comment regarding the proposal and possible approaches. In addition, the Commission seeks responses to the following questions about customer access to the board of an RTO or ISO:

- How should any hybrid board be structured? What is an appropriate limit on the percentage of non-independent board members? If a variety of customer views are to be represented, what implications does this have for the size of the board?
- What, if any, rules and restrictions should be placed on the stakeholder board members of a hybrid board?
- Can the reform proposed here be met through other means such as increased direct board interaction with customers and other stakeholders, *e.g.*, through open board meetings or through required attendance of board members at major stakeholder meetings of the RTO?
- Are there measures—such as customer satisfaction measures, cost oversight benchmarks, or stakeholder participation measures—that RTOs and ISOs should use to assess the success of the mechanism for improving responsiveness?

2. Inquiry Regarding Better Responsiveness Through Improved Practices and Processes

156. The Commission also requests comment about whether any other reforms should be adopted to improve RTO and ISO responsiveness to its customers and other stakeholders. The Commission is interested in particular in whether RTOs and ISOs could achieve better responsiveness—or make their responsiveness more apparent to their stakeholders—through improvements in the areas of (1) RTO and ISO executive management practices, (2) effective RTO and ISO stakeholder processes, and (3) transparent RTO and ISO budget processes.

a. RTO and ISO Executive Management Practices

157. Executive management ensures that RTO and ISO goals set by the board are met, including any goal to be responsive to customers and other stakeholders. Executive management evaluates such things as how to improve RTO/ISO services, whether to provide new services, and how to contain administrative costs. Management is likely to be the first to hear directly from customers about their concerns with current RTO/ISO operations or proposed new programs or expenditures.

158. Managers should be responsive to stakeholders but cannot be beholden to any particular stakeholder group. At a minimum, managers should seek out customer concerns and pay serious attention to these concerns. Managers should evaluate whether some appropriate action is needed to address these concerns. They may decide to address some concerns and not others, keeping in mind the independence of the RTO or ISO, its appropriate role in the region as transmission provider and market administrator, and the trade-off between new services and cost containment.

159. The Commission requests comment on whether any reforms are necessary to increase management responsiveness to stakeholder concerns. For example, should the Commission encourage or require RTOs or ISOs to:

- Publish a strategic plan that includes plans for assuring responsiveness to customers and other stakeholders.
- Measure or otherwise assess customer satisfaction periodically, through a survey or other means.
- Have a formal process for gathering and evaluating recommendations for improving services to customers.
- Set performance criteria for executive managers based in part on responsiveness to stakeholders.
- Relate executive compensation to a measure of responsiveness to stakeholders.

b. Effective RTO and ISO Stakeholder Processes

160. The stakeholder processes in RTOs and ISOs today serve several purposes. They are intended to provide the views of various customer and stakeholder groups to the RTOs and ISOs. Some are also intended to help the RTOs and ISOs make decisions on sometimes contentious transmission and market matters. The Commission is interested in comments about how well these processes are working and how their effectiveness might be improved.

161. The Commission requests replies to the following questions about RTO and ISO stakeholder processes:

- What stakeholder processes have proved to be particularly effective?
- How can the effectiveness of a stakeholder process be assessed?
- Does the voting structure of RTO and ISO stakeholder groups achieve balanced representation?
- Are minority interests adequately represented in stakeholder processes?
- How should an RTO or ISO respond when it must make a decision, such as deciding how to comply with a Commission regulation, and a stakeholder consensus cannot be reached?
- What actions, if any, can the Commission take to improve stakeholder processes? For example, should the Commission ask each RTO or ISO to review and report on the strengths and weaknesses of its current stakeholder processes?

c. Transparent RTO and ISO Budgeting Processes

162. Some market participants contend that they do not have an

[119] 16 U.S.C. § 825d (2000).

[120] *See* 16 U.S.C. 825d(b)–(c) (2000); 18 CFR 45 (2006). Pursuant to section 305(b) of the FPA, interlocks between unaffiliated public utilities, interlocks between a public utility and other specified entities, and interlocks among affiliated public utilities must be submitted to the Commission for approval before a prospective director holds and assumes the duties of the interlocking position.

adequate opportunity to review or understand an RTO's or ISO's budget in time to influence the budget decision. They point in particular to RTOs and ISOs that use a formula rate to pass costs through to customers. Although the Commission has found the current cost recovery mechanisms for all these entities to be just and reasonable,[121] stakeholders express concern about ineffective review of significant cost increases before the costs flow through a formula rate. The NYISO and Midwest ISO, for example, recover their costs of administering the transmission grid and market operations through a formula rate.[122] Some customers believe that the budget for an RTO or ISO with a formula rate may not include enough details to understand the reason for an expenditure or its effect on their rates.[123] This suggests that, in an RTO or ISO with a formula rate, there may be a greater need for customer discussion of budget decisions with major cost consequences before the costs are incurred.

163. The Commission requests comment on possible approaches to address these concerns. For example, should each RTO and ISO:

- Review its cost accountability processes with its customers and other stakeholders and consider how to improve them?
- Present budget information to customers with adequate detail, transparency, and cost support? For example, an RTO or ISO with a formula rate could develop its budget presentation to stakeholders using the format required for a filing with the Commission to change a previously-filed stated rate. This would provide stakeholders with clear information about the proposed expenditures, its effect on rates, and how the proposed budget relates to recent budgets.
- Provide its customers a timely opportunity to review budget proposals, ask budget questions, and comment before major expenditures are finally decided?
- Submit to the Commission as an informational filing the budget materials provided to stakeholders for review?

VII. Additional Questions

164. It is our preliminary view that that the Commission should institute a proceeding under section 206 of the FPA [124] to reform RTO and ISO tariffs to address certain issues discussed above. The Commission may conduct this process either through a notice-and-comment rulemaking under the Administrative Procedure Act [125] or an adjudicative process.

165. The Commission requests comment on which of these procedures is likely to produce the most effective reforms, and on the appropriate time frame in which to conduct the proceedings. The Commission also seeks input as to the length of time that might be necessary for RTOs and ISOs to implement any reforms that result from this process. Specifically, the Commission requests input as to how much time—including time for stakeholder processes—might be needed for technical development of compliance filings.

VIII. Comment Procedures

166. The Commission invites interested persons to submit comments on these matters and any related matters or alternative proposals that commenters may wish to discuss. Comments are due August 16, 2007. Comments must refer to Docket No. AD07–7–000 and must include the commenter's name, the organization he or she represents, if applicable, and his or her address.

167. Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov*. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make a paper filing.

168. Commenters that are not able to file comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC, 20426.

169. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters are not required to serve copies of their comments on other commenters.

IX. Document Availability

170. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov.* and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

171. From the Commission's Home Page on the Internet, this information is available in its eLibrary. The full text of this document is available in the eLibrary both in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number of this document, excluding the last three digits, in the docket number field.

172. User assistance is available for eLibrary and FERC's Web site during normal business hours from our Help line at (202) 502–8222 or the Public Reference Room at *public.reference@ferc.gov.*

By direction of the Commission. Commissioner Kelly concurring in part and dissenting in part with a separate statement attached.

Kimberly D. Bose,

Secretary.

KELLY, Commissioner, *concurring in part and dissenting in part:*

I generally support the efforts of this Advanced Notice of Proposed Rulemaking (ANOPR) in setting forth proposals and seeking comment on improvements to the operation of organized wholesale electric markets. I am writing separately to express my views on certain of the proposals related to strengthening market monitoring, improving demand response and promoting RTO/ISO responsiveness.

First, I would have added certain proposals to the ANOPR to strengthen market monitoring. For reasons I have previously explained,[126] I would have proposed requiring RTOs/ISOs to file tariff provisions to allow them to take enforcement action with respect to objectively identifiable

[121] *See California Independent System Operator Corp.,* 103 FERC ¶ 61,114 (2003), *order on reh'g,* 106 FERC ¶ 61,032 (2004); *California Independent System Operator Corp.,* 110 FERC ¶ 61,090 (2005); *Midwest Independent Transmission System Operator, Inc.,* 97 FERC ¶ 61,033 (2001); *Midwest Independent Transmission System Operator, Inc.,* 101 FERC 61,221 (2002), *order on reh'g,* 103 FERC ¶ 61,035 (2003); *New England Power Pool,* 96 FERC ¶ 61,261 (2001); *ISO New England, Inc.,* 105 FERC ¶ 61,397 (2003); *New York Independent System Operator,* 86 FERC ¶ 61,062 (1999); *PJM Interconnection, L.L.C.,* 112 FERC 61,236 (2005), *order approving settlement,* 115 FERC ¶ 61,249 (2006).

[122] The CAISO, PJM, and ISO–NE, in contrast, use stated rates for their grid administration and market services charges.

[123] After-the-fact review is considered insufficient. Even if the Commission were to disallow an expenditure after the fact as not used and useful or otherwise imprudently incurred, an RTO or ISO has no profits to be reduced by the amount of any disallowed costs. Many market participants assert that there is no good remedy for these RTOs and ISOs once imprudent costs are incurred. RTO and ISO customers are among the first to tell the Commission that, in practice, once costs are incurred by a not-for-profit RTO or ISO with a formula rate, these costs must be passed through to its customers.

[124] 16 U.S.C. 824e (2000).

[125] 5 U.S.C. 553 (2000).

[126] *See PJM Interconnection, L.L.C.,* 116 FERC ¶ 61,038, *order on reh'g,* 117 FERC ¶ 61,263 (2006).

behavior that does not subject the seller to sanctions or consequences other than those expressly approved by the Commission and set forth in the tariff, and with the right of appeal to the Commission, consistent with the Policy Statement on Market Monitoring Units.[127] In addition, the ANOPR states that the Commission does not intend to share with the MMU information about suspected tariff and rule violations referred by the MMU to the Commission. I believe the Commission should generally provide information to the MMUs on the referrals they have made to the Commission, subject to appropriate confidentiality restrictions. Such feedback could be structured so as to provide responsible disclosure of information while preserving confidentiality. In addition, I would have proposed requiring the MMU to make recommendations related to its reports on RTO/ISO performance. Therefore, I concur in part on the ANOPR.

Second, I disagree with two of the proposals being made in the ANOPR. One proposal involves facilitating greater participation of demand response in organized markets by modifying market power mitigation rules in organized markets, such as raising the energy bid caps and market-wide caps in an emergency situation. Before the Commission considers whether to pursue such market rule modifications, I think it is important to address other barriers that may significantly restrict demand response participation. For example, the FERC Staff Demand Response Assessment concluded that the technologies needed to support significant deployment of demand resources, such as advanced metering, have little market penetration.[128] Without the necessary technology already in place that would allow demand resources to respond to price signals in wholesale or retail markets, it is unclear how quickly they could develop the ability to respond after energy bid caps or market-wide caps are raised or eliminated. In other words, the technology and associated demand response capability must be in place before we consider raising or eliminating these price caps. Otherwise these higher energy prices may not elicit any demand reduction in a fashion capable of disciplining those prices and keeping them just and reasonable. In addition, rather than asking questions in this ANOPR on how to value demand response, I think the Commission should have proposed a compensation method and postponed consideration of modifying market power mitigation rules until after the valuation issue had been addressed.

Third, although I recognize that some stakeholder groups have raised concerns about the responsiveness of the RTO/ISO, I disagree with the ANOPR's proposal to promote responsiveness by establishing a hybrid RTO/ISO board of directors composed of both independent members and non-independent stakeholder members. Under this proposal, each member would have a seat on the board and participate fully in board decisions with an equal vote. I think it would be inadvisable and difficult to implement such a proposal.

Order Nos. 888 and 2000 require that an ISO or RTO be independent from market participants so that they can provide regional transmission and energy market services on a non-discriminatory basis. A fundamental principle for ISOs, as set forth in Order No. 888, is that the ISO should be independent of any individual market participant or any one class of participants (e.g., transmission owners or end-users).[129] Similarly, Order No. 2000 emphasized that independence is the bedrock principle on which the ISOs and RTOs must be built and stressed that an RTO ''needs to be independent in both reality and perception.''[130] I believe that establishing a hybrid board would jeopardize the fundamental principle of independence upon which ISOs and RTOs are based.

Moreover, although the ANOPR states that stakeholder members would be directed not to serve their own interests inappropriately, it is not clear to me how one would distinguish between ''inappropriate'' advocacy for one's interests, and perfectly reasonable advocacy for one's interests. Additionally, a hybrid board composed of independent and non-independent board members could needlessly complicate the board dynamic and make cooperative decision-making more difficult and time consuming. Currently, the independent board coupled with the stakeholder process, can be viewed as similar to the judicial model of governance. The stakeholders are like adversaries in a judicial proceeding arguing their cases to a disinterested judge, the independent board, which is capable of balancing the various equities in reaching a timely decision that is fair to all.

A stakeholder board, even a hybrid one, would be more akin to the legislative model with no overarching independent judge making the final calls. Such a model requires constant negotiation and can often lead to stalemate or decisions that address only the lowest common denominator rather than the ideal approach. While that model is certainly appropriate in many situations, I do not believe it is workable for the board of an RTO or ISO given the many important and time-critical issues they deal with. Furthermore, most investor owned utilities, with whom RTOs and ISOs share many features, do not appear to follow the legislative model of governance and it is not clear to me why the RTOs and ISOs should be treated differently. If the Commission is to consider providing stakeholders with some form of direct board access, I think that the board advisory committee proposed in this ANOPR would more effectively serve this purpose.

Accordingly, for the reasons stated above, I concur in part and dissent in part on this ANOPR.

Suedeen G. Kelly

[FR Doc. E7–12550 Filed 6–29–07; 8:45 am]

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[127] *See* 111 FERC ¶ 61,267 (2005) at P 5.

[128] *FERC Staff Demand Response Assessment,* Docket No. AD06–2–000, at page xii.

[129] Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,730–31.

[130] Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,061.

Federal Register

Monday,
July 2, 2007

Part VI

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2007; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5148–N–01]

Notice of Regulatory Waiver Requests Granted for the First Quarter of Calendar Year 2007

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on January 1, 2007 and ending on March 31, 2007.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276,Washington, DC 20410–0500, telephone (202) 708–3055 (this is not a toll-free number). Persons with hearing- or speech- impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the first quarter of calendar year 2007.

SUPPLEMENTARY INFORMATION:

Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from January 1, 2007, through March 31, 2007. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both 58.73 and 58.74 would appear sequentially in the listing under 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the first quarter of calendar year 2007) before the next report is published (the second quarter of calendar year 2007), HUD will include any additional waivers granted for the first quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: June 27, 2007.

Robert M. Couch,

General Counsel.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development January 1, 2007 through March 31, 2007

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.

II. Regulatory waivers granted by the Office of Housing.

III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 58.22(a).

Project/Activity: New Visions Center, Council Bluffs, Iowa. New Visions Center includes a transitional housing facility with 26 one-bedroom units, a 40 bed emergency shelter for men, a dining hall/community room, and administrative and support staff offices. HUD funding for the project includes HOME, Community Development Block Grant (CDBG), and Supportive Housing Program (SHP) funds.

Nature of Requirement: Section 58.22(a) prohibits recipients and any participant in the development process, including public or private nonprofit or for-profit entities or any of their contractors, from committing or expending HUD and non-HUD funds until HUD has approved the recipient's Request for Release of Funds (RROF) and related certification if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. After application for SHP funds and after application to the state for HOME funds, a partner in the development process, committed non-HUD funds to acquire the property prior to the city and state obtaining an approved RROF.

Granted By: Pamela Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: March 12, 2007.

Reason Waived: HUD granted the waiver for the following reasons: (1) Extensive efforts were undertaken by Council Bluffs Housing for the Homeless and the City of Council Bluffs to locate and identify this particular site for the project; (2) the project will further the purpose of the HOME and Supportive Housing Programs by providing transitional housing and services for the homeless; (3) based on the environmental assessment and the site visit conducted by HUD staff, HUD concludes that granting a wavier will not result in an adverse environmental impact, nor is any foreseen to occur; and (4) the regulatory violation occurred because of a good-faith mistake.

Contact: Danielle Schopp, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7250, Washington, DC 20410–7000, telephone (202) 708–1201.

• Regulation: 24 CFR 92.2.

Project/Activity: The State of Mississippi requested a waiver of the definition of ''homeownership'' at 24 CFR 92.2 of the HOME regulations. The State of Mississippi requested this waiver to facilitate its efforts to assist the Town of Flora, which applied for a homeowner rehabilitation grant to assist property owners whose residences were constructed on school trust land, also known as Sixteenth Section land.

Nature of Requirement: The HOME regulations define ''homeownership'' as ownership in ''fee simple title or a 99-year leasehold interest in a one- to four- unit dwelling or in a condominium unit, or equivalent form of ownership approved by HUD.'' The Town of Flora applied to the State of Mississippi for HOME funds to rehabilitate owner-occupied units that are located on what is known as Sixteenth Section land and have 40-year land leases.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: January 4, 2007.

Reasons Waived: Mississippi State law precludes these homeowners from obtaining 99-year leasehold interests in the land on which their units are located. Adherence to the HOME definition of homeownership would create a hardship by eliminating the possibility of receiving HOME assistance to rehabilitate their homes. The waiver was therefore granted.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7158, Washington, DC 20410–7000, telephone (202) 708–2470.

• *Regulation:* 24 CFR 92.214(a)(6).

Project/Activity: The State of South Dakota requested a waiver of 24 CFR 92.214(a)(6) to facilitate its efforts to ensure that a HOME project, which had to be vacated due to serious mold problem, will continue to provide affordable housing units for low-income individuals.

Nature of Requirement: The HOME regulations at 24 CFR 92.214(a)(6) prohibit participating jurisdictions from investing additional HOME funds in a project previously assisted with HOME funds, except during the first year after project completion. The State of South Dakota requested this waiver to facilitate its efforts to ensure that a HOME project, which had to be vacated due to serious mold problem, would continue to provide affordable housing units for low-income individuals.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: January 4, 2007.

Reasons Waived: Without the investment of additional HOME funds to make this project habitable, the original HOME investment of $863,586 would be lost as would the opportunity to maintain the project as affordable housing.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Office of Community Planning Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7158, Washington, DC 20410–7000, telephone (202) 708–2470.

• *Regulation:* 24 CFR 92.251(a)(1).

Project/Activity: The City of Oklahoma City requested a waiver to help facilitate its efforts to close a HOME-assisted homeowner rehabilitation project. The City of Oklahoma City asked for a waiver of the HOME property standards as stated in 24 CFR 92.251(a)(1) of the HOME regulations.

Nature of Requirement: The HOME regulations at 24 CFR 92.2519(a)(1) state that housing constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. This requirement ensures that HOME-assisted units are decent, safe and sanitary.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: January 4, 2007.

Reasons Waived: The City of Oklahoma City had been attempting to complete the rehabilitation of a low-income homeowner's unit for three years. The homeowner, who suffers from mental illness, would not permit the City to complete the rehabilitation of her home due to a dispute with the contractor. The City was diligent in its efforts to rectify the situation but the homeowner decided to sell the home, making it impossible for the City to further pursue a resolution. This waiver eliminated the need for the City to repay all of the HOME program funds expended for the partial rehabilitation of this property.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7158, Washington, DC 20410–7000, telephone (202) 708–2470.

• *Regulation:* 24 CFR 92.500(d)(1)(C).

Project/Activity: The City of New Orleans, LA requested a waiver of its Fiscal Year (FY) 2002 HOME Program expenditure requirement to facilitate its continued recovery from the devastation caused by Hurricanes Katrina and Rita. The City is located within a declared disaster area pursuant to Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The City requested this waiver in addition to the waivers granted by HUD on September 14, 2005 (Hurricane Katrina) and October 4, 2005 (Hurricane Rita) for the designated disaster areas.

Nature of Requirement: HUD's regulations at 24 CFR 92.500(d)(1)(C) require that a participating jurisdiction (PJ) expend its annual allocation of HOME funds within five years after HUD notifies the PJ that HUD has executed the jurisdiction's HOME Investment Partnership Agreement.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: March 5, 2007.

Reasons Waived: This waiver was granted to facilitate the continued recovery of the City of New Orleans from the devastation caused by Hurricane Katrina and Hurricane Rita by waiving the FY 2002 HOME expenditure requirement. This waiver helped to ensure that needed HOME funds are not deobligated and that the City had sufficient flexibility and time to assess, redesign, and implement its housing programs and delivery systems.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7158, Washington, DC 20410–7000, telephone (202) 708–2470.

• *Regulations/Statute:* 24 CFR 92.500(d)(1)(C).

Project/Activity: The Gulfport Consortium requested a waiver to facilitate its recovery from the devastation caused by Hurricane Katrina. The Consortium is located within a declared disaster area pursuant to Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Nature of Requirement: Section 92.500(d)(1)(C) requires that a participating jurisdiction expend its annual allocation of HOME funds within five years after HUD notifies the PJ that HUD has executed the jurisdiction's HOME Investment Partnership Agreement.

Granted By: Pamela H. Patenaude, Assistant Secretary for Community Planning and Development.

Date Granted: March 30, 2007.

Reasons Waived: This waiver will facilitate the recovery of the Gulfport Consortium from the devastation caused by Hurricane Katrina. The waiver will also ensure that needed HOME funds are not deobligated, providing the Consortium with flexibility to reassess previously approved housing projects and implement other housing activities to meet the immediate needs of the affected population.

Contact: Virginia Sardone, Office of Affordable Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7158, Washington, DC 20410, telephone 202–708–2470.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 200.217(a)(5).

Project/Activity: Moore Medical Center, Moore, OK, FHA Project 117–13003.

Nature of Requirement: A party seeking approval of a transfer of physical assets must apply for previous participation clearance electronically.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: January 8, 2007.

Reason Waived: For the benefit of HUD, it was necessary to secure previous participation clearance in paper form rather than electronically in order to meet bankruptcy court mandated auction, approval, and announcement deadlines. Moore Medical Center declared bankruptcy in October, 2006 and the bankruptcy court allowed bids on the hospital from approximately January 16, 2007 until February 25, 2007. The winning bidder was approved by the court on February 26, 2007 and closing on the sale took place on February 28, 2007. HUD had to be prepared for the purchaser (identity not known until February 26, 2007) to assume the owner's obligations under the HUD-insured mortgage and immediately provide a transfer of physical assets to the new owner, both of which required previous participation clearance pursuant to procedures contained in 24 CFR part 200, subpart H. The electronic previous participation certificate process is currently not designed to provide for immediate clearance of an applicant's filing. The waiver allowed paper previous participation certificates to be collected from each serious bidder as soon as they placed a bid and the granting of previous participation clearance within 48 hours of submission.

Contact: Roger E. Miller, Office of Insured Health Care Facilities, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9224, Washington, DC 20410–8000, telephone (202) 402–2004.

• *Regulation:* 24 CFR 401.461.

Project/Activity: The following project listed below requested a waiver to the simple interest requirement on the second mortgage to allow compound interest at the applicable federal rate.

FHA No.	Project	State
01335127	Park Drive Manor II Apartments.	NY

Nature of Requirement: Section 401.461 of HUD's regulations requires that the second mortgages have an interest rate not more than the applicable federal rate. Section 401.461(b)(1) states that interest will accrue but not be compounded. The intent of simple interest instead of compound interest is to limit the size of the second mortgage accruals to increase the likelihood of long-term financial and physical integrity.

Contact: Frank L. Davis, General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

Date Granted: February 26, 2007.

Reason Waived: This regulation may be construed as a form of federal subsidy, thereby creating a loss of tax credit equity, which may adversely affect the ability to close the restructuring plan and could cause the loss or deterioration of these affordable housing projects. Therefore, compound interest was determined necessary for the owner to obtain low income housing tax credits under favorable terms and in order to maximize the savings to the federal government.

Granted By: John E. Hall, Office of Affordable Housing Preservation, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6222, Washington, DC 20410–8000, telephone (202) 402–2342.

• *Regulation:* 24 CFR 401.461.

Project/Activity: The following projects listed below requested a waiver to the simple interest requirement on the second mortgage to allow compound interest at the applicable federal rate.

FHA No.	Project	State
12735339	Montesano Harbor Annex Apartments.	WA

Nature of Requirement: Section 401.461 of HUD's regulations requires that the second mortgages have an interest rate not more than the applicable federal rate. Section 401.461(b)(1) states that interest will accrue but not be compounded. The intent of simple interest instead of compound interest is to limit the size of the second mortgage accruals to increase the likelihood of long-term financial and physical integrity.

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

Date Granted: March 12, 2007.

Reason Waived: This regulation may be construed as a form of federal subsidy, thereby creating a loss of tax credit equity, which may adversely affect the ability to close the restructuring plan and could cause the loss or deterioration of these affordable housing projects. Therefore, compound interest was determined necessary for the owner to obtain low income housing tax credits under favorable terms and in order to maximize the savings to the federal government.

Contact: John E. Hall, Office of Affordable Housing Preservation, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6222, Washington, DC 20410–8000, telephone (202) 402–2342.

• *Regulation:* 24 CFR 401.461.

Project/Activity: The following projects listed below requested a waiver to the simple interest requirement on the second mortgage to allow compound interest at the applicable federal rate.

FHA No.	Project	State
11735033 ..... 10535062.	Columbia Square Apartments.	OK
Jefferson Park Apartment. UT.		

Nature of Requirement: Section 401.461 of HUD's regulations requires that the second mortgages have an interest rate not more than the applicable federal rate. Section 401.461(b)(1) states that interest will accrue but not be compounded. The intent of simple interest instead of compound interest is to limit the size of the second mortgage accruals to increase the likelihood of long-term financial and physical integrity.

Granted By: Frank L. Davis, General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

Date Granted: March 30, 2007.

Reason Waived: This regulation may be construed as a form of federal subsidy, thereby creating a loss of tax credit equity, which may adversely affect the ability to close the restructuring plan and could cause the loss or deterioration of these affordable housing projects. Therefore, compound interest was determined necessary for the owner to obtain low income housing tax credits under favorable terms and in order to maximize the savings to the federal government.

Contact: John E. Hall, Office of Affordable Housing Preservation, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6222, Washington, DC 20410–8000, telephone (202) 402–2342.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: James River Apartments, Richmond, VA, Project Number: 051–HD121/VA36–Q031–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 3, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Kleeman Village, Clinton, IL, Project Number: 072–HD144/IL06–Q041–008.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 5, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Sr. Louise DeMaillac Manor, Staten Island, NY, Project Number: 012–HD107/NY36–Q011–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amountof the approved capital advance funds prior to initial closing.

Granted by: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 5, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Woonsocket Neighborhood Development Corporation, North Smithfield, RI, Project Number: 016–EE046/RI43–S021–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 5, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: UCP Rhode Island, Incorporation, West Warwick, RI, Project Number: 016–HD045/RI43–Q031–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 5, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Avondale Haciendas, Avondale, AZ, Project Number: 123–EE095/AZ20–S041–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 11, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: VOA Sandusky, Sandusky, OH, Project Number: 042–HD110/OH12–Q021–008.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 11, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: The Commons Apartments, Sevierville, TN, Project Number: 087–EE057/TN37–S051–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 25, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: TBD–811, Crossville, TN, Project Number: 087–HD049/TN37–Q061–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Febuary 1, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Park Place Apartments, Cleveland, TN, Project Number: 087–EE058/TN37–S051–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amountof the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 1, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Mace Apartments, Jamestown, TN, Project Number: 087–HD048/TN37–Q051–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 5, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant

Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Renaissance Court, Wilsonville, OR, Project Number: 126–HD039/OR16–Q041–001

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 6, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: DGN Towers II, Incorporated, Pembroke Pines, FL, Project Number: 066–EE108/FL29–S051–006.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Campbellsville Group Home, Campbellsville, KY, Project Number: 083–HD091/KY36–Q051–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 2007.

Reason Waived: The project was economically designed and the cost appears reasonable as there are no other four unit group homes in the area to compare costs, and the Sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: B'nai B'rith Apartments at Deerfield Beach III, Deerfield Beach, FL, Project Number: 066EE102/FL29–S041–005

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Bunker Hill Court Home, Independence, KY, Project Number: 083–HD093/KY36–Q051–004

Nature of Requirement: Section 891.100(d) prohibits amendment of the amountof the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 16, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Bay Pointe Apartments, Louisa, KY, Project Number: 083–EE095/KY36–S051–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Cody Road VOA Housing, Mobile, AL, Project Number: 062–HD060/AL09–Q051–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 29, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Abilities at Eagles Nest, Lakeland, FL, Project Number: 067–HD096/FL29–Q041–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 29, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Booth Manor II Apartments, Philadelphia, PA, Project Number: 034–EE142/PA26–S051–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 30, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: NCR of Alief II, Houston, TX, Project Number: 0114–EE120/TX24–S041–008.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the

approved capital advance funds prior to initial closing.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 30, 2007.

Reason Waived: The project was economically designed and comparable in cost to similar projects in the area, the sponsor/owner exhausted all efforts to obtain additional funding from other sources and the additional cost is due to increased construction costs.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Woodside Village, Toledo, OH, Project Number: 042–HD112/OH12–Q031–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 5, 2007.

Reason Waived: The sponsor/owner needed additional time to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: SHDC No. 12, Kailua-Kona, HI, Project Number: 140–HD030/HI10–Q041–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 5, 2007.

Reason Waived: The sponsor/owner needed additional time to obtain a building permit and to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Tikigaqmiut Senior Housing, Point Hope, AK, Project Number: 176–EE029/AK06–S021–004; Anaiyak Senior Housing, Anaktuvuk Pass, AK, Project Number: 176–EE030/AK06–S021–005; Oglonikgum Uttuganaknich Senior Housing, Wainwright, AK, Project Number: 176–EE031/AK06–S021–006; Kaktovik Senior Housing, Kaktovik, AK, Project Number: 176–EE032/AK06–S021–007; Utuqqanaaqagvik Senior Housing, Nuiqsut, AK, Project Number: 176–EE033/AK06–S021–008.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 5, 2007.

Reason Waived: The sponsor/owner needed additional time to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Vista California Supportive Housing, Vista, CA, Project Number: 129–HD030/CA33–Q041–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 9, 2007.

Reason Waived: The sponsor/owner needed additional time to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Desert Willow, Ridgecrest, CA, Project Number: 122–HD162/CA16–Q041–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 9, 2007.

Reason Waived: The sponsor/owner experienced delays due to the lengthy plan check process by city and county officials.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Fox Creek II, Akron, OH, Project Number: 042–HD116/OH12–Q031–005 and Fox Creek I, Springfield Township, OH, Project Number: 042–HD117/OH12–Q031–006.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 9, 2007.

Reason Waived: Additional time is needed to issue the firm commitment and for the project to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: National Church Residence of Tucson, Tucson, AZ, Project Number: 123–EE085/AZ20–S021–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 9, 2007.

Reason Waived: The sponsor/owner needed additional time to achieve an intial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: AHEPA 302 Apartments, San Bernardino, CA, Project Number: 143–EE056/CA43–S041–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 9, 2007.

Reason Waived: The sponsor/owner needed additional time to implement design changes required by the local government as well as to achieve initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: NCR of Sterling Heights II, Detroit, MI, Project Number: 044–EE092/MI28–S041–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 11, 2007.

Reason Waived: The sponsor/owner needed additional time to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Gulfport Manor, Gulfport, MS, Project Number: 065–EE031/MS26–S001–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 11, 2007.

Reason Waived: The sponsor/owner needed additional time to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Soundview Senior Residence, Bronx, NY, Project Number: 012–EE318/NY36–S011–012.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 11, 2007.

Reason Waived: The sponsor/owner needed additional time for the new contractor to prepare and submit closing documents.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: TBD, Burlington, WI, Project Number: 075–HD088/WI39–Q041–007.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 12, 2007.

Reason Waived: The sponsor/owner needed additional time in order to obtain approval for the extension of a road, as well as water and sewer into the site.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Assaley Place, Charleston, WV, Project Number: 045–HD039/WV15–Q041–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 17, 2007.

Reason Waived: The sponsor/owner needed additional time to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Jennings Senior Housing, Santa Rosa, CA, Project Number: 121–EE178/CA39–S041–009.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 6, 2007.

Reason Waived: The sponsor/owner needed additional time to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Forest Hills Senior Apartments, Forest Hills, PA, Project Number: 033–EE122/PA28–S041–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: Februay 15, 2007.

Reason Waived: Additional time was needed for the firm commitment to be issued and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Northwest Senior Housing, Winsted, CT, Project Number: 017–EE088/CT26–S041–005.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 2007.

Reason Waived: The sponsor/owner needed additional time to secure secondary financing and to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Clam Bayou Apartments, Inc., St. Petersburg, FL, Project Number: 067–HD094/FL29–Q041–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 28, 2007.

Reason Waived: The sponsor/owner needed additional time to resolve an easement issue and for the project to achieve initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Greater Las Vegas Supportive Housing, Las Vegas, NV, Project Number: 125–HD072/NV25–Q041–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 28, 2007.

Reason Waived: The sponsor/owner needed additional time to finalize the closing documents and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: National Church Residences, Sterling Heights, MI, Project Number: 044–EE092/MI28–S041–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 28, 2007.

Reason Waived: The sponsor/owner needed additional time to comply with numerous City of Sterling Heights engineering requirements, for the firm commitment to be issued, and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.205.

Project/Activity: Greenfield Commons, Fairfield, CT, Project Number: 017–EE092/CT26–S051–002.

Nature of Requirement: Section 891.205 requires Section 202 and Section 811 project owners to have tax exemption status under section 501(c)(3) or (c)(4) of the Internal Revenue Code.

Granted by: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 3, 2007.

Reason Waived: The sponsor/owner had requested the section 501(c)(3) tax exemption but had not received it in time for the initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.205.

Project/Activity: Immanuel Trinity Courtyard II, Papillion, NE, Project Number: 103–EE037/NE26–S061–001.

Nature of Requirement: Section 891.205 requires Section 202 and Section 811 project owners to be single-purpose corporations.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 7, 2007.

Reason Waived: The units will be added to Immanuel Trinity Courtyard I, an existing project. The owner of Immanuel Trinity Courtyard I will own both projects resulting in cost savings.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6134, Washington, DC 20410–8000, telephone (202) 708–3000.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 5.801.

Project/Activity: Union Township Housing Authority (NJ109), Union, NJ.

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 14, 2007.

Reason Waived: The HA requested a waiver of the audited financial reporting requirements under the Section 8 Program for FYE March 31, 2006, for the following reasons: (1) The HA is under the single audit requirements of the Office of Management and Budget A–133 and does not conduct a separate audit; (2) the realignment of the HA's FYE from March 31 to December 31 eliminates the problem of the single audit as of FYE December 31, 2006, and (3) the independent auditor does not have a unique independent public accountant identifier number nor a procedure in place to insure timely submission to Financial Assessment Subsystem (FASS). The HA was granted a waiver because the circumstances that prevented the HA from submitting the audited financial data were beyond the HA's control. However, with the FYE change, the HA is required to submit its unaudited and audited financial data as of FYE December 31, 2006, and in accordance with HUD's Uniform Financial Standards Rule (UFSR) (24 CFR Part 5).

Contact: Myra E. Newbill, Acting Program Manager, Integrated Assessment Subsystem (NASS), Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 902.20.

Project/Activity: City of East St. Louis Housing Authority (IL001), East St. Louis, IL.

Nature of Requirement: The objective of this regulation is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property or properties that includes a statistically valid sample of the units.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: January 26, 2007.

Reason Waived: The HA requested a waiver of the physical inspections and Physical Assessment Subsystem (PASS) indicator score for fiscal year ending (FYE) March 31, 2006, because of major storm damage to HA's properties in July 2006. Five separate tornadoes caused significant damage to the community that resulted in loss of power, flooded streets, downed trees, etc. The waiver grants a waiver of and cancellation of the PASS inspections for FYE March 31, 2006. Physical inspections will resume for the FYE March 31, 2007, assessment cycle. The HA also received a waiver of the PASS Indicator score for that year since no physical inspections were conducted.

Contact: Myra E. Newbill, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 902.20.

Project/Activity: City of Dumas Housing Authority (AR043), Dumas, AR.

Nature of Requirement: The objective of this regulation is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property or properties that includes a statistically valid sample of the units.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 28, 2007.

Reason Waived: The HA requested a waiver of the physical inspections for fiscal year ending (FYE) December 31, 2006, because of tornado damage to its properties. The waiver grants a cancellation of the PASS inspections for FYE December 31, 2006. Physical inspections will resume for the FYE December 31, 2007, assessment cycle.

Contact: Myra E. Newbill, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410, telephone (202) 475–8988.

• *Regulation:* 24 CFR 902.20.

Project/Activity: District of Columbia Housing Authority (DC001), Washington, DC.

Nature of Requirement: The objective of this regulation is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. The Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property or properties that includes a statistically valid sample of the units.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 28, 2007.

Reason Waived: The HA requested a waiver of the physical inspections under Physical Assessment Subsystem (PASS) of the Public Housing Assessment Subsystem (PHAS) for fiscal year ending (FYE) September 30, 2006. The waiver grants a

cancellation of the PASS inspections for FYE September 30, 2006, because 31 of the HA's 41 developments are in the midst of a comprehensive rehabilitation project that will ensure 20 year viability. HUD confirmed that the contracts are in place and the rehabilitation efforts are underway. Physical inspections will resume for the FYE September 30, 2007, assessment cycle.

Contact: Myra E. Newbill, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 902.33

Project/Activity: City of Anacortes Housing Authority (WA010), Anacortes, WA.

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 28, 2007.

Reason Waived: The HA requested a waiver for the removal of the Late Presumptive Failure (LPF) score of zero under the audited Financial Assessment Subsystem (FASS) indicator of the Public Housing Assessment System (PHAS) for FYE March 31, 2006. The HA's audited financial submission was not received by the due date because the rejection notices from the Real Estate Assessment Center (REAC) and the Seattle Field Office were inadvertently forwarded to the agency's SPAM filter. Because the HA, was under the Small PHA Deregulation in 2006, and is not required to have a PHAS score for FYE March 31, 2006, the waiver granted the removal of the LPF score of zero, and allows the HA to resubmit a corrected audited financial submission. In accordance with 24 CFR 902.9, REAC will assess and score the performance of a PHA with less than 250 public housing units every other PHA fiscal year, unless the small PHA (a) elects to have its performance assessed on an annual basis, or (b) is designated as troubled. The City of Anacortes has an inventory of 111 low-rent public housing units and is therefore considered a small PHA. The PHA was designated a high performer in FY 2005, and because the PHAS is assessed every other year, it is not required to have a PHAS score in FY2006.

Contact: Myra E. Newbill, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 902.33.

Project/Activity: Troy Housing Authority (NY012), Troy, NY.

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: January 12, 2007.

Reason Waived: The HA requested a waiver for the removal of the Late Presumptive Failure (LPF) score of zero for the audited Financial Assessment Subsystem (FASS) indicator for FYE December 30, 2005, whose submission due date was September 30, 2006. The HA lost its in-charge auditor and also its Chief Financial Officer, who failed to complete a significant number of items identified by the auditors during their on-site field work. The waiver granted the removal of the LPF and resubmission of the audited financial data within 15 days of receipt of the waiver approval letter, and the issuance of a new Public Housing Assessment System (PHAS) score.

Contact: Myra E. Newbill, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100 Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 902.33.

• *Project/Activity:* Meade County Housing and Redevelopment Commission (SD047), Sturgis, SD.

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 14, 2007.

Reason Waived: The HA requested a waiver for the removal of the Late Presumptive Failure (LPF) score of zero under the audited Financial Assessment Subsystem (FASS) indicator. The audit was completed on time but the auditor was unable to complete the submission because of a death in her immediate family on the submission due date. The waiver granted the removal of the LPF score of zero and allows the HA to submit its audited financial data. Because the HA is designated as a Small PHA Deregulation for FY 2006, no Public Housing Assessment System (PHAS) score will be generated. In accordance with 24 CFR 902.9, REAC will assess and score the performance of a PHA with less than 250 public housing units every other PHA fiscal year, unless the small PHA (a) elects to have its performance assessed on an annual basis, or (b) is designated as troubled. The Meade County Housing and Redevelopment Commission is a small PHA, has an inventory of 80 low-rent public housing units and is therefore considered a small PHA. The PHA was designated a high performer in FY 2005, and because the PHAS is assessed every other year, it is not required to have a PHAS score in FY2006.

Contact: Myra E. Newbill, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 902.33.

• *Project/Activity:* Benton Public Housing Authority (AR175), Benton, AR.

• *Nature of Requirement:* The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 14, 2007.

Reason Waived: The HA requested a waiver for the removal of the Late Presumptive Failure (LPF) score of zero under the audited Financial Assessment Subsystem (FASS) indicator for FYE March 31, 2006. The HA's audit submission was not received by the due date because the last step of the three-step process was not performed that would have transmitted the data to the Real Estate Assessment Center (REAC). The waiver grants removal of the LPF score of zero, and allows the HA to submit its audited financial data. Because the HA is designated as a Small PHA Deregulation for FY 2006, no Public Housing Assessment System (PHAS) score will be generated.

Contact: Myra E. Newbill, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 902.40.

Project/Activity: Housing Authority of the County of Cass, Illinois (IL102), Beardstown, IL.

Nature of Requirement: The objective of the Management Operations Indicator, under the Public Housing Assessment System (PHAS), is to measure certain key management operations and responsibilities of a housing authority (HA) for the purpose of assessing the HA's management operations capabilities. The regulation requires a HA to submit electronically a certification of its performance under each of the management operations sub-indicators within two months after the HA's fiscal year end (FYE).

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 14, 2007.

Reason Waived: The HA requested a waiver of the Late Presumptive Failure (LPF) score of zero under Management Operations Indicator for FYE March 31, 2006 because the Executive Director (ED) passed away and no other HA staff was knowledgeable with the requirements under PHAS. A new ED was hired on June 15, 2006, but was unaware that the management operations certification had not been submitted as required. The waiver grants the HA an opportunity to submit the management operations certification, and the issuance of a new PHAS score.

Contact: Myra E. Newbill, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 902.69(a)(2).

• *Project/Activity:* Marble Falls Housing Authority (TX263), Marble Falls, TX.

• *Nature of Requirement:* The regulation establishes that a PHA may petition for the removal of troubled designation.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: January 11, 2007.

Reason Waived: The HA requested a waiver that would change the HA's Public Housing Assessment System (PHAS) designation from Substandard Financial to Standard Performer for fiscal year end (FYE) September 30, 2005. In 2001, the HA made a management decision to construct a community center and to pursue additional opportunities to enhance affordable housing within the community. This action created a temporary liquidity issue for the HA that adversely affected its reserves. Because the HA has taken steps to eliminate this issue by transferring all non-HUD funded assets to a newly created Texas Housing Foundation, and made a commitment that it will no longer engage in community development initiatives, the HA's designation was changed from Substandard Financial to Standard Performer. No score adjustment was made.

Contact: Myra E. Newbill, Acting Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 941.606(n)(l)(ii)(B).

Project/Activity: Housing Authority of Columbus, Georgia Ashley Station Phase II HOPE VI Project Number: GA06URD004I102.

Nature of Requirement: The provision requires that if the partner and/or owner entity (or any other entity with an identity of interest with such parties) wants to serve as a general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest submitted in response to a public request for bids.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 20, 2007.

Reason Waived: The Housing Authority of Columbus, Georgia (HACG) procured Integral Group, LLC (TIG) as the developer to revitalize the former Peabody Apartments site in Columbus, Georgia through a competitive Request for Proposal (RFP). IBG Construction Services, LLC, an affiliate of TIG, will serve as a general contractor for the development of Ashley Station Phase II. The basis for justifying the waiver was because IBG Construction Services, LLC could provide the most efficient means of accomplishing the construction. IBG Construction Services, LLC has knowledge of Low Income Housing Tax Credit and HOPE VI compliance issues, and experience with coordinating/managing infrastructure in support of on-site development. Its direct control of construction activities will ensure milestone completions and sensitivity to overall development requirements. In addition, HACG submitted an independent cost estimate by Diane R. Durand, a Construction/Cost Analyst with Architectural Associates. Architectural Associates compared the cost of this project with those of other projects and analyzed each line item, comparing the costs to projects in its data bank and against historical cost data. Architectural Associates cost estimate totaled $12,883,339 for construction, including the architectural design, contract administration and mortgagor's other fees. IBG Construction Services, LLC's total estimate for all improvements mentioned totaled $12,807,702. HUD also performed a fee analysis, confirming that all of the construction fees are either at or below HUD's Cost Control and Safe Harbor Standards issued on April 9, 2003. As IBG Construction Services, LLC cost was below that of the independent cost estimates, HUD's condition is satisfied.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, 451 Seventh Street, SW., Room 4130, Washington, DC 20410–5000, telephone (202) 401–8812.

• *Regulation:* 24 CFR 941.606(n)(l)(ii)(B).

Project/Activity: San Antonio Housing Authority, San Juan Apartments Mixed Finance Project Number: TX006–141.

Nature of Requirement: The provision requires that if the partner and/or owner entity (or any other entity with an identity of interest with such parties) wants to serve as a general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest submitted in response to a public request for bids.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 27, 2007.

Reason Waived: The San Antonio Housing Authority (SAHA) procured NRP Group, LLC as the developer for the San Juan Apartments site through a competitive Request for Proposal (RFP). NRP Contractors, LLC, an affiliate of the developer will serve as the co-general contractor while San Antonio Housing Facility Corporation (the Facility Corporation), an instrumentality of the housing authority will serve as the general contractor as a pass-through entity for the purpose of receiving certain sales tax benefits. The Facility Corporation will have no significant role in the construction of the development. SAHA submitted an independent cost estimate from Wiles Associates, who reviewed the plans and specifications for the San Juan Apartments. Wiles Associates provided a cost estimate, which reflects that NRP Contractors, LLC estimate of $63.37 per square foot is less than its estimate of $63.76 per square foot for this project. As NRP Contractors, LLC cost was below that of the independent cost estimates, HUD's condition is satisfied.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, 451 Seventh Street, SW., Room 4130, Washington, DC 20410–5000, telephone (202) 401–8812.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: King County Housing Authority (KCHA), King County, WA. The KCHA requested a waiver regarding exception payment standards so that it could provide a reasonable accommodation to a person with disabilities.

Nature of Requirement: Section 982.505(d) of HUD's regulations states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 27, 2007.

Reason Waived: The assisted participant is a person with disabilities. The participant's physician stated that due to the participant's mental impairment and disabilities associated with traumatic head injury the participant should remain in the current unit that is close to the medical care facility. To provide a reasonable accommodation so that this participant would pay no more than 40 percent of the participant's adjusted income toward the family share, an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR was approved.

Contact: David Vargas, Director, Housing Voucher Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 402–6192.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: King County Housing Authority (KCHA), King County, WA. The KCHA requested a waiver regarding exception payment standards so that it could provide a reasonable accommodation to a person with disabilities.

Nature of Requirement: Section 982.505(d) of HUD's regulations states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 14, 2007.

Reason Waived: The assisted participant is a person with disabilities. The participant's physician stated that due to the participant's multiple neurological issues, the participant should remain in the current unit. To provide a reasonable accommodation so that the participant would pay no more than 40 percent of the participant's adjusted income toward the family share, an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR was approved.

Contact: David Vargas, Director, Housing Voucher Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 402–6192.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: King County Housing Authority (KCHA), King County, WA. The

KCHA requested a waiver regarding exception payment standards so that it could provide a reasonable accommodation to a person with disabilities.

Nature of Requirement: Section 982.505(d) off HUD's regulations states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 2, 2007.

Reason Waived: The assisted participant is a person with disabilities. The participant owns a manufactured home, which has been modified to meet the participant's physical needs, and is accessible to support services in the area. To provide a reasonable accommodation so that this newly admitted participant would pay no more than 40 percent of the participant's adjusted income toward the family share, an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR was approved.

Contact: David Vargas, Director, Housing Voucher Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 402–6192.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: King County Housing Authority (KCHA), King County, WA. The KCHA requested a waiver regarding exception payment standards so that it could provide a reasonable accommodation to a person with disabilities.

Nature of Requirement: Section 982.505(d) of HUD's regulations states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: January 23, 2007.

Reason Waived: The assisted participant is an elderly person with disabilities. The participant owns a manufactured home, which has been modified to meet the participant's physical needs, and is accessible to transportation and services in the area. To provide a reasonable accommodation so that this newly admitted participant would pay no more than 40 percent of the participant's adjusted income toward the family share, an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR was approved

Contact: David Vargas, Director, Housing Voucher Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC. 20410–5000, telephone (202) 402–6192.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of Snohomish County (HASC), Snohomish County, WA. The HASC requested a waiver regarding exception payment standards so that it could provide a reasonable accommodation to a person with disabilities.

Nature of Requirement: Section 982.505(d) of HUD's regulations states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Orlando J. Cabrera, Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 22, 2007.

Reason Waived: The assisted participant, who is a person with disabilities, owns a manufactured home and the participant's physician and therapist documented that it would be a hardship for the participant to move. To provide a reasonable accommodation so that the newly admitted participant would pay no more than 40 percent of the participant's adjusted income toward the family share, an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR was approved

Contact: Dr. Alfred Jurison, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–8000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Sarasota Office of Housing and Community Development (SOHCD), Sarasota, FL. The SOHCD requested a waiver regarding exception payment standards so that it could provide a reasonable accommodation to a person with disabilities.

Nature of Requirement: Section 982.505(d) of HUD's regulations states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: January 23, 2007.

Reason Waived: The assisted participant is a person with disabilities. The participant required a detached home that was not close to a highway or any chemical exposures as documented by the participant's medical health care provider. A three-bedroom unit was the only unit that was available after an extensive housing search. To provide a reasonable accommodation so that this newly admitted participant would pay no more than 40 percent of the participant's adjusted income toward the family share, an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR was approved.

Contact: David Vargas, Director, Housing Voucher Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 402–6192.

• *Regulation:* 24 CFR 983.51(b)(1).

Project/Activity: Housing Authority of the City of Lake Charles (HACLC), Lake Charles, Louisiana. The HACLC requested a waiver of competition under the project-based voucher PBV regulations so that it could use available money under its approved Notice of Intent and Fungibility Plan to lower its debt service on a PHA-owned 20 unit complex in Raleigh, Smith County.

Nature of Requirement: Section 983.51(b)(1) of HUD's regulations states that the PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan and may not limit proposals to a single site or practically preclude owner submission of proposals for PBV housing in different sites.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 1, 2007.

Reason Waived: The HACLC intends to use available funds in accordance with the Department's implementation guidance for 901 Emergency Supplemental Appropriations dated July 28, 2006, to acquire existing units that will comply with housing quality standards and be available to previously assisted families that were displaced by Hurricane Katrina.

Contact: David Vargas, Director, Housing Voucher Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone, (202) 402–6192.

• *Regulation:* 24 CFR 983.51(b)(1).

Project/Activity: Mississippi Regional Housing Authority V (MRHAV) requested a waiver of competition under the project-based voucher PBV regulations so that it could use available money under its approved Notice of Intent and Fungibility Plan to lower its debt service on a PHA-owned 20 unit complex in Raleigh, Smith County.

Nature of Requirement: Section 983.51(b)(1) of HUD's regulations states that the PHA must select PBV proposals in accordance with the selection procedures in the PHA administrative plan and may not limit proposals to a single site or practically preclude owner submission of proposals for PBV housing in different sites.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 23, 2007.

Reason Waived: The MRHAV intends to use available funds in accordance with the Department's implementation guidance for 901 Emergency Supplemental Appropriations dated July 28, 2006, to expeditiously serve previously assisted families displaced by Hurricane Katrina.

Contact: David Vargas, Director, Housing Voucher Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone, (202) 402–6192.

• *Regulation:* 24 CFR 990.185(a).

Project/Activity: Utica Municipal Housing Authority (UMHA), Buffalo, New York. The

UMHA is contracting to Energy Performance through a term longer than the stated 12-year maximum.

Nature of Requirement: On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005. Pub. L. 109–58, Subtitle D—Public Housing, Section 151, (2)(B), which states: ''Term of contract—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits''. However, HUD's current regulation 24 CFR 990.185(a) states that the contract period shall not exceed 12 years.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: February 12, 2007.

Reason Waived: UMHA is undertaking a self-developed energy project, acting as an Energy Services Company, and has hired a qualified third party consultant to provide energy management expertise. UMHA anticipates that recommendations arising from its energy audit will incorporate a selection of energy conservation measures whose life cycle expectations and cost will exceed the 12-year regulatory limit regulatory limitation in 24 CFR 990.185(a). UMHA anticipates that the selection of energy conservation of retrofits will be capable of generating adequate savings to amortize the resulting debt within the approved period of the energy performance contract. Based upon the anticipated savings and benefits to UMHA and its residents, this waiver grants the UMHA the 12-year payback period to allow up to a 20-year payback period, contingent on HUD's provisions to UMHA. HUD's provisions include additional information and technical activity requirements unique to the characteristics of the project and the PHA. The purpose of the provisions is to ensure success, minimize risk to projected savings (used to amortize the loan) and to HUD. The PHA must comply with all of HUD's provisions for the waiver to be effective.

Contact: Nicole Faison, Director, Office of Public Housing Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4238, Washington, DC 20410–5000, telephone (202) 708–0744.

• *Regulation:* 24 CFR 990.185(a).

Project/Activity: Watertown Housing Authority (WHA), Watertown, New York. The WHA is contracting to Energy Performance through a term longer than the regulatory 12-year maximum.

Nature of Requirement: This regulation describes permissible funding options for accomplishing cost-effective energy audits and energy conservation measures (ECMs). It also states that if a PHA undertakes ECMs that are financed by an entity other than HUD, the PHA may qualify for incentives available in 24 CFR 990.185. The Department encourages PHAs, through its support of the Energy Policy Act of 2005, to employ innovative approaches to achieve programmatic efficiency and reduce utility costs particularly as PHAs transition to asset management.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 1, 2007.

Reason Waived: The WHA is undertaking a self-developed energy project, which the WHA can counteract a portion of the funding shortfalls historically appropriated to the housing industry by Congress to capture eight additional years of energy savings. This capture of non-Secretary funding would allow the implementation of capital improvements that have longer payback periods such as window replacement, heating plants upgrades, and increased building envelope insulation. The WHA would be able to consider including into their program site based generation and other advanced renewable and sustainable energy conservation retrofits. Based upon the anticipated savings and benefits to WHA and its residents, this waiver grants the WHA an increase from the 12-year payback period to allow up to a 20-year payback period, contingent on HUD's provisions to WHA. HUD's provisions include additional information and technical activity requirements unique to the characteristics of the project and the PHA. The purpose of the provisions is to ensure success, minimize risk to projected savings (used to amortize the loan) and to HUD. The PHA must comply with all of HUD's provisions for the waiver to be effective.

Contact: Nicole Faison, Director, Office of Public Housing Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4238, Washington, DC 20410–5000, telephone (202) 708–0744.

• *Regulation:* 24 CFR 990.185(a).

Project/Activity: Housing Authority of Portland (HAP), Portland, Oregon. The HAP is contracting to Energy Performance through a term longer that the regulatory 12-year maximum.

Nature of Requirement: This regulation describes permissible funding options for accomplishing cost-effective energy audits and energy conservation measures (ECMs). It also states that if a PHA undertakes ECMs that are financed by an entity other than HUD, the PHA may qualify for incentives available in 24 CFR 990.185. The Department encourages PHAs, through its support of the Energy Policy Act of 2005, to employ innovative approaches to achieve programmatic efficiency and reduce utility costs as PHAs transition to asset management.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 1, 2007.

Reason Waived: The HAP can implement capital improvements that have longer payback periods such as window replacement, heating plants upgrades, and increased building envelope insulation. HAP will also investigate and consider including other advanced renewable and sustainable energy conservation retrofits in its program. This request will permit a benefit from energy performance contracting at HAP's public housing developments through a term longer than the stated 12-year maximum. This is in direct correlation to the National Energy Policy Act, approved by Congress and signed by President Bush on August 8, 2005 and PIH Notice 2006–06. HAP anticipates that the selection of energy conservation of retrofits will be capable of generating adequate savings to amortize the resulting debt within the approved period of the energy performance contract. Based upon the anticipated savings and benefits to HAP and its residents, this waiver grants the HAP the 12-year payback period to allow up to a 20-year payback period, contingent on HUD's provisions to HAP. HUD's provisions include additional information and technical activity requirements unique to the characteristics of the project and the PHA. The purpose of the provisions is to ensure success, minimize risk to projected savings (used to amortize the loan) and to HUD. The PHA must comply with all of HUD's provisions for the waiver to be effective.

Contact: Nicole Faison, Director, Office of Public Housing Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4238, Washington, DC 20410–5000, telephone (202) 708–0744.

• *Regulation:* 24 CFR 990.185(a).

Project/Activity: Schuylkill County Housing Authority (SCHA), Schuylkill Haven, Pennsylvania is contracting to energy performance through a term longer than the regulatory 12-year maximum.

Nature of Requirement: On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005. Pub. L. 109–58, Subtitle D—Public Housing, Section 151, (2)(B), which states: ''Term of contract—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits''. However, HUD's current regulation 24 CFR 990.185(a) states that the contract period shall not exceed 12 years.

Granted By: Orlando J. Cabrera, Assistant Secretary for Public and Indian Housing.

Date Granted: March 1, 2007.

Reason Waived: The SCHA issued a Request for Proposal (RFP) for an Energy Performance Contracting program. The SCHA selected an Energy Services Company (ESCO) to perform the energy audit and executed a contract. Based on the SCHA's knowledge of its utility related needs and equipment, it anticipated that the recommendations arising from the audit would incorporate a selection of energy conservation improvements whose life cycle expectation and cost would exceed the 12-year regulatory limitation reflected in 24 CFR 990.185. The SCHA anticipates that the selection of retrofits is capable of generating adequate savings to amortize the resulting debt within the approved period of the Energy Performance Contract.

Contact: Nicole Faison, Director, Office of Public Housing Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4238, Washington, DC 20410–5000, telephone (202) 708–0744.

• *Regulations:* 24 CFR part 5 and 24 CFR Chapter IX.

Project/Activity: The PHAs identified in Table 1, are all located within a

presidentially declared disaster area as a result of damages caused by Hurricanes Katrina, Rita or Wilma, and each PHA notified HUD of the need for one or more regulatory waivers made available to PHAs in Hurricanes Katrina, Rita and Wilma disaster areas by three **Federal Register** notices. The first notice is *Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricane Katrina Disaster Areas, signed September 27, 2005, and published in the* ***Federal Register*** *on October 3, 2005 (70 FR 57716), the second notice is Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricane Rita Disaster Areas; and Additional Administrative Relief for Hurricane Katrina, signed October 25, 2005, and published in the* ***Federal Register*** *on November 1, 2005 (70 FR 66222), and the third notice is Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs To Assist With Recovery and Relief in Hurricane Wilma Disaster Areas, signed on March 7, 2006, and published in the* ***Federal Register*** *on March 13, 2006 (71 FR 12988):*

Nature of Requirements: The three **Federal Register** notices provided for waiver of the following regulations, in 24 CFR part 5 and 24 CFR Chapter IX for those PHAs in the disaster areas that notified HUD through a special waiver request process designed to expedite both the submission of regulatory requests to HUD and HUD's response to the request.

1. 24 CFR 5.216(g)(5) (Disclosure and Verification of Social Security and Employer Identification Numbers);

2. 24 CFR 5.512(c) (Verification of Eligible Immigration Status; Secondary Verification);

3. 24 CFR 5.801(c) and 5.801(d) (Uniform Financial Reporting Standards (UFRS));

4. 24 CFR 902 (Public Housing Assessment System (PHAS));

5. 24 CFR 903.5 (Annual Plan Submission Deadline);

6. 24 CFR 905.10(i) (Capital Fund Formula; Limitation of Replacement Housing Funds to New Development);

7. 24 CFR 941.306 (Maximum Project);

8. 24 CFR 965.302 (Requirement for Energy Audits);

9. 24 CFR 982.54 (Administrative Plan);

10. 24 CFR 982.206 (Waiting List; Opening and Public Notice);

11. 24 CFR 982.401(d) (Housing Quality Standards; Space Requirements);

12. 24 CFR 982.503(b) (Waiver of payment standard; Establishing Payment Standard; Amounts);

13. 24 CFR 984.303 (Contract of Participation; Family Self-Sufficiency (FSS) Program; Extension of Contract) and 24 CFR 984.105 (Minimum Payment Size);

14. 24 CFR part 985 (Section 8 Management Assessment Program (SEMAP)); and

15. 24 CFR 990.145 (Dwelling Units with Approved Vacancies).

16. 24 CFR 1000.156 and 1000.158 (IHBG Moderate Design Requirements for Housing Development).

17. 24 CFR 1000.214 (Indian Housing Plan (IHP) Submission Deadline).

18. 24 CFR 1003.400(c) and Section I.C. of FY 2005 Indian Community Development Block Grants (ICDBG) Program Notice of Funding Availability (NOFA) (Grant Ceilings for ICDBG Imminent Threat Applications).

19. 24 CFR 1003.401 and Section I.C. of FY 2005 ICDBG NOFA (Application Requirements for ICDBG Imminent Threat Funds).

20. 24 CFR 1003.604 (ICDBG Citizen Participation Requirements). Both **Federal Register** notices described the regulatory requirement in detail and the period of suspension or alternative compliance date.

Granted By: Roy A. Bernardi, Deputy Secretary HUD's Deputy Secretary granted the initial waivers that were presented in notices and published in the **Federal Register** on October 3, 2005, and November 1, 2005 notice. The waivers presented by notice published in the **Federal Register** on March 13, 2006 were granted by Orlando J. Cabrera, Assistant Secretary, Public and Indian Housing.

Date Granted: Please refer to Table 1. Table 1 identifies Public Housing Agencies (PHAs) that have requested and were granted the regulatory waivers made available through the three **Federal Register** notices. The table identity's by number (as listed in the **Federal Register** notices) the regulatory waivers granted to each housing entity and identifies whether the housing entity was located in a Hurricane Katrina, Hurricane Rita or Hurricane Wilma disaster area.

Reason waived: The regulations waived in the October 3, 2005, and the November 1, 2005, and the March 13, 2006, **Federal Register** notices were waived to facilitate the delivery of safe and decent housing under HUD's Public Housing programs to families and individuals that were displaced from their housing as a result of the hurricanes.

Contacts: Reference the items numbers with the items identified in the aforementioned ''Nature of Requirements'' section for the following contacts:

• Requirements 1, 2 and 8 '' Nicole Faison, Director, Public Housing Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4222, Washington, DC 20410–5000, telephone (202) 708–0744;

• Requirements 3, 4 and 15—Wanda F. Funk, Senior Advisor, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8736;

• Requirement 5—Merrie Nichols-Dixon, Director, Compliance and Coordination Division, Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4112, Washington, DC 20410–5000, telephone (202) 708–4016.

• Requirements 6 and 7 '' Jeffery Riddel, Director, Capital Fund Division, Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4146, Washington, DC 20410–5000, telephone (202) 401–8812;

• Requirements 9–14—Alfred C. Jurison, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477;

• Requirements 16–20—Deborah M. Lalancette, Director, Office of Grants Management, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 1670 Broadway Denver, CO 80202, telephone (303) 675–1600.

TABLE 1

Housing authority code	Housing Authority Name and Hurricane Disaster Area, (K), (R) and (W) indicates whether the Housing Authority was located in the hurricane Katrina, Rita or Wilma disaster areas.	Regulatory Waivers Granted, by Item No.	Date Notification Received
MS103	The Housing Authority of the City of Jackson, Mississippi (K)	1–4, 9–13 & 15	02/07/07
FL005	Miami Dade Housing Authority (W)	1–9, 13–15	02/26/07
FL028	Housing Authority of Pompano Beach (K)	4	02/09/07
TX005	Housing Authority of the City of Houston	14	01/05/07

• *Regulations:* 24 CFR part 5 and 24 CFR Chapter IX.

Project/Activity: The PHAs identified in Table 1, are all located within a presidentially declared disaster areas; and each PHA was previously granted regulatory waiver(s), as provided for in **Federal Register** notices *Regulatory and Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricane Katrina, Rita, and Wilma Disaster Areas*, published October 3, 2005, November 1, 2005, and March 13, 2006, and in compliance **Federal Register** notice Extension of Regulatory and

Administrative Waivers Granted for Public and Indian Housing Programs to Assist with Recovery and Relief in Hurricanes Katrina, Rita, and Wilma Disaster Areas, signed December 21, 2006, and published in the **Federal Register** on December 27, 2006 (71 FR 78022):

Nature of Requirements: The **Federal Register** notice provided for an extension of previously granted waivers of the following regulations, in 24 CFR part 5 and 24 CFR Chapter IX for those PHAs in the disaster areas that notified HUD through a special waiver request process designed to expedite both the submission of regulatory requests to HUD and HUD's response to the request.

a. 24 CFR 5.801(c) and 5.801(d) (Uniform Financial Reporting Standards (UFRS));

b. 24 CFR 902 (Public Housing Assessment System (PHAS));

c. 24 CFR 903.5 (Annual Plan Submission Deadline);

d. 24 CFR 905.10(i) (Capital Fund Formula; Limitation of Replacement Housing Funds to New Development);

e. 24 CFR 941.306 (Maximum Project);

f. 24 CFR 965.302 (Requirement for Energy Audits);

g. 24 CFR 982.54 (Administrative Plan);

h. 24 CFR 982.401(d) (Housing Quality Standards; Space Requirements);

i. 24 CFR 982.503(b) (Waiver of payment standard; Establishing Payment Standard; Amounts);

j. 24 CFR 984.303 (Contract of Participation; Family Self-Sufficiency (FSS) Program; Extension of Contract) and 24 CFR 984.105 (Minimum Payment Size);

k.24 CFR part 985 (Section 8 Management Assessment Program (SEMAP)); and

l. 24 CFR 990.145 (Dwelling Units with Approved Vacancies).

The **Federal Register** notice described the regulatory requirements in detail and the period of suspension or alternative compliance date.

Granted By: Roy A. Bernardi, Deputy Secretary, by notice published in the **Federal Register** on December 27, 2006.

Date Granted: Please refer to Table 1. Table 1 identifies Public Housing Agencies (PHAs) that have requested and were granted the extension to the regulatory waivers made available through the three **Federal Register** notice. The table identifies by letter (as listed in the **Federal Register** notice) the regulatory extension to waivers granted to each housing entity and identifies whether the housing entity was located in a Hurricane Katrina, Hurricane Rita or Hurricane Wilma disaster area.

Reason waived: The regulations waived in the December 27, 2006, **Federal Register** notice were waived to facilitate the delivery of safe and decent housing under HUD's Public Housing programs to families and individuals that were displaced from their housing as a result of the hurricanes.

Contacts: Reference the item numbers with the items identified in the aforementioned ''Nature of Requirements'' section for the following contacts:

• Requirements for item ''f''—Nicole Faison, Director, Public Housing Programs, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4222, Washington, DC 20410–5000, telephone (202) 708–0744;

• Requirements for items ''a'', ''b'', and ''l''—Wanda F. Funk, Senior Advisor, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8736;

• Requirement for items ''c''—Merrie Nichols-Dixon, Director, Compliance and Coordination Division, Office of Field Operations, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4112, Washington, DC 20410–5000, telephone (202) 708–4016.

• Requirements for items ''d'' and ''e''—Jeffery Riddel, Director, Capital Fund Division, Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4146, Washington, DC 20410–5000, telephone (202) 401–8812;

• Requirements for items ''f'', ''g'', ''h'', ''i'', ''j'', and ''k''—Alfred C. Jurison, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477;

TABLE 1

HOUSING AUTHORITY CODE	Housing Authority Name and Hurricane Disaster Area, (K), (R) and (W) indicates whether the Housing Authority was located in the hurricane Katrina, Rita or Wilma disaster area.	Regulatory Waivers Granted, listed by item No	Date Request Acknowledged (N/A indicates Automatic waiver granted)
AL165	Foley Housing Authority (K)	c, f, k & l	01/08/07
FL003	Tampa Housing Authority (W)	a & b	N/A
FL005	Miami Dade Housing Authority (W)	a–h, j–l	02/02/07
FL010	Housing Authority of Fort Lauderdale (W)	k	02/07/07
FL017	Housing Authority of the City of Miami Beach (W)	b	N/A
FL021	Pahokee Housing Authority (W)	b	N/A
FL025	Housing Authority of the City of Titusville (W)	b	N/A
FL060	Punta Gorda Housing Authority (W)	b	N/A
FL076	Riviera Beach Housing Authority (W)	b	N/A
FL080	Palm Beach County Housing Authority (W)	b	N/A
FL089	Hillsborough County-BOCC (W)	a	N/A
FL116	Dania Beach Housing Authority (W)	b & k	01/05/07
FL141	Collier County Housing Authority (W)	j & k	01/29/07
FL144	Monroe County Housing Authority (W)	c	N/A
LA001	Housing Authority of the City of New Orleans (K)	a–l	02/09/07
LA003	Housing Authority of East Baton Rouge Parish (K)	b & k	02/23/07
LA004	Lake Charles Housing Authority (K)	a & b	N/A
LA005	Lafayette Parish Housing Authority (K)	a–l	01/29/07
LA011	Westwego Housing Authority (K)	a, b & l	01/29/07
LA012	Housing Authority of Kenner (K)	a–c, g, h & l	02/01/07
LA013	Jefferson Parish Housing Authority (K)	a & b	N/A
LA024	Bogalusa Housing Authority (K)	b	N/A
LA026	Kaplan Housing Authority (K)	b	N/A
LA029	Crowley Housing Authority (K)	a & b	N/A
LA036	Morgan City Housing Authority (K)	a & b	N/A
LA043	Donaldsonville Housing Authority (K)	c, f & l	02/01/07
LA045	Arcadia Housing Authority (K)	b	N/A
LA046	Housing Authority of the Town of Vinton (K)	a & b	N/A
LA055	Housing Authority of the City of Opelousas (K)	a–f & l	02/01/07
LA063	Sulphur Housing Authority (K)	k	01/29/07
LA070	Housing Authority of the Town of Patterson (K)	a & b	N/A

TABLE 1—Continued

HOUSING AUTHORITY CODE	Housing Authority Name and Hurricane Disaster Area, (K), (R) and (W) indicates whether the Housing Authority was located in the hurricane Katrina, Rita or Wilma disaster area.	Regulatory Waivers Granted, listed by item No	Date Request Acknowledged (N/A indicates Automatic waiver granted)
LA080	Housing Authority of Lafourche Parish (K)	a	N/A
LA084	Parks Housing Authority (K)	a & b	N/A
LA090	Houma-Terrebonne Housing Authority (K)	d	01/05/07
LA092	St. James Parish Housing Authority (K)	b	N/A
LA094	St. Charles Parish Housing Authority (K)	a & b	N/A
LA095	Housing Authority of St. John the Baptist Parish (K)	a & b	N/A
LA103	Slidell Housing Authority (K)	a–l	01/29/07
LA122	Housing Authority of the town of Colfax (K)	a & b	03/21/07
LA172	Calcasieu Parish Housing Department (K)	c, g, j & k	01/29/07
LA238	Covington Housing Authority (K)	a, b, k & l	01/29/07
LA254	Town of Pearl River (K)	a–l	01/29/07
LA262	East Carroll Parish Housing Authority (K)	a & b	N/A
MS001	Hattiesburg Housing Authority (K)	c & f	01/08/07
MS003	The Housing Authority of the City of McComb City, MS (K)	a–f, h, i & l	01/05/07
MS004	The Housing Authority of the City of Meridian (K)	k	03/22/07
MS005	Biloxi Housing Authority (K)	a–e, g, h, j–l	01/08/07
MS030	MS Regional Housing Authority No. V (K)	a, b, k	02/23/07
MS040	Mississippi Regional Housing Authority No. VIII (K)	c–g, i, j & l	03/21/07
MS057	Mississippi Regional Housing Authority No. VII (K)	k	01/05/07
MS058	Mississippi Regional Housing Authority No. VI (K)	a & b	N/A
MS064	Bay St. Louis Housing Authority (K)	c, d, f–h	01/05/07
MS066	Picayune Housing Authority (K)	b	01/05/07
MS071	Aberdeen Housing Authority (K)	a & b	N/A
MS082	Winona Housing Authority (K)	a & b	N/A
MS084	Housing Authority of the Town of Summit (K)	c–f, h, i & l	01/05/07
MS086	Vicksburg Housing Authority (K)	b	N/A
MS094	Hazlehurst Housing Authority (K)	b	N/A
MS101	Waveland Housing Authority (K)	a, b, d–f	01/05/07
MS103	Housing Authority of the City of Jackson (K)	a & b	N/A
MS105	Natchez Housing Authority (K)	b	N/A
MS107	Greenwood Housing Authority (K)	a–c, g, h & l	03/05/07
MS109	Long Beach HA (K)	a–c, f–l	01/29/07
TX004	Fort Worth Housing Authority (R)	g, h & k	02/09/07
TX023	Housing Authority of the City a of Beaumont (R)	–e, g, j–l	02/02/07
TX034	City of Port Arthur Housing Authority	a & b	N/A
TX037	Orange Housing Authority (R)	a, b, h, k & l	01/16/07
TX223	Newton Housing Authority (R)	b & f	02/09/07
TX225	Woodville Housing Authority (R)	b & f	01/29/07
TX383	San Augustine Housing Authority (R)	b	02/01/07
TX431	Tarrant County Housing Assistance Office (R)	a, g, h & k	02/09/07
TX512	Deep East Texas Council of Governments (DETCOG) Regional Housing Authority (R).	a, g, h & k	02/16/07
TX526	Brazos Valley Council of Governments (R)	k	03/02/07
TX540	Brenham Section 8 Program, City of (BVDC) (R)	k	03/02/07

[FR Doc. 07–3215 Filed 6–27–07; 2:06 pm]

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Federal Register

Monday,
July 2, 2007

Part VII

Department of Homeland Security

Coast Guard

33 CFR Parts 3, 20, 100, et al.

46 CFR Parts 1, 2, 4, et al.

Coast Guard Sector, Marine Inspection Zone, and Captain of the Port Zone Structure; Technical Amendment; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 3, 20, 100, 104, 110, 135, 151, 160, 162, and 165

46 CFR Parts 1, 2, 4, 5, 16, 28, 45, 50, 67, 115, 122, 153, 169, 170, 176, and 185

[USCG–2006–25556]

RIN 1625–AB07

Coast Guard Sector, Marine Inspection Zone, and Captain of the Port Zone Structure; Technical Amendment

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule makes non-substantive amendments throughout titles 33 and 46 of the Code of Federal Regulations, in order to align with changes in the Coast Guard's internal organization that resulted from the Coast Guard's recent sector realignment. The amendments typically describe the boundaries of sectors, marine inspection zones, and Captain of the Port zones; describe the reporting relationship between various field units; or reflect a change in the identity of the field unit that is responsible for a particular matter. This rule will have no substantive effect on the regulated public.

DATES: This final rule is effective July 2, 2007. As a member of the public, the effective date of this rule does not place any new requirements on you. For example, if you are currently required to submit a vessel response plan under 33 CFR part 155, this rule may change the Captain of the Port Zone boundaries that are reflected in your plan. However, you do not need to incorporate those changes in your plan until your next scheduled plan revision, or in conjunction with an annual plan review conducted after July 2, 2007.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2006–25556 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Lieutenant Commander Todd Styrwold, Coast Guard, telephone 202–372–2687. If you have questions on viewing the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under both 5 U.S.C. 553(b)(A) and (b)(B), the Coast Guard finds that this rule is exempt from notice and comment rulemaking requirements because these changes involve agency organization, and good cause exists for not publishing an NPRM because the changes made are all non-substantive. This rule consists only of organizational amendments. These changes will have no substantive effect on the public; therefore, it is unnecessary to publish an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The Coast Guard has established a new system of sector commands. Sectors provide unified command and control for accomplishing Coast Guard mission objectives through the integrated conduct of operations, coordinated leveraging of maritime partner relationships, foresight in planning, and aggressive employment of assets and capabilities within the sector's assigned Area of Responsibility (AOR). Sectors provide strategically guided, goal-focused, high-performance service delivery across the full range of Coast Guard missions.

Sector AORs were created based on existing Captain of the Port (COTP) Zones and Marine Inspection Zones where possible. They combine the following Coast Guard legal titles and authorities-COTP, Federal Maritime Security Coordinator, Federal On-Scene Coordinator, Officer in Charge, Marine Inspection (OCMI), Search and Rescue Mission Coordinator—under one operational commander, with the resources necessary to carry out those responsibilities. The establishment of sectors has led to increased interaction and coordination of Coast Guard missions, resulting in improved command and control and better unity of effort in both homeland security and non-homeland security missions.

The Sector Commander serves as the focal point and principal Coast Guard official to engage intra-Department of Homeland Security and interagency partners as well as other maritime stakeholders.

Sectors combine legacy Marine Safety Offices (MSOs), Groups, Vessel Traffic Services, and some Air Stations into a standard organizational architecture. A diverse array of field structures has been transformed into 35 new sector commands, each of which consists of a Prevention, Response, and Logistics Department.

In order to reflect the establishment of sector commands, this final rule extensively revises 33 CFR part 3, which contains informational provisions that describe Coast Guard internal organization. In addition, this rule amends numerous other Coast Guard regulations containing references that are affected by that establishment. While we have made every effort to update terminology comprehensively, if you encounter terms that you believe need updating, please contact the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**).

Please note that this rule is not intended to require any new action on your part. For example, if you previously filed a Vessel Response Plan (VRP) with us, pursuant to 33 CFR Part 155, the COTP zones on which you based your VRP may be changed by this rule. However, you are not required to change your VRP at this time, simply in order to reflect the changed COTP zones. Instead, we expect that you will reflect the then-current COTP zones the next time you conduct a scheduled plan revision or conduct your annual VRP review.

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. As this rule involves internal agency organization and non-substantive changes, it will not impose any costs on the public.

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. This rule does not require a general NPRM and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(a) and (b), of the Instruction from further environmental documentation because this rule involves editorial, procedural, and internal agency functions. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 20

Administrative practice and procedure, Hazardous substances, Oil pollution, Penalties, Water pollution control.

33 CFR Part 100

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

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 135

Administrative practice and procedure, Continental shelf, Insurance, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 162

Navigation (water), Waterways.

33 CFR Part 165

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

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 4

Administrative practice and procedure, Drug testing, Investigations, Marine safety, Nuclear vessels, Radiation protection, Reporting and recordkeeping requirements, Safety, Transportation.

46 CFR Part 5

Administrative practice and procedure, Alcohol abuse, Drug abuse, Investigations, Seamen.

46 CFR Part 16

Drug testing, Marine safety, Reporting and recordkeeping requirements, Safety, Transportation.

46 CFR Part 45

Great Lakes, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 50

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 67

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 115

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 122

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 170

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 176

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 185

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 3, 20, 100, 104, 110, 135, 151, 160, 162, and 165; and 46 CFR parts 1, 2, 4, 5, 16, 28, 45, 50, 67, 115, 122, 153, 169, 170, 176, and 185, as follows:

PART 3—COAST GUARD AREAS, DISTRICTS, SECTORS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

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

Authority: 14 U.S.C. 92; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1, para. 2(23).

■ 2. Revise the heading to part 3 to read as follows:

PART 3—COAST GUARD AREAS, DISTRICTS, SECTORS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

* * * * *

■ 3. Revise § 3.01–1 to read as follows:

§ 3.01–1 General description.

(a) The Coast Guard's general organization for the performance of its assigned functions and duties consists of the Commandant, assisted by the Headquarters staff, two Area Offices to act as intermediate echelons of operational command, and District and Sector Offices to provide regional direction and coordination. Area, District, and Sector offices operate within defined geographical areas of the United States, its territories, and possessions, including portions of the high seas adjacent thereto. They are established by the Commandant and their areas of responsibility are described in this part.

(b) The two Coast Guard Areas are the Atlantic Area and the Pacific Area. A Coast Guard Area Commander is in command of a Coast Guard Area. The Atlantic Area Office is collocated with the Fifth Coast Guard District Office. The Pacific Area Office is collocated with the Eleventh Coast Guard District Office. Area Commanders are responsible for determining when operational matters require the coordination of forces and facilities of more than one district.

(c) A Coast Guard District Commander is in command of a Coast Guard District and the District Commander's office may be referred to as a Coast Guard District Office. The District Commander's duties are described in § 1.01–1 of this subchapter.

(d)(1) A Coast Guard Sector Commander is in command of a Coast Guard Sector and the Sector Commander's office is referred to as a Coast Guard Sector Office. The Sector Commander is responsible for all Coast Guard missions within the sector's area of responsibility. The Sector Commander's authorities include Search and Rescue Mission Coordinator, Federal Maritime Security Coordinator, Federal On-Scene Coordinator, and, in most Sectors, Officer in Charge Marine Inspection (OCMI) and Captain of the Port (COTP). In his or her capacities as OCMI and COTP, the Sector Commander is responsible for a Marine Inspection Zone and COTP Zone.

(2) In some Sectors, a Marine Safety Unit (MSU) retains OCMI and COTP authority over a designated portion of the Sector's area of responsibility. In such cases, OCMI and COTP authority is exercised by the MSU Commander, not the Sector Commander. The appeal of a COTP order or OCMI matter is routed from the MSU Commander through the Sector Commander and then to the District Commander.

(e) An OCMI is in command of a Marine Inspection Zone and his or her office may be referred to as a Coast Guard Marine Inspection Office. The OCMI's duties are described in § 1.01–20 of this subchapter.

(f) A COTP is in command of a COTP Zone and his or her office may be referred to as a COTP Office. The COTP's duties are described in § 1.01–30 of this subchapter.

(g) Each COTP Zone and each Marine Inspection Zone described in this part also includes the United States territorial seas adjacent to the described area or zone for the purpose of enforcing or acting pursuant to a statute effective in the United States territorial seas. Each COTP Zone and each Marine Inspection Zone described in this part also includes the contiguous zone adjacent to the area or zone for the purpose of enforcing or acting pursuant to a statute effective in the contiguous zone, as defined in § 2.28 of this subchapter. Each COTP Zone and each Marine Inspection Zone described in this part also includes the exclusive economic zone (EEZ) adjacent to the area for the purpose of enforcing or acting pursuant to a statute effective in the EEZ, as defined in § 2.30 of this subchapter.

(h) Geographic descriptions used in this part are based upon boundaries and points located using the WGS 1984 world grid system. When referenced, the outermost extent of the U.S. EEZ is the line of demarcation produced by the National Oceanic and Atmospheric Administration (NOAA) using the NAD 1983 coordinate system and projected to the WGS 1984 grid system. Both

coordinate systems are geocentric and similar such that they are Global Positioning System (GPS) compatible throughout the area of concern. Resolution is based upon ddmmss readings to tenths of a second. This corresponds to a positional precision of about +/−2 meters. Decimal degrees to 5 decimal places correspond to a positional precision of about +/−1 meter. State boundaries used to determine points for descriptions of jurisdictional limits were based upon the National Transportation Atlas Database 2003 produced by the Bureau of Transportation Statistics. This data set was produced at a scale of 1:100,000 and theoretically results in a nationwide locational accuracy of about +/−50 meters of true position.

■ 4. Revise § 3.05–10 to read as follows:

§ 3.05–10 Sector Boston Marine Inspection Zone and Captain of the Port Zone.

Sector Boston's office is located in Boston, MA. The boundaries of Sector Boston's Marine Inspection Zone and Captain of the Port Zone start at the boundary of the Massachusetts-New Hampshire coasts at latitude 42°52′20″ N, long 70°49′02″ W; thence proceeding east to the outermost extent of the EEZ at a point latitude 42°52′18″ N, longitude 67°43′53″ W; thence southeast along the outermost extent of the EEZ to a point at latitude 42°08′00″ N, longitude 67°08′17″ W; thence west to a point at latitude 42°08′00″ N, longitude 70°15′00″ W; thence southwest to the Massachusetts coast near Manomet Point at latitude 41°55′00″ N, longitude 70°33′00″ W; thence northwest to latitude 42°04′00″ N, longitude 71°06′00″ W; thence to the Massachusetts-Rhode Island boundary at a point latitude 42°01′08″ N, longitude 71°22′53″ W; thence west along the southern boundary of Massachusetts, except the waters of Congamond Lakes, to the Massachusetts-New York boundary at latitude 42°02′59″ N, longitude 73°29′49″ W; thence north along the Massachusetts-New York boundary to the Massachusetts-New York-Vermont boundaries at a point latitude 42°44′45″ N, longitude 73°15′54″ W; thence east along the entire extent of the northern Massachusetts boundary to the point of origin.

■ 5. Revise § 3.05–15 to read as follows:

§ 3.05–15 Sector Northern New England Marine Inspection Zone and Captain of the Port Zone.

Sector Northern New England's office is located in Portland, ME. The boundaries of Sector Northern New England's Marine Inspection Zone and Captain of the Port Zone start at the boundary of the Massachusetts-New Hampshire coast at latitude 42°52′20″ N, longitude 70°49′02″ W; thence proceeding east to the outermost extent of the EEZ at a point latitude 42°52′18″ N, longitude 67°43′53″ W; thence proceeding north along the outermost extent of the EEZ to the United States-Canadian boundary; thence west along the United States-Canadian boundary and along the outermost extent of the EEZ to a point at latitude 44°59′58″ N, longitude 74°39′00″ W; thence south to latitude 43°36′00″ N, longitude 74°39′00″ W; thence east through Whitehall, NY, to the New York-Vermont border at latitude 43°33′2.8″ N, longitude 73°15′01″ W; thence south along the Vermont boundary to the Massachusetts boundary at latitude 42°44′45″ N, longitude 73°15′54″ W; thence east along the entire extent of the northern Massachusetts boundary to the point of origin.

■ 6. Revise § 3.05–20 to read as follows:

§ 3.05–20 Sector Southeastern New England Marine Inspection Zone and Captain of the Port Zone.

Sector Southeastern New England's office is located in Providence, RI. The boundaries of Sector Southeastern New England's Marine Inspection Zone and Captain of the Port Zone start on the Massachusetts coast at Manomet Point at latitude 41°55′00″ N, longitude 70°33′00″ W; thence northeast to latitude 42°08′00″ N, longitude 70°15′00″ W; thence east to the outermost extent of the EEZ at latitude 42°08′00″ N, longitude 67°08′17″ W; thence south along the outermost extent of the EEZ to latitude 38°24′45″ N, longitude 67°41′26″ W; thence northwest to a point near Watch Hill Light, RI, at latitude 41°18′14″ N, longitude 71°51′30″ W; thence northeast to Westerly, RI, at latitude 41°21′00″ N, longitude 71°48′30″ W; thence north to latitude 41°25′00″ N, longitude 71°48′00″ W; thence north along the Connecticut-Rhode Island boundary, including the waters of Beach Pond, to the Massachusetts boundary; thence east along the Massachusetts-Rhode Island boundary to the northeastern most corner of Rhode Island; thence northeast to latitude 42°04′00″ N, longitude 71°06′00″ W; thence southeast to the point of origin.

■ 7. Revise § 3.05–30 to read as follows:

§ 3.05–30 Sector New York Marine Inspection Zone and Captain of the Port Zone.

Sector New York's office is located in New York City, NY. The boundaries of Sector New York's Marine Inspection Zone and Captain of the Port Zone start near the south shore of Long Island at latitude 40°35′24″ N, longitude 73°46′36″ W proceeding southeast to a point at latitude 38°28′00″ N, longitude 70°11′00″ W; thence northwest to a point near the New Jersey coast at latitude 40°18′00″ N, longitude 73°58′40″ W; thence west along latitude 40°18′00″ N to longitude 74°30′30″ W; thence northwest to the intersection of the New York-New Jersey-Pennsylvania boundaries near Tristate at latitude 41°21′27″ N, longitude 74°41′42″ W; thence northwest along the east bank of the Delaware River to latitude 42°00′00″ N, longitude 75°21′28″ W; thence east to longitude 74°39′00″ W; thence north to latitude 43°36′00″ N; thence east through Whitehall, NY, to the New York-Vermont border at latitude 43°33′03″ N, longitude 73°15′01″ W; thence south along the New York boundary to latitude 41°01′30″ N, longitude 73°40′00″ W; thence south to a point near the southern shore of Manursing Island at latitude 40°58′00″ N, longitude 73°40′00″ W; thence southeasterly to latitude 40°52′30″ N, longitude 73°37′12″ W; thence south to latitude 40°40′00″ N, longitude 73°40′00″ W; thence southwest to the point of origin.

■ 8. Revise § 3.05–35 to read as follows:

§ 3.05–35 Sector Long Island Sound Marine Inspection Zone and Captain of the Port Zone.

Sector Long Island Sound's office is located in New Haven, CT. The boundaries of Sector Long Island Sound's Marine Inspection Zone and Captain of the Port Zone start near the south shore of Long Island at latitude 40°35′24″ N, longitude 73°46′36″ W proceeding northeast to latitude 40°40′00″ N, longitude 73°40′00″ W; thence to latitude 40°52′30″ N, longitude 73°37′12″ W; thence northwest to a point near the southern shore of Manursing Island at latitude 40°58′00″ N, longitude 73°40′00″ W; thence north to the Connecticut-New York boundary at latitude 41°01′30″ N, longitude 73°40′00″ W; thence north along the western boundary of Connecticut to the Massachusetts-Connecticut boundary at latitude 42°02′59″ N, longitude 73°29′15″ W; thence east along the southern boundary of Massachusetts, including the waters of the Congamond Lakes, to the Rhode Island boundary at latitude 42°00′29″ N, longitude 71°47′57″ W; thence south along the Connecticut-Rhode Island boundary, excluding the waters of Beach Pond, to latitude 41°24′00″ N, longitude 71°48′00″ W; thence south to

latitude 41°21′00″ N, longitude 71°48′30″ W near Westerly, RI; thence southwest to a point near Watch Hill Light, RI, at latitude 41°18′14″ N, longitude 71°51′30″ W; thence southeast to the outermost extent of the EEZ at a point latitude 38°24′45″ N, longitude 67°41′26″ W; thence southwest along the outermost extent of the EEZ to a point latitude 37°56′50″ N, longitude 69°18′15″ W; thence northwest to latitude 38°28′00″ N, longitude 70°11′00″ W; thence northwest to the point of origin.

■ 9. Revise § 3.25–05 to read as follows:

§ 3.25–05 Sector Delaware Bay Marine Inspection Zone and Captain of the Port Zone.

Sector Delaware Bay's office is located in Philadelphia, PA. The boundaries of Sector Delaware Bay's Marine Inspection Zone and Captain of the Port Zone start near the New Jersey coast at latitude 40°18′00″ N, longitude 73°58′40″ W, proceeding west to latitude 40°18′00″ N, longitude 74°30′30″ W, thence north-northwest to the junction of the New York, New Jersey, and Pennsylvania boundaries near Tristate at latitude 41°21′27″ N, longitude 74°41′42″ W; thence northwest along the east bank of the Delaware River to latitude 42°00′00″ N, longitude 75°21′28″ W; thence west along the New York-Pennsylvania boundary to latitude 42°00′00″ N, longitude 78°54′58″ W; thence south to latitude 41°00′00″ N, longitude 78°54′58″ W; thence west to latitude 41°00′00″ N, longitude 79°00′00″ W; thence south to the Pennsylvania-Maryland boundary at latitude 39°43′22″ N, longitude 79°00′00″ W; thence east to the intersection of the Maryland-Delaware boundary at latitude 39°43′22″ N, longitude 75°47′17″ W; thence south along the Maryland-Delaware boundary to latitude 38°27′37″ N, longitude 75°41′35″ W and east along the Maryland-Delaware boundary to and including Fenwick Island Light at latitude 38°27′03″ N, longitude 75°02′55″ W. The offshore boundary starts at Fenwick Island Light and proceeds east to a point at latitude 38°26′25″ N, longitude 74°26′46″ W; thence southeast to latitude 37°19′14″ N, longitude 72°13′13″ W; thence east to the outermost extent of the EEZ at latitude 37°19′14″ N, longitude 71°02′54″ W; thence northeast along the outermost extent of the EEZ to latitude 37°56′50″ N, longitude 69°18′15″ W; thence northwest to latitude 38°28′00″ N, longitude 70°11′00″ W; thence northwest to a point near the New Jersey coast at latitude 40°18′00″ N, longitude 73°58′40″ W.

■ 10. Revise § 3.25–10 to read as follows:

§ 3.25–15 Sector Hampton Roads Marine Inspection Zone and Captain of the Port Zone.

Sector Hampton Roads' office is located in Portsmouth, VA. The boundaries of Sector Hampton Roads' Marine Inspection Zone and Captain of the Port Zone start at a point on the Delaware-Maryland boundary at latitude 38°00′18″ N, longitude 75°30′00″ W and proceeds north to the Delaware-Maryland boundary at latitude 38°27′15″ N, longitude 75°30′00″ W; thence east along the Delaware-Maryland boundary to the intersection of the Maryland-Delaware boundary and the coast at latitude 38°27′03″ N, longitude 75°02′55″ W thence east to a point at latitude 38°26′25″ N, longitude 74°26′46″ W; thence southeast to latitude 37°19′14″ N, longitude 72°13′13″ W; thence east to the outermost extent of the EEZ at latitude 37°19′14″ N, longitude 71°02′54″ W; thence south along the outermost extent of the EEZ to a point latitude 36°33′00″ N, longitude 71°29′34″ W; thence west along latitude 36°33′00″ N to the Virginia-North Carolina boundary at latitude 36°33′00″ N, longitude 75°52′00″ W; thence west along the Virginia-North Carolina boundary to the intersection of Virginia-North Carolina-Tennessee; thence along the Virginia-Tennessee boundary to the intersection of Virginia-Tennessee-Kentucky; thence northeast along the Virginia-Kentucky boundary to the intersection of Virginia-Kentucky-West Virginia; thence northeast along the Virginia-West Virginia boundary to the intersection of the Virginia-West Virginia-Maryland boundary; thence southeast along the Virginia-Maryland and Virginia-District of Columbia boundaries as those boundaries are formed along the southern bank of the Potomac River to the Chesapeake Bay; thence east along the Virginia-Maryland boundary as it proceeds across the Chesapeake Bay, Tangier and Pocomoke Sounds, Pocomoke River, and Delmarva Peninsula; thence east along the Virginia-Maryland boundary to the point of origin.

■ 11. Revise § 3.25–15 to read as follows:

§ 3.25–15 Sector Baltimore Marine Inspection Zone and Captain of the Port Zone.

Sector Baltimore's office is located in Baltimore, MD. The boundaries of Sector Baltimore's Marine Inspection Zone and Captain of the Port Zone start at a point latitude 38°27′15″ N, longitude 75°30′00″ W. on the Delaware-Maryland boundary, proceeding along the Delaware-Maryland boundary west to a point at latitude 38°27′37″ N, longitude 75°41′35″ W and north to the Pennsylvania boundary at a point latitude 39°43′22″ N, longitude 75°47′17″ W; thence west along the Pennsylvania-Maryland boundary to the West Virginia boundary at a point latitude 39°43′16″ N, longitude 79°28′36″ W; thence south and east along the Maryland-West Virginia boundary to the intersection of the Maryland-Virginia-West Virginia boundaries at a point latitude 39°19′17″ N, longitude 77°43′08″ W; thence southwest along the Loudoun County, VA boundary to the intersection with Fauquier County, VA at a point latitude 39°00′50″ N, longitude 77°57′43″ W; thence east along the Loudoun County, VA boundary to the intersection with the Prince William County, VA boundary at a point latitude 38°56′34″ N, longitude 77°39′18″ W; thence south along the Prince William County boundary to the intersection with Stafford County, VA, at a point latitude 38°33′22″ N, longitude 77°31′52″ W; thence east along the Prince William County, VA boundary to a point near the western bank of the Potomac River at latitude 38°30′11″ N, longitude 77°18′01″ W; thence south and east along the southern bank of the Potomac River to the Maryland-Virginia boundary at a point latitude 37°53′25″ N, longitude 76°14′12″ W; thence east along the Maryland-Virginia boundary as it proceeds across the Chesapeake Bay, Tangier and Pocomoke Sounds, Pocomoke River, and Delmarva Peninsula to a point on the Maryland-Virginia boundary near the Atlantic coast at latitude 38°00′18″ N, longitude 75°30′00″ W; thence north to the Delaware-Maryland boundary at the point of origin.

■ 12. Revise § 3.25–20 to read as follows:

§ 3.25–20 Sector North Carolina Marine Inspection Zone and Captain of the Port Zone; Marine Safety Unit Wilmington: Cape Fear River Marine Inspection and Captain of the Port Zones.

Sector North Carolina's office is located in Fort Macon, NC. A subordinate unit, Marine Safety Unit (MSU) Wilmington, is located in Wilmington, NC.

(a) The boundaries of Sector North Carolina's Marine Inspection Zone and Captain of the Port Zone start at the sea on the North Carolina-Virginia border at latitude 36°33′00″ N, longitude

75°52′00″ W, proceeding west along the North Carolina-Virginia boundary to the Tennessee boundary; thence southwest along the North Carolina-Tennessee boundary to the Georgia boundary; thence east along the North Carolina-Georgia boundary to the South Carolina boundary; thence east along the North Carolina-South Carolina boundary to the sea at latitude 33°51′04″ N, longitude 78°32′28″ W; thence southeast on a bearing of 122°T to a point at latitude 33°17′55″ N, longitude 77°31′46″ W; thence southeast to the outermost extent of the EEZ at latitude 31°42′32″ N, longitude 74°29′53.3″ W; thence northeast along the outermost extent of the EEZ to a point at latitude 36°33′00″ N, longitude 71°29′34″ W; thence west to the point of origin; and in addition, all the area described in paragraph (b) of this section.

(b) MSU Wilmington is responsible for the Cape Fear River Marine Inspection and Captain of the Port Zones, starting at a point at latitude 34°26′26″ N, longitude 77°31′05″ W at the intersection of the Pender County and Onslow County lines on the Atlantic Coast, proceeding north along the boundary of Pender County and Onslow County to the intersection of the Pender County, Duplin County, and Onslow County lines; thence north along the boundary of Duplin County and Onslow County to the intersection of the Duplin County, Onslow County, and Jones County lines; thence northwest along the boundary of Duplin County and Jones County to the intersection of the Duplin County, Jones County, and Lenoir County lines; thence northwest along the boundary of Duplin County and Lenoir County to the intersection of the Duplin County, Lenoir County, and Wayne County lines; thence west along the boundary of Duplin County and Wayne County to the intersection of the Duplin County, Wayne County, and Sampson County lines; thence north along the boundary of Sampson County and Wayne County to the intersection of the Sampson County, Wayne County, and Johnston County lines; thence west along the boundary of Sampson County and Johnston County to the intersection of the Sampson County, Johnston County, and Harnett County lines; thence southwest along the boundary of Sampson County and Harnett County to the intersection of the Sampson County, Harnett County, and Cumberland County lines; thence west along the boundary of Cumberland County and Harnett County to the intersection of the Cumberland County, Harnett County, and Moore County lines; thence south along the boundary of Cumberland County and Moore County to the intersection of the Cumberland County, Moore County, and Hoke County lines; thence west along the boundary of Hoke County and Moore County to the intersection of the Hoke County, Moore County, Richmond County, and Scotland County lines; thence southeast along the boundary of Hoke County and Scotland County to the intersection of the Hoke County, Scotland County, and Robeson County lines; thence southwest along the boundary of Robeson County and Scotland County to the intersection of the Robeson County, Scotland County, and North Carolina-South Carolina boundaries; thence southeast along the North Carolina-South Carolina boundary to a point at latitude 33°51′30″ N, longitude 78°33′00″ W along the North Carolina-South Carolina boundary; thence to the Atlantic Coast at latitude 33°51′04″ N, longitude 78°32′28″ W; thence southeast to a point on a bearing of 122° T at latitude 33°17′55″ N, longitude 77°31′46″ W; thence north to a point at latitude 34°26′26″ N, longitude 77°31′05″ W.

■ 13. Revise § 3.35–10 to read as follows:

§ 3.35–10 Sector Miami Marine Inspection Zone and Captain of the Port Zone.

Sector Miami's office is located in Miami, FL. The boundaries of Sector Miami's Marine Inspection Zone and Captain of the Port Zone start at the outermost extent of the EEZ at latitude 28°00′00″ N, longitude 79°23′34″ W, proceeding west to latitude 28°00′00″ N, longitude 81°30′00″ W; thence south to the northern boundary of Collier County, FL, at longitude 81°30′00″ W; thence following along the boundaries of Collier County east along the northern boundary to the eastern boundary and then south along the eastern boundary to the southern boundary of Collier County; thence south along the western boundary of Miami-Dade County to the sea at latitude 25°10′36″ N, longitude 80°51′29″ W; thence east along the southern boundary of Miami-Dade County to latitude 25°24′52″ N, longitude 80°19′39″ W; thence southeast to the outermost extent of the EEZ at latitude 25°11′34″ N, longitude 79°41′31″ W; thence north along the outermost extent of the EEZ to the point of origin.

■ 14. Revise § 3.35–15 to read as follows:

§ 3.35–15 Sector Charleston Marine Inspection Zone and Captain of the Port Zone; Marine Safety Unit Savannah.

Sector Charleston's office is located in Charleston, SC. A subordinate unit, Marine Safety Unit (MSU) Savannah, is located in Savannah, GA.

(a) Sector Charleston's Marine Inspection Zone and Captain of the Port Zone start at the intersection of the North Carolina-South Carolina boundaries and the sea at latitude 33°51′04″ N, longitude 78°32′28″ W, proceeding west along the North Carolina-South Carolina boundary to the intersection of the North Carolina-South Carolina-Georgia boundaries; thence south along the South Carolina-Georgia boundary to the intersection with the Federal dam at the southern end of Hartwell Reservoir at latitude 34°21′30″ N, longitude 82°49′15″ W; thence south along the eastern bank and then east along the northern bank of the Savannah River to the sea at latitude 32°02′23″ N, longitude 80°53′06″ W, near the eastern tip of Oyster Bed Island; thence east on a line bearing 084° T to latitude 32°03′00″ N, longitude 80°45′00″ W; thence southeast on a line bearing 122° T to latitude 30°50′00″ N, longitude 78°35′00″ W; thence east to the outermost extent of the EEZ at latitude 30°50′00″ N, longitude 76°09′54″ W; thence northeast along the outermost extent of the EEZ to latitude 31°42′32″ N, longitude 74°29′53″ W; thence northwest to the point of origin; and in addition, all the area described in paragraph (b) of this section.

(b) The boundaries of the MSU Savannah Marine Inspection and Captain of the Port Zones start near the eastern tip of Oyster Bed Island at latitude 32°02′23″ N, longitude 80°53′06″ W, proceeding west along the northern bank and then north along the eastern bank of the Savannah River to the intersection of the South Carolina-Georgia boundary with the Federal dam at the southern end of Hartwell Reservoir, at latitude 34°21′30″ N, longitude 82°49′15″ W; thence north along the South Carolina-Georgia boundary to the intersection of the North Carolina-South Carolina-Georgia boundaries; thence west along the Georgia-North Carolina boundary and continuing west along the Georgia-Tennessee boundary to the intersection of the Georgia-Tennessee-Alabama boundaries; thence south along the Georgia-Alabama boundary to latitude 32°53′00″ N; thence southeast to the eastern bank of the Flint River at latitude 32°20′00″ N; thence south along the eastern bank of the Flint River and continuing south along the eastern shore of Seminole Lake to latitude 30°45′57″

N, longitude 84°45′00″ W; thence south along longitude 84°45′00″ W to the Florida boundary; thence east along the Florida-Georgia boundary to longitude 82°15′00″ W; thence north to latitude 30°50′00″ N, longitude 82°15′00″ W; thence east to the outermost extent of the EEZ at latitude 30°50′00″ N, longitude 76°09′54″ W; thence northwest to latitude 32°03′06″ N, longitude 80°45′00″ W; thence southwest to the point of origin. The boundary includes all the waters of the Savannah River including adjacent waterfront facilities in South Carolina.

■ 15. Revise § 3.35–20 to reads as follows:

§ 3.35–20 Sector Jacksonville Marine Inspection Zone and Captain of the Port Zone.

Sector Jacksonville's office is located in Jacksonville, FL. The boundaries of Sector Jacksonville's Marine Inspection Zone and Captain of the Port Zone start at the outermost extent of the EEZ at latitude 30°50′00″ N, longitude 76°09′54″ W, proceeding west to latitude 30°50′00″ N, longitude 82°15′00″ W; thence south to the intersection of the Florida-Georgia boundary at longitude 82°15′00″ W; thence west along the Florida-Georgia boundary to longitude 83°00′00″ W; thence southeast to latitude 28°00′00″ N, 81°30′00″ W; thence east to the outermost extent of the EEZ at latitude 28°00′00″ N, longitude 79°23′34″ W; thence northeast along the outermost extent of the EEZ to the point of origin.

■ 16. Revise § 3.35–25 to read as follows:

§ 3.35–25 Sector San Juan Marine Inspection Zone and Captain of the Port Zone.

Sector San Juan's office is located in San Juan, PR. The boundaries of Sector San Juan's Marine Inspection Zone and Captain of the Port Zone comprise both the Commonwealth of Puerto Rico and the Territory of the Virgin Islands, and the waters adjacent to both, in an area enclosed by the outermost extents of the EEZ, subject to existing laws and regulations.

§ 3.35–30 [Removed]

■ 17. Remove § 3.35–30.

■ 18. Revise § 3.35–35 to read as follows:

§ 3.35–35 Sector St. Petersburg Marine Inspection Zone and Captain of the Port Zone.

Sector St. Petersburg's sector office is located in St. Petersburg, FL. The boundaries of Sector St. Petersburg's Marine Inspection Zone and Captain of the Port Zone start at the Florida coast at latitude 29°59′14″ N, longitude 83°50′00″ W, proceeding north to latitude 30°15′00″ N, longitude 83°50′00″ W; thence west to latitude 30°15′00″ N, longitude 84°45′00″ W; thence north to the Florida-Georgia boundary at longitude 84°45′00″ W; thence east along the Florida-Georgia boundary to longitude 83°00′00″ W; thence southeast to latitude 28°00′00″ N, longitude 81°30′00″ W; thence south along 81°30′00″ W to the northern boundary of Collier County, FL, and then following along the boundaries of Collier County, east along the northern boundary to the eastern boundary and then south along the eastern boundary to the southern boundary and then west along the southern boundary to latitude 25°48′12″ N, longitude 81°20′39″ W; thence southwest to the outermost extent of the EEZ at latitude 24°18′57″ N, longitude 84°50′48″ W; thence west along the outermost extent of the EEZ to latitude 24°48′13″ N, longitude 85°50′05″ W; thence northeast to the point of origin.

■ 19. Add § 3.35–40 to read as follows:

§ 3.35–40 Sector Key West Marine Inspection Zone and Captain of the Port Zone.

Sector Key West's office is located in Key West, FL. The boundaries of Sector Key West's Marine Inspection Zone and Captain of the Port Zone start at the outermost extent of the EEZ at latitude 25°11′34″ N, longitude 79°41′31″ W, proceeding northeast to the Miami-Dade County, FL boundary at latitude 25°24′52″ N, longitude 80°19′39″ W; thence west along the southern boundary of Miami-Dade County to the western boundary at latitude 25°10′36″ N, longitude 80°51′29″ W; thence north along the western boundary of Miami-Dade County to the southern boundary of Collier County, FL; thence west along the southern boundary of Collier County to latitude 25°48′12″ N, longitude 81°20′39″ W; thence southwest to the outermost extent of the EEZ at latitude 24°18′57″ N, longitude 84°50′48″ W; thence east and then north along the outermost extent of the EEZ to the point of origin.

■ 20. Revise § 3.40–10 to read as follows:

§ 3.40–10 Sector Mobile Marine Inspection Zone and Captain of the Port Zone.

Sector Mobile's office is located in Mobile, AL. The boundaries of Sector Mobile's Marine Inspection Zone and Captain of the Port Zone start near the Florida coast at latitude 29°59′14″ N, longitude 83°50′00″ W, proceeding north to latitude 30°15′00″ N, longitude 83°50′00″ W; thence west to latitude 30°15′00″ N, longitude 84°45′00″ W; thence north to a point near the southern bank of the Seminole Lake at latitude 30°45′57″ N, longitude 84°45′00″ W; thence northeast along the eastern bank of the Seminole Lake and north along the eastern bank of the Flint River to latitude 32°20′00″ N, longitude 84°01′51″ W; thence northwest to the intersection of the Georgia-Alabama border at latitude 32°53′00″ N; thence north along the Georgia-Alabama border to the southern boundary of Dekalb County, AL, thence west along the northern boundaries of Cherokee, Etowah, Blount, Cullman, Winston, and Marion Counties, AL, to the Mississippi-Alabama border; thence north along the Mississippi-Alabama border to the southern boundary of Tishomingo County, MS, at the Mississippi-Tennessee border; thence west along the southern boundaries of Tishomingo and Prentiss Counties; thence north along the western boundaries of Prentiss and Alcorn Counties; thence west along the northern boundaries of Tippah, Benton, and Marshall Counties, MS; thence south and west along the eastern and southern boundaries of DeSoto, Tunica, Coahoma, Bolivar, and Washington Counties, MS; thence east along the northern boundary of Humphreys and Holmes Counties, MS; thence south along the eastern and southern boundaries of Holmes, Yazoo, Warren, Claiborne, Jefferson, Adams, and Wilkinson Counties, MS; thence east from the southernmost intersection of Wilkinson and Amite Counties, MS, to the west bank of the Pearl River; thence south along the west bank of the Pearl River to longitude 89°31′48″ W (at the mouth of the river); thence south along longitude 89°31′48″ W to latitude 30°10′00″ N; thence east along latitude 30°10′00″ N to longitude 89°10′00″ W; thence southeast to latitude 29°00′00″ N, longitude 88°00′00″ W; thence south along longitude 88°00′00″ W to the outermost extent of the EEZ; thence east along the outermost extent of the EEZ to the intersection with a line bearing 199°T from the intersection of the Florida coast at longitude 83°50′00″ W; thence northeast along a line bearing 199° T from the Florida coast at longitude 83°50′00″ W to the coast.

■ 21. Revise § 3.40–15 to read as follows:

§ 3.40–15 Sector New Orleans Marine Inspection Zone and Captain of the Port Zone; Marine Safety Unit Morgan City.

Sector New Orleans' office is located in New Orleans, LA. A subordinate unit,

Marine Safety Unit (MSU) Morgan City, is located in Morgan City, LA.

(a) Sector New Orleans' Marine Inspection Zone and Captain of the Port Zone starts at latitude 30°10′00″ N, longitude 89°10′00″ W; thence west along latitude 30°10′00″ N to longitude 89°31′48″ W; thence north along longitude 89°31′48″ W to the west bank of the Pearl River (at the mouth of the river); thence north along the west bank of the Pearl River to latitude 31°00′00″ N; thence west along latitude 31°00′00″ N to the east bank of the Mississippi River; thence south along the east bank to mile 303.0, thence west to the west bank at mile 303.0; thence north to the southern boundary of the Old River Lock Structure, thence west along the south bank of the Lower Old River, to the intersection with the Red River; thence west along the south bank of the Red River to Rapides Parish, thence south along the western boundaries of Avoyelles, Evangeline, Acadia and Vermillion Parishes to the intersection of the sea and longitude 92°37′00″ W; thence south along longitude 92°37′00″ W to the outermost extent of the EEZ; thence east along the outermost extent of the EEZ to longitude 88°00′00″ W; thence north along longitude 88°00′00″ W to latitude 29°00′00″ N; thence northwest to latitude 30°10′00″ N, longitude 89°10′00″ W; and in addition, all the area described in paragraph (b) of this section.

(b) The boundaries of the MSU Morgan City Marine Inspection and Captain of the Port Zones start at latitude 28°50′00″ N, longitude 88°00′00″ W.; thence proceeds west to latitude 28°50′00″ N., longitude 89°27′06″ W.; thence northwest to latitude 29°18′00″ N, longitude 90°00′00″ W; thence northwest along the northern boundaries of Lafourche, Assumption, Iberia, and St. Martin Parishes, Louisiana; thence northwest along the northern boundary of Lafayette and Acadia Parishes, Louisiana; thence south along the west boundary of Acadia and Vermillion Parishes, Louisiana to the Louisiana Coast at longitude 92°37′00″ W, thence south along longitude 92°37′00″ W to the outermost extent of the EEZ; thence east along the outermost extent of the EEZ to longitude 88°00′00″ W.; thence north to latitude 28°50′00″ N, longitude 88°00′00″ W.

§ 3.40–17 [Removed]

■ 22. Remove § 3.40–17.

§ 3.40–20 [Removed]

■ 23. Remove § 3.40–20.

■ 24. Revise § 3.40–28 to read as follows:

§ 3.40–28 Sector Houston-Galveston Marine Inspection Zone and Captain of the Port Zone; Marine Safety Unit Port Arthur.

Sector Houston-Galveston's office is located in Galena Park, TX. A subordinate unit, Marine Safety Unit (MSU) Port Arthur, is located in Port Arthur, TX.

(a) Sector Houston-Galveston's Marine Inspection Zone and Captain of the Port Zone start near the intersection of the western boundary of Vermillion Parish, LA, and the sea at latitude 29°34′45″ N, longitude 92°37′00″ W, proceeding north along the eastern and southern boundaries of Cameron, Jefferson Davis, Allen, and Rapides Parishes, LA, to the southern bank of the Red River; thence northwest along the south bank of the Red River to the northern boundary of Red River Parish, LA; thence west along the northern boundary of Red River Parish and DeSoto Parish, LA, to the Louisiana-Texas border; thence north along the Louisiana-Texas border to the Texas-Arkansas border at the northern boundary of Bowie County, TX; thence west along the Texas-Arkansas border to the Texas-Oklahoma border; thence northwest along the Texas-Oklahoma border to the southern shore of Lake Texoma in Grayson County, TX; thence west along the northern shore of Lake Texoma to the Texas-Oklahoma border; thence west along the Texas-Oklahoma border to the Texas-New Mexico border, including all portions of the Red River; thence south along the Texas-New Mexico border to the southern boundary of Andrews County, TX; thence southeast along the western and southern boundaries of Andrews, Midland, Glasscock, Sterling, Tom Green, Concho, McCulloch, San Saba, Lampasas, Bell, Williamson, Lee, Washington, and Austin Counties, TX to the intersection of Colorado County, Texas; thence along the northern and eastern boundary of Colorado County to the east bank of the Colorado River; thence south along the east bank of the Colorado River to the sea; thence southeast along a line bearing 140° T to the outermost extent of the EEZ at latitude 25°59′50″ N, longitude 93°32′21″ W; thence east along the outermost extent of the EEZ to latitude 26°03′27″ N, longitude 92°37′00″ W; thence north along longitude 92°37′00″ W to the Louisiana Coast; and in addition, all the area described in paragraph (b) of this section.

(b) The boundaries of the MSU Port Arthur Marine Inspection and Captain of the Port Zones start at the intersection of the sea and longitude 92°37′00″ W; thence north along the eastern and southern boundaries of Cameron, Jefferson Davis, Allen, and Rapides Parishes, Louisiana to the southern bank of the Red River; thence northwest along the southern bank of the Red River to the northern boundary of Red River Parish, Louisiana; thence west along the northern boundary of Red River Parish and Desoto Parish, Louisiana to the Louisiana-Texas border; thence north along the Louisiana-Texas border to the Texas-Arkansas border at the northern boundary of Bowie County, Texas; thence north along the Texas-Arkansas border to the Texas-Oklahoma border; thence west along the Texas-Oklahoma border to the northwest-most boundary of Fannin County, Texas, including all portions of the Red River; thence south along the western and southern boundaries of Fannin, Hunt, Kaufman, Henderson, Anderson, Houston, Trinity, Polk, Hardin, and Jefferson Counties, Texas to the sea at longitude 94°25′00″ W; thence southeast to latitude 29°00′00″ N, longitude 93°40′00″ W; thence southeast to latitude 27°50′00″ N, longitude 93°24′00″ W; thence south along longitude 93°24′00″ W to the outermost extent of the EEZ; thence east along the outermost extent of the EEZ to longitude 92°37′00″ W; thence north along longitude 92°37′00″ W to the Louisiana Coast.

■ 25. Revise § 3.40–35 to read as follows:

§ 3.40–35 Sector Corpus Christi Marine Inspection Zone and Captain of the Port Zone.

Sector Corpus Christi's office is located in Corpus Christi, TX. The boundaries of Sector Corpus Christi's Marine Inspection Zone and Captain of the Port Zone start at the junction of the sea and the east bank of the Colorado River at latitude 28°35′44″ N, longitude 95°58′48″ W, proceeding north along the east bank of the Colorado River to Colorado County, TX; thence southwest along the northern boundary of Wharton County, TX; thence northwest along the eastern and northern boundaries of Colorado, Fayette, Bastrop, Travis, Burnet, Llano, Mason, Menard, Schletcher, Irion, Reagan, Upton, and Ector Counties, TX; thence west along the northern boundary of Ector and Winkler Counties, TX, to the Texas-New Mexico border; thence north along the New Mexico border to the New Mexico-Colorado border; thence west along the New Mexico-Colorado border to the intersection of New Mexico, Colorado, Utah, and Arizona borders; thence south along the New Mexico-Arizona border to the United States-Mexican border; thence southeast along the United

States-Mexican border to the outermost extent of the EEZ at latitude 25°57′22″ N, longitude 97°08′20″ W; thence east along the outermost extent of the EEZ to latitude 25°59′50″ N, longitude 93°32′21″ W; thence northwest to the point of origin.

■ 26. Revise § 3.40–40 to read as follows:

§ 3.40–40 Sector Upper Mississippi River Marine Inspection Zone and Captain of the Port Zone.

Sector Upper Mississippi River's office is located in St. Louis, MO. The boundaries of Sector Upper Mississippi River's Marine Inspection Zone and Captain of the Port Zone include all of Wyoming except for Sweetwater County; all of North Dakota, South Dakota, Nebraska, Colorado, Kansas, and Iowa; all of Missouri with the exception of Perry, Cape Girardeau, Scott, Mississippi, New Madrid, Dunklin, and Pemiscot Counties; that part of Minnesota south of latitude 46°20′00″ N; that part of Wisconsin south of latitude 46°20′00″ N, and west of longitude 90°00′00″ W; that part of Illinois west of longitude 90°00′00″ W and north of latitude 41°00′00″ N; that part of Illinois south of latitude 41°00′00″ N, except for Jackson, Williamson, Saline, Gellatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac Counties; that part of the Upper Mississippi River above mile 109.9, including both banks, and that part of the Illinois River below latitude 41°00′00″ N.

§ 3.40–45 [Removed]

■ 27. Remove § 3.40–45.

§ 3.40–50 [Removed]

■ 28. Remove § 3.40–50.

§ 3.40–55 [Removed]

■ 29. Remove § 3.40–55.

■ 30. Revise § 3.40–60 to read as follows:

§ 3.40–60 Sector Lower Mississippi River Marine Inspection Zone and Captain of the Port Zone.

Sector Lower Mississippi River's office is located in Memphis, TN. The boundaries of Sector Lower Mississippi River's Marine Inspection Zone and Captain of the Port Zone include all of Arkansas and all of Oklahoma with the exception of the Red River and Lake Texoma; in Missouri: Dunklin and Pemiscot Counties. In Tennessee: Dyer, Lauderdale, Obion, Tipton, and Shelby Counties, and all portions of Lake County with the exception of the area north and west of a line drawn from Mississippi River at latitude 36°20′00 N and longitude 89°32′30″ W due east to Highway 78 thence northeast along Highway 78 to the Kentucky-Tennessee state line; in Mississippi: Desoto, Tunica, Coahoma, Bolivar, Washington, Humphreys, Holmes, Sharkey, Yazoo, Issaquena, Warren, Claiborne, Jefferson, Adams, and Wilkinson Counties; in Louisiana, all the areas north of a line drawn from the east bank of the Mississippi River at the Louisiana-Mississippi border, thence south along the east bank to mile 303.0, thence west to the west bank at mile 303.0, thence north to the southern boundary of the Old River Lock Structure, thence west along the southern bank of the Lower Old River, to the intersection with the Red River, thence west and northwest along the southern bank of the Red River to the northern-most boundary of Red River Parish, thence west along the northern boundary of Red River Parish and DeSoto Parish to the Texas-Louisiana Border, including Lasalle, Caldwell, Caddo, Bossier, Webster, Claiborne, Union, Morehouse, West Carroll, East Carroll, Madison, Richland, Ouachita, Lincoln, Jackson, Bienville, Winn, Grant, Franklin, Tensas, Catahoula, and Concordia Parishes; those parts of Avoyelles, Natchitoches, Rapides, and Red River Parishes north of the Red River, and that part of West Feliciana Parish north of the Lower Old River; that part of the Lower Mississippi River below mile 869.0 and above mile 303; and all of the Red River below the Arkansas-Oklahoma border.

■ 31. Revise § 3.40–65 to read as follows:

§ 3.40–65 Sector Ohio Valley Marine Inspection Zone and Captain of the Port Zone; Marine Safety Unit Pittsburgh.

Sector Ohio Valley's office is located in Louisville, KY. A subordinate unit, Marine Safety Unit (MSU) Pittsburgh, is located in Pittsburgh, PA.

(a) Sector Ohio Valley's Marine Inspection Zone and Captain of the Port Zone comprise all of Kentucky and West Virginia; in Missouri: Perry, Cape Girardeau, Scott, Mississippi and New Madrid Counties; in Tennessee: that portion of Lake County north and west of a line drawn from the Mississippi River at latitude 36°20′00″ N and longitude 89°32′30″ W due east to Highway 78, thence northeast along Highway 78 to the Kentucky-Tennessee state line, and all other counties in Tennessee except Shelby, Tipton, Lauderdale, Dyer and Obion Counties; in Alabama: Colbert, Franklin, Lawrence, Morgan, Marshall, Lauderdale, Limestone, Madison, Jackson and DeKalb Counties; in Mississippi: Alcorn, Prentiss and Tishomingo Counties; that portion of Pennsylvania south of latitude 41°00′00″ N and west of longitude 79°00′00″ W; those parts of Indiana and Ohio south of latitude 41°00′00″ N; in Illinois: Jackson, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac Counties, and in Randolph County, that part of the Upper Mississippi River below mile 109.9, including both banks; and that part of the Lower Mississippi River above mile 869.0 ; and in addition, all the area described in paragraph (b) of this section.

(b) The boundaries of the MSU Pittsburgh Marine Inspection and Captain of the Port Zones include that portion of Pennsylvania south of latitude 41°00′00″ N and west of longitude 79°00′00″ W; in West Virginia: Preston, Monongalia, Marion, Marshall, Ohio, Brooke, and Hancock Counties, and that part of the Ohio River north of a line drawn from latitude 39°39′18″ N (approximately mile 127.2) on the Ohio River, just below the Hannibal Lock and Dam; and in Ohio: Stark, Columbiana, Tuscarawas, Carroll, Harrison, Jefferson, and Belmont Counties, and those parts of Summit, Portage, and Mahoning Counties south of latitude 41°00′00″ N.

§ 3.45–5 [Removed]

■ 32. Remove § 3.45–5.

■ 33. Revise § 3.45–10 to read as follows:

§ 3.45–10 Sector Buffalo Marine Inspection Zone and Captain of the Port Zone.

Sector Buffalo's office is located in Buffalo, NY. The boundaries of Sector Buffalo's Marine Inspection Zone and Captain of the Port Zone include all navigable waters of the United States and contiguous land areas within the boundaries of an area starting from a point on the international boundary in Lake Erie at latitude 42°19′24″ N, longitude 80°31′10″ W, proceeding southwest along the international boundary to a point at latitude 41°40′36″ N, longitude 82°25′00″ W; thence south to latitude 41°00′00″ N; thence east to longitude 78°54′58″ W; thence north to latitude 42°00′00″ N; thence east to the east bank of the Delaware River at latitude 42°00′00″ N, longitude 75°21′28″ W; thence east to longitude 74°39′00″ W; thence north to the international boundary at a point at latitude 44°59′58″ N, longitude 74°39′00″ W; thence southeast along the international boundary to the starting point.

■ 34. Revise § 3.45–15 to read as follows:

§ 3.45–15 Sector Lake Michigan Marine Inspection Zone and Captain of the Port Zone.

Sector Lake Michigan's office is located in Milwaukee, WI. The boundaries of Sector Lake Michigan's Marine Inspection Zone and Captain of the Port Zone include all navigable waters of the United States and contiguous land areas within the boundaries of an area starting from a point at latitude 44°43′00″ N, longitude 84°30′00″ W, proceeding northwest to a point near the eastern shore of Lake Michigan at latitude 45°38′00″ N, longitude 85°04′13″ W; thence northwest to latitude 45°50′00″ N, longitude 85°43′00″ W; thence southwest to latitude 45°41′00″ N, longitude 86°06′00″ W; thence northwest to latitude 46°20′00″ N, longitude 87°22′00″ W; thence west to latitude 46°20′00″ N, longitude 90°00′00″ W; thence south to latitude 41°00′00″ N; thence east to the Ohio-Indiana border at latitude 41°00′00″ N, longitude 84°48′12″ W; thence north along the Ohio-Indiana border to the intersection of the Ohio-Indiana-Michigan border at latitude 41°41′59″ N, longitude 84°48′22″ W; thence east along the Ohio-Michigan border to latitude 41°42′13″ N, longitude 84°30′00″ W; thence north to the start point.

■ 35. Revise § 3.45–20 to read as follows:

§ 3.45–20 Sector Detroit Marine Inspection Zone and Captain of the Port Zone.

Sector Detroit's office is located in Detroit, MI. The boundaries of Sector Detroit's Marine Inspection Zone and Captain of the Port Zone include all navigable waters of the United States and contiguous land areas within the boundaries of an area starting from a point at latitude 41°00′00″ N, longitude 84°48′12″ W on the Ohio-Indiana boundary, proceeding east to longitude 82°25′00″ W; thence north to the international boundary in Lake Erie at latitude 41°40′36″ N, longitude 82°25′00″ W; thence north along the international boundary to latitude 45°35′00″ N, longitude 83°03′56″ W; thence southwest to a point near the shore of western Lake Huron at latitude 45°17′30″ N, longitude 83°25′23″ W; thence southwest to latitude 44°43′00″ N, longitude 84°30′00″ W; thence south to the Michigan-Ohio boundary at latitude 41°42′13″ N; thence west along the Michigan-Ohio boundary to the Ohio-Michigan-Indiana boundary at latitude 41°41′46″ N, longitude 84°48′22″ W; thence south along the Ohio-Indiana boundary to the starting point.

§ 3.45–25 [Removed]

■ 36. Remove § 3.45–25.

§ 3.45–30 [Removed]

■ 37. Remove § 3.45–30.

■ 38. Revise § 3.45–45 to read as follows:

§ 3.45–45 Sector Sault Ste. Marie Marine Inspection Zone and Captain of the Port Zone; Marine Safety Unit Duluth.

Sector Sault Ste. Marie's office is located in Sault Ste. Marie, MI. A subordinate unit, Marine Safety Unit (MSU) Duluth, is located in Duluth, MN.

(a) Sector Sault Ste. Marie's Marine Inspection Zone and Captain of the Port Zone comprise all navigable waters of the United States and contiguous land areas within an area starting from a point at latitude 45°35′00″ N, longitude 83°03′56″ W on the international boundary, proceeding southwest to a point near the shore of western Lake Huron at latitude 45°17′30″ N, longitude 83°25′23″ W; thence southwest to latitude 44°43′00″ N, longitude 84°30′00″ W; thence northwest to a point near the eastern shore of Lake Michigan at latitude 45°38′00″ N, longitude 85°04′13″ W; thence northwest to latitude 45°50′00″ N, longitude 85°43′00″ W; thence southwest to latitude 45°41′00″ N, longitude 86°06′00″ W; thence northwest to latitude 46°20′00″ N, longitude 87°22′00″ W; thence west to latitude 46°20′00″ N, longitude 88°30′00″ W; thence west to the Minnesota-North Dakota boundary at latitude 46°20′00″ N, longitude 96°36′30″ W; thence north along the Minnesota-North Dakota boundary to the intersection of the Minnesota-North Dakota boundary and the international boundary at latitude 49°00′02″ N, longitude 97°13′46″ W; thence east along the EEZ to the starting point; and in addition, all the area described in paragraph (b) of this section.

(b) The boundaries of the MSU Duluth Marine Inspection and Captain of the Port Zones comprise all navigable waters of the United States and contiguous land areas within an area starting at a point latitude 46°20′00″ N, longitude 88°30′00″ W, proceeding west to the Minnesota-North Dakota boundary at latitude 46°20′00″ N, longitude 96°36′30″ W; thence north along the Minnesota-North Dakota boundary to the intersection of the Minnesota-North Dakota boundary and the international boundary at latitude 49°00′02″ N, longitude 97°13′46″ W; thence east along the international boundary to a point at latitude 47°59′23″ N, longitude 87°35′10″ W; thence south to a point near Manitou Island Light at latitude 47°25′09″ N, longitude 87°35′10″ W; thence southwest to a point near the shore of Lake Superior at latitude 46°51′51″ N, longitude 87°45′00″ W; thence southwest to the point of origin.

§ 3.45–50 [Removed]

■ 39. Remove § 3.45–50.

■ 40. Revise § 3.55–10 to read as follows:

§ 3.55–10 Sector Los Angeles-Long Beach Marine Inspection Zone and Captain of the Port Zone.

Sector Los Angeles-Long Beach's (LA–LB) office is located in San Pedro, CA. The boundaries of Sector LA–LB's Marine Inspection Zone and Captain of the Port Zone start at a point near the intersection of Monterey County and San Luis Obispo County and the California coast at latitude 35°47′43″ N, longitude 121°20′51″ W, proceeding southwest to the outermost extent of the EEZ at latitude 34°05′05″ N, longitude 124°56′43″ W; thence south along the outermost extent of the EEZ to latitude 32°01′17″ N, longitude 123°37′22″ W; thence northeast to the intersection of Orange County and San Diego County and the California coast at latitude 33°23′12″ N, longitude 117°35′45″ W; thence including all of Orange County, Riverside County, Ventura County, Los Angeles County, San Bernardino County, Santa Barbara County, Kern County, and San Luis Obispo County in California.

■ 41. Revise § 3.55–15 to read as follows:

§ 3.55–15 Sector San Diego Marine Inspection Zone and Captain of the Port Zone.

Sector San Diego's office is located in San Diego, CA. The boundaries of Sector San Diego's Marine Inspection Zone and Captain of the Port Zone start at a point near the intersection of Orange County and San Diego County and the coast at latitude 33°23′12″ N, longitude 117°35′45″ W, proceeding southwest to the outermost extent of the EEZ at latitude 32°01′17″ N, longitude 123°37′22″ W; thence south along the outermost extent of the EEZ to the intersection of the maritime boundary with Mexico at latitude 30°32′31″ N, longitude 121°51′58″ W; thence east along the maritime boundary with Mexico to its intersection with the California coast at latitude 32°32′03″ N, longitude 117°07′29″ W; thence including Imperial County and San Diego County in California; all of Arizona; Washington, Kane, San Juan,

and Garfield Counties in Utah; and Clark County in Nevada.

■ 42. Revise § 3.55–20 to read as follows:

§ 3.55–20 Sector San Francisco: San Francisco Bay Marine Inspection Zone and Captain of the Port Zone.

The Sector San Francisco office is located in San Francisco, CA. The boundaries of Sector San Francisco's San Francisco Bay Marine Inspection and Captain of the Port Zones comprise the land masses and waters of Wyoming within the boundaries of Sweetwater County; Utah, except for Washington, Kane, San Juan, and Garfield Counties; Nevada, except for Clark County; and California, north of San Luis Obispo, Kern, and San Bernardino Counties. It also includes all ocean waters and islands contained therein of the EEZ bounded on the north by the northern boundary of the Eleventh Coast Guard District, which is described in § 3.55–1; and on the south by a line bearing 240 °T from the intersection of the Monterey-San Luis Obispo Count lines (approximately 35°47.5′00″ N latitude) and the California coast to the outermost extent of the EEZ; and on the west by the outermost extent of the EEZ.

■ 43. Revise § 3.65–10 to read as follows:

§ 3.65–10 Sector Seattle: Puget Sound Marine Inspection Zone and Captain of the Port Zone.

Sector Seattle's office is located in Seattle, WA. The boundaries of Sector Seattle's Puget Sound Marine Inspection and Captain of the Port Zones start at latitude 48°29′35″ N, longitude 124°43′45″ W, proceeding along the Canadian border east to the Montana-North Dakota boundary; thence south along this boundary to the Wyoming state line; thence west and south along the Montana-Wyoming boundary to the Idaho state line; thence northwest along the Montana-Idaho boundary to latitude 46°55′00″ N; thence west along latitude 46°55′00″ N to longitude 123°18′00″ W; thence north to a point latitude 47°32′00″ N, longitude 123°18′00″ W; thence west along latitude 47°32′00″ N to the outermost extent of the EEZ; thence northeast along the outermost extent of the EEZ to the Canadian border; thence east along the Canadian border to the point of origin.

■ 44. Revise § 3.65–15 to read as follows:

§ 3.65–15 Sector Portland Marine Inspection Zone and Captain of the Port Zone.

Sector Portland's office is located in Portland, OR. The boundaries of Sector Portland's Marine Inspection and Captain of the Port Zones start at the Washington coast at latitude 47°32′00″ N, longitude 124°21′15″ W, proceeding along this latitude east to latitude 47°32′00″ N, longitude 123°18′00″ W; thence south to latitude 46°55′00″ N, longitude 123°18′00″ W; thence east along this latitude to the eastern Idaho state line; thence southeast along the Idaho state line to the intersection of the Idaho-Wyoming boundary; thence south along the Idaho-Wyoming boundary to the intersection of the Idaho-Utah-Wyoming boundaries; thence west along the southern border of Idaho to Oregon and then west along the southern border of Oregon to the coast at latitude 41°59′54″ N, longitude 124°12′42″ W; thence west along the southern boundary of the Thirteenth Coast Guard District, which is described in § 3.65–10, to the outermost extent of the EEZ at latitude 41°38′35″ N, 128°51′26″ W; thence north along the outermost extent of the EEZ to latitude 47°32′00″ N; thence east to the point of origin.

■ 45. Revise § 3.70–10 to read as follows:

§ 3.70–10 Sector Honolulu Marine Inspection Zone and Captain of the Port Zone.

Sector Honolulu's office is located in Honolulu, HI. The boundaries of Sector Honolulu's Marine Inspection Zone coincide with the boundaries of the Fourteenth Coast Guard District, which are described in § 3.70–1, excluding those areas within the Guam Marine Inspection Zone as described in § 3.70–15, and excluding those areas within the Marine Inspection Zone East Asia, described as including Asia, Diego Garcia in the Indian Ocean, and the Malay Archipelago, but excluding the Philippines. The Honolulu Captain of the Port Zone comprises the State of Hawaii, including all the islands and atolls of the Hawaiian chain and the adjacent waters of the EEZ; and the following islands and their adjacent waters of the EEZ: American Samoa, Johnston Atoll, Palmyra Atoll, Kingman Reef, Wake Island, Jarvis Island, Howland and Baker Islands, and Midway Island.

■ 46. Revise § 3.70–15 to read as follows:

§ 3.70–15 Sector Guam Marine Inspection Zone and Captain of the Port Zone.

Sector Guam's office is located on Victor Wharf, U.S. Naval Base, Guam. The boundaries of Sector Guam's Marine Inspection Zone and Captain of the Port Zone comprise the Territory of Guam and the adjacent waters of the EEZ, and the Commonwealth of the Northern Mariana Islands and the adjacent waters of the EEZ.

■ 47. Revise § 3.85–10 to read as follows:

§ 3.85–10 Sector Juneau: Southeast Alaska Marine Inspection Zone and Captain of the Port Zones.

Sector Juneau's office is located in Juneau, AK. The boundaries of Sector Juneau's Southeast Alaska Marine Inspection and Captain of the Port Zones start at latitude 60°01′18″ N, longitude 142°00′00″ W, proceeding northeast to the EEZ near the Canadian border at latitude 60°18′24″ N, longitude 141°00′00″ W; thence south and east along the EEZ on the United States-Canadian shore side boundary to the intersection of the Canadian coast and the Coast Guard District Seventeen southern border at latitude 54°40′00″ N, longitude 131°15′06″ W; thence west along the southern border of Coast Guard District Seventeen to the intersection with the outermost extent of the EEZ at latitude 54°38′11″ N, longitude 140°01′26″ W; thence north along the outermost extent of the EEZ to latitude 56°14′50″ N, longitude 142°00′00″ W; thence north to the point of origin.

■ 48. Revise § 3.85–15 to read as follows:

§ 3.85–15 Sector Anchorage: Western Alaska Marine Inspection Zone and Captain of the Port Zones; Marine Safety Unit Valdez: Prince William Sound Marine Inspection and Captain of the Port Zones.

Sector Anchorage's office is located in Anchorage, AK. A subordinate unit, Marine Safety Unit (MSU) Valdez, is located in Valdez, AK.

(a) Sector Anchorage's Western Alaska Marine Inspection and Captain of the Port Zones start near the Canadian border on the EEZ at latitude 60°18′24″ N, longitude 141°00′00″ W, proceeding southwest to latitude 60°01′18″ N, longitude 142°00′00″ W; thence south to the outermost extent of the EEZ at latitude 56°14′50″ N, longitude 142°00′00″ W; thence southwest along the outermost extent of the EEZ to latitude 51°22′15″ N, longitude 167°38′28″ W; thence northeast along the outermost extent of the EEZ to latitude 65°30′00″ N, longitude 168°58′37″ W; thence north along the outermost extent of the EEZ to latitude 72°46′55″ N, longitude 168°58′37″ W; thence northeast along the outermost extent of the EEZ to latitude 74°42′35″ N, longitude 156°28′30″ W; thence southeast along the outermost extent of the EEZ to latitude 72°46′39″ N, longitude 137°30′02″ W; thence south along the

outermost extent of the EEZ to the coast near the Canadian border at latitude 69°38′33″ N, longitude 140°49′53″ W; thence south along the United States-Canadian boundary to the point of origin ; and in addition, all the area described in paragraph (b) of this section.

(b) The boundaries of MSU Valdez's Prince William Sound Marine Inspection and Captain of the Port Zones start at Cape Puget at latitude 59°56′04″ N, longitude 148°26′00″ W, proceeding north to latitude 61°30′00″ N, longitude 148°26′00″ W; thence east to the United States-Canadian boundary at latitude 61°30′00″ N, longitude 141°00′00″ W; thence south along the United States-Canadian boundary to latitude 60°18′24″ N, longitude 141°00′00″ W; thence southwest to the sea at latitude 60°01′18″ N, longitude 142°00′00″ W; thence south to the outermost extent of the EEZ at latitude 56°14′50″ N, longitude 142°00′00″ W; thence along the outermost boundary of the EEZ to latitude 54°49′26″ N, longitude 148°26′00″ W; thence north to the point of origin.

§ 3.85–20 [Removed]

■ 49. Remove § 3.85–20.

PART 20—RULES OF PRACTICE, PROCEDURE, AND EVIDENCE FOR FORMAL ADMINISTRATIVE PROCEEDINGS OF THE COAST GUARD

■ 50. The authority citation for part 20 is revised to read as follows:

Authority: 33 U.S.C. 1321; 42 U.S.C. 9609; 46 U.S.C. 7701, 7702; Department of Homeland Security Delegation No. 0170.1, para. 2(73).

§ 20.1103 [Amended]

■ 51. In § 20.1103(a)(1)(i), remove the words ''Marine Safety'' and add, in their place, the word ''Sector''.

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 52. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

§ 100.111 [Amended]

■ 53. In § 100.111(b)(1) and (b)(5) , remove the words ''Group Southwest Harbor'' and add, in their place, the words ''Sector Northern New England''.

§ 100.501 [Amended]

■ 54. In § 100.501(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.502 [Amended]

■ 55. In § 100.502(a)(2), remove the words ''Group Atlantic City'' and add, in their place, the words ''Sector Delaware Bay.

§ 100.508 [Amended]

■ 56. In § 100.508(a)(3), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.509 [Amended]

■ 57. In § 100.509(a)(2), remove the words ''Group Philadelphia'' and add, in their place, the words ''Sector Delaware Bay''.

§ 100.510 [Amended]

■ 58. In § 100.510(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.512 [Amended]

■ 59. In § 100.512(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.513 [Amended]

■ 60. In § 100.513(a)(2), remove the words ''Group Fort Macon'' and add, in their place, the words ''Sector North Carolina''.

§ 100.514 [Amended]

■ 61. In § 100.514(a)(2), remove the words ''Group Cape May, New Jersey'' and add, in their place, the words ''Sector Delaware Bay''.

§ 100.519 [Amended]

■ 62. In § 100.519(a)(2), remove the words ''SFO Eastern Shore'' and add, in their place, the words ''Sector North Carolina''.

§ 100.520 [Amended]

■ 63. In § 100.520(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.522 [Amended]

■ 64. In § 100.522(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.523 [Amended]

■ 65. In § 100.523(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.525 [Amended]

■ 66. In § 100.525(a)(1) and (a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.529 [Amended]

■ 67. In § 100.529(a)(1) and (a)(2), remove the words ''Group Philadelphia'', and add, in their place, the words ''Sector Delaware Bay''.

§ 100.709 [Amended]

■ 68. In § 100.709(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.710 [Amended]

■ 69. In § 100.710(c), remove the words ''Group Mayport'' and add, in their place, the words ''Sector Jacksonville''.

§ 100.713 [Amended]

■ 70. In § 100.713(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.714 [Amended]

■ 71. In § 100.714(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.715 [Amended]

■ 72. In § 100.715(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.716 [Amended]

■ 73. In § 100.716(c), remove the words ''Group Mayport'' and add, in their place, the words ''Sector Jacksonville''.

§ 100.721 [Amended]

■ 74. In § 100.721(a)(3), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.722 [Amended]

■ 75. In § 100.722(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.724 [Amended]

■ 76. In § 100.724(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.728 [Amended]

■ 77. In § 100.728(b)(1), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.732 [Amended]

■ 78. In § 100.732(a)(2), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.735 [Amended]

■ 79. In § 100.735(b)(4), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 100.801 [Amended]

■ 80. In § 100.801—

■ a. In Table 1 sections (I), (II), (III), (IV), (V), and, (VII), remove the word ''Group'' wherever it appears and add, in its place, the word ''Sector'';

■ b. In Table 1 section (VI), before the word ''Galveston'', add the word ''Houston-''; and

■ c. In Table 1 section (VIII), remove the word ''Office'' and add, in its place, the word ''Unit''.

§ 100.901 [Amended]

■ 81. In § 100.901—

■ a. In Table 1, remove the word ''Group Sault Ste. Marie'' wherever it appears and add, in its place the word ''Sector Sault Ste. Marie'';

■ b. In Table 1, remove the words ''Group Grand Haven'', and add the words ''Field Office Grand Haven''; and

■ c. In Table 1, remove the word ''Group Milwaukee'' and add, in its place the word ''Sector Lake Michigan''.

§ 100.1103 [Amended]

■ 82. In § 100.1103, remove the word ''Group'' and add, in its place, the word ''Sector'', wherever it appears.

§ 100.1105 [Amended]

■ 83. In § 100.1105(c) introductory text and (c)(4), remove the word ''Group'' and add, in its place, the word ''Sector''.

PART 104—MARITIME SECURITY: VESSELS

■ 84. The authority citation for part 104 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 104.297 [Amended]

■ 85. In § 104.297(c), remove the words ''Marine Safety'' and add it their place the word ''Sector''.

PART 110—ANCHORAGE REGULATIONS

■ 86. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1(g); Department of Homeland Security Delegation No. 0170.1.

§ 110.140 [Amended]

■ 87. In § 110.140, remove the words ''Captain of the Port Providence'' and add, in their place, the words ''Captain of the Port Southeastern New England'', wherever it appears.

§ 110.186 [Amended]

■ 88. In § 110.186(b)(4), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 110.188 [Amended]

■ 89. In § 110.188(b)(11), remove the word ''Group'' and add, in its place, the word ''Sector''.

PART 135—OFFSHORE OIL POLLUTION COMPENSATION FUND

■ 90. The authority citation for part 135 is revised to read as follows:

Authority: 33 U.S.C. 2701–2719; E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1, para. 2(80).

§ 135.305 [Amended]

■ 91. In § 135.305(a)(2), remove the words ''Marine Safety Office'' and ''Marine Safety Detachment'' and add, in their place, the words ''Sector Office'' and ''Marine Safety Unit'' respectively.

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 92. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227, 110 Stat. 3034; E.O. 12777, 3 CFR 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 151.07 [Amended]

■ 93. In § 151.07 introductory text, remove the words ''Marine Safety Office (MSO)'' and add, in their place, the words ''Sector Office''.

§ 151.25 [Amended]

■ 94. In § 151.25(b), remove the words ''Marine Safety Office'' and add in their place, the words ''Sector Office''.

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

■ 95. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation No. 0170.1. Subpart C is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

§ 160.215 [Amended]

■ 96. In § 160.215, remove the words ''Marine Safety'' and add, in their place, the word ''Sector'', wherever they appear.

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

■ 97. The authority citation for part 162 is revised to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.1, para. 2(70).

§ 162.240 [Amended]

■ 98. In § 162.240(d), remove the words ''Marine Safety'' and add, in their place, the word ''Sector''.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 99. 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.

§ 165.151 [Amended]

■ 100. In § 165.151(b)—

■ a. Remove the words ''Group/Marine Safety Office'' and add, in their place, the word ''Sector''; and

■ b. Remove the word ''Group'' and add, in its place, the words ''Sector Field Office''.

§ 165.501 [Amended]

■ 101. In § 165.501(b)—

■ a. Remove the word ''Group'' and add, in its place, the word ''Sector''; and

■ b. Remove the words ''Marine Safety Office'' and add, in their place, the word ''Sector''.

§ 165.510 [Amended]

■ 102. In § 165.510(b), remove the words ''Philadephia, PA'' and add, in their place, the words ''Delaware Bay.''

§ 165.511 [Amended]

■ 103. In § 165.511—

■ a. In paragraph (a), remove the word ''Philadelphia'' and add, in its place, the words ''Delaware Bay'';

■ b. In paragraphs (b)(2) and (b)(5), remove the word ''Philadelphia'' wherever it appears and add, in its place, the words ''Delaware Bay'';

■ c. In paragraphs (b)(3) and (b)(4), remove the words ''Philadephia, PA'' wherever they appear and add, in their place, the words ''Delaware Bay'' and

■ d. In paragraph (d), remove the words ''Marine Safety Office/Group Philadelphia'' and add, in its place, the words ''Sector Delaware Bay''.

§ 165.514 [Amended]

■ 104. In § 165.514(d), remove the word ''Office'' and add, in its place, the word ''Unit''.

§ 165.515 [Amended]

■ 105. In § 165.515(c), remove the word ''Office'' and add, in its place, the word ''Unit''.

§ 165.530 [Amended]

■ 106. In § 165.530(b)(1) and (b)(3), remove the word ''Office'' wherever it appears and add, in its place, the word ''Unit''.

§ 165.535 [Amended]

■ 107. In § 165.535—

■ a. In paragraphs (b) and (d)(3), remove the word ''Philadelphia'' wherever it appears and add, in its place, the words ''Delaware Bay''; and

■ b. In paragraph (d)(2), remove the word ''Group'' and add, in its place, the words ''Sector Field Office''.

§ 165.552 [Amended]

■ 108. In § 165.552(c), remove the words ''Marine Safety Office/Group Philadelphia'' and add, in their place, the words ''Sector Delaware Bay''.

§ 165.553 [Amended]

■ 109. In § 165.553(c), remove the words ''Marine Safety Office/Group Philadelphia'' and add, in their place, the words ''Sector Delaware Bay''.

§ 165.554 [Amended]

■ 110. In § 165.554(c), remove the words ''Marine Safety Office/Group Philadelphia'' and add, in their place, the words ''Sector Delaware Bay''.

§ 165.703 [Amended]

■ 111. In § 165.703(d), remove the words ''Marine Safety Office Tampa'' and add, in their place, the words ''Sector St. Petersburg''.

§ 165.704 [Amended]

■ 112. In § 165.704, remove the words ''Captain of the Port Tampa'' and add, in their place, the words ''Captain of the Port St. Petersburg'', wherever they appear.

§ 165.709 [Amended]

■ 113. In § 165.709(b), remove the words ''Marine Safety Office'' and add, in their place, the word ''Sector''.

§ 165.754 [Amended]

■ 114. In § 165.754(b)(3) and (b)(4), remove the words ''Marine Safety Office'' wherever they appear and add, in their place, the word ''Sector''.

§ 165.755 [Amended]

■ 115. In § 165.755(c), remove the words ''Marine Safety Office'' and add, in their place, the word ''Sector''.

§ 165.757 [Amended]

■ 116. In § 165.757(b), remove the words ''Marine Safety Office'' and add, in their place, the word ''Sector''.

§ 165.758 [Amended]

■ 117. In § 165.758(b)(3), remove the words ''Marine Safety Office'' and add, in their place, the word ''Sector''.

§ 165.762 [Amended]

■ 118. In § 165.762(b)(3), remove the words ''Marine Safety Office'' and add, in their place, the word ''Sector''.

§ 165.764 [Amended]

■ 119. In § 165.764(b)(1), remove the words ''Captain of the Port, Tampa'' and add, in their place, the words ''Captain of the Port St. Petersburg''.

§ 165.825 [Amended]

■ 120. In § 165.825(b)(3), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 165.904 [Amended]

■ 121. In § 165.904(c)(1), remove the words ''Captain of the Port, Chicago'' and add, in their place, the words ''Captain of the Port Lake Michigan''.

§ 165.907 [Amended]

■ 122. In § 165.907(b)(3), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 165.909 [Amended]

■ 123. In § 165.909(b)(3), remove the words ''Group Milwaukee'' and add, in their place, the words ''Sector Lake Michigan''.

§ 165.910 [Amended]

■ 124. In § 165.910—

■ a. In the section heading, remove the words ''Chicago, Zone,'';

■ b. In paragraph (a)(1)(ii), remove the words ''Group Milwaukee'' and add, in their place, the words ''Sector Lake Michigan''; and

■ c. Remove the words ''Captain of the Port Chicago'' and add, in their place, the words ''Captain of the Port Lake Michigan'', wherever they appear.

§ 165.914 [Amended]

■ 125. In § 165.914(b)(3) and (b)(4), remove the word ''Group'' and add, in its place, the word ''Sector''.

§ 165.915 [Amended]

■ 126. In § 165.915, in the section heading, remove the words ''Toledo Zone, Lake Erie'' and add ''Detroit'' in their place, and remove the words ''Captain of the Port Toledo'' and add, in their place, the words ''Captain of the Port Detroit'', wherever they appear.

§ 165.921 [Amended]

■ 127. In § 165.921(e)(1)(i) and (e)(2)(v), remove the word ''MSO'' wherever it appears and add, in its place, the word ''MSU''.

§ 165.1191 [Amended]

■ 128. In § 165.1191(b) and (b)(3), remove the word ''Group'' wherever it appears and add, in its place, the word ''Sector''.

§ 165.1199 [Amended]

■ 129. In § 165.1199(d), remove the word ''Group'' and add, in its place, the word ''Sector''.

Title 46—Shipping

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

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

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

§ 1.01–25 [Amended]

■ 131. In § 1.01–25(b)(1), remove the words ''Marine Safety Office'' and add, in their place, the word ''Sector Office''.

PART 2—VESSEL INSPECTIONS

■ 132. The authority citation for part 2 continues to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2110, 3103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1. Subpart 2.45 also issued under the Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. Note prec. 1).

§ 2.01–1 [Amended]

■ 133. In § 2.01–1(a)(1), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

§ 2.01–3 [Amended]

■ 134. In § 2.01–3(b), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 4—MARINE CASUALTIES AND INVESTIGATIONS

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

Authority: 33 U.S.C. 1231; 43 U.S.C. 1333; 46 U.S.C. 2103, 2303a, 2306, 6101, 6301, and 6305; 50 U.S.C. 198; Department of Homeland Security Delegation No. 0170.1. Subpart 4.40 issued under 49 U.S.C. 1903(a)(1)(E).

§ 4.05–1 [Amended]

■ 136. In § 4.05–1(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

§ 4.05–10 [Amended]

■ 137. In § 4.05–10(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 5—MARINE INVESTIGATION REGULATIONS—PERSONNEL ACTION

■ 138. The authority citation for part 5 continues to read as follows:

Authority: 46 U.S.C. 2103, 7101, 7301, 7701; Department of Homeland Security Delegation No. 0170.1.

§ 5.807 [Amended]

■ 139. In § 5.807, remove the words ''Marine Safety Offices'' and add, in their place, the words ''Sector Offices''.

PART 16—CHEMICAL TESTING

■ 140. The authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; Department of Homeland Security Delegation No. 0170.1.

§ 16.500 [Amended]

■ 141. In § 16.500(b)(2), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

■ 142. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; Department of Homeland Security Delegation No. 0170.1.

§ 28.50 [Amended]

■ 143. In § 28.50, in the definition of ''Coast Guard Representative,'' remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 45—GREAT LAKES LOAD LINES

■ 144. The authority citation for part 45 continues to read as follows:

Authority: 46 U.S.C. 5104, 5108; Department of Homeland Security Delegation No. 0170.1.

§ 45.181 [Amended]

■ 145. In § 45.181(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 50—GENERAL PROVISIONS

■ 146. The authority citation for part 50 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; Section 50.01–20 also issued under the authority of 44 U.S.C. 3507.

§ 50.10–30 [Amended]

■ 147. In § 50.10–30—

■ a. In the heading to table 50.10–30, remove the words ''Marine Safety Office'' and add, in their place, the words ''Previous Sector Office''; and

■ b. In table 50.10–30, in the heading to column 2, remove the words ''Marine Safety'' and add, in their place, the word ''Sector''.

PART 67—DOCUMENTATION OF VESSELS

■ 148. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 664; 31 U.S.C. 9701; 42 U.S.C. 9118; 46 U.S.C. 2103, 2107, 2110, 12106, 12120, 12122; 46 U.S.C. app. 841a, 876; Department of Homeland Security Delegation No. 0170.1.

§ 67.149 [Amended]

■ 149. In § 67.149(b), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 115—INSPECTION AND CERTIFICATION

■ 150. The authority citation for part 115 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.

§ 115.105 [Amended]

■ 151. In § 115.105(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 122—OPERATIONS

■ 152. The authority citation for part 122 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 122.202 [Amended]

■ 153. In § 122.202(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

§ 122.206 [Amended]

■ 154. In § 122.206(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

■ 155. The authority citation for part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; Department of Homeland Security Delegation No. 0170.1. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.1100 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

§ 153.1101 [Amended]

■ 156. In § 153.1101(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

§ 153.1130 [Amended]

■ 157. In § 153.1130(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 169—SAILING SCHOOL VESSELS

■ 158. The authority citation for part 169 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; Pub. L. 103–206, 107 Stat. 2439; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1; § 169.117 also issued under the authority of 44 U.S.C. 3507.

§ 169.205 [Amended]

■ 159. In § 169.205(d), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

■ 160. The authority citation for part 170 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 170.100 [Amended]

■ 161. In § 170.100(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 176—INSPECTION AND CERTIFICATION

■ 162. The authority citation for part 176 continues to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.

§ 176.105 [Amended]

■ 163. In § 176.105(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

PART 185—OPERATIONS

■ 164. The authority citation for part 185 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

§ 185.202 [Amended]

■ 165. In § 185.202(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

§ 185.206 [Amended]

■ 166. In § 185.206(a), remove the words ''Marine Safety Office'' and add, in their place, the words ''Sector Office''.

Dated: June 25, 2007.

Thad W. Allen,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 07–3189 Filed 6–28–07; 12:15 pm]

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Federal Register

Monday,
July 2, 2007

Part VIII

The President

Memorandum of June 26, 2007—Assignment of Functions Under Section 1035 of the John Warner National Defense Authorization Act for Fiscal Year 2007

Federal Register
Vol. 72, No. 126
Monday, July 2, 2007

Presidential Documents

Title 3—

The President

Memorandum of June 26, 2007

Assignment of Functions Under Section 1035 of the John Warner National Defense Authorization Act for Fiscal Year 2007

Memorandum for the Secretary of State [and] the Secretary of Defense

By the authority vested in me as President by the Constitution and laws of the United States, including section 301 of title 3, United States Code, I hereby assign to the Secretary of Defense the functions of the President under section 1035 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364). The Secretary of State, and the heads of other executive departments and agencies identified in the report required under section 1035, should concur with the report.

The Secretary of Defense is authorized and directed to publish this memorandum in the **Federal Register**.

THE WHITE HOUSE,
Washington, June 26, 2007.

[FR Doc. 07–3254
Filed 6–29–07; 11:29 am]
Billing code 5000–04–M

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Monday, July 2, 2007

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JULY 2, 2007

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Animal and Plant Health Inspection Service

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Wood packaging material; published 7-2-07

Plant-related quarantine, domestic:

Asian longhorned beetle; published 7-2-07

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Northeastern United States fisheries—

Yellowtail flounder; published 6-6-07

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Air Force Department

Licensing of government-owned inventions in custody of Air Force; CFR part removed; published 7-2-07

ENVIRONMENTAL PROTECTION AGENCY

Grants; State and local assistance:

Superfund response actions; cooperative agreements and superfund State contracts; published 5-2-07

EXPORT-IMPORT BANK

Grants and agreements:

Nonprocurement debarment and suspension; OMB guidance; implementation; published 5-31-07

FEDERAL RESERVE SYSTEM

Loans to executive officers, directors, and principal shareholders of member banks (Regulation O):

Reporting requirements; published 6-1-07

HOMELAND SECURITY DEPARTMENT

Coast Guard

Coast Guard sector realignment; technical amendment; published 7-2-07

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

Lake Tahoe, CA; published 6-25-07

HOMELAND SECURITY DEPARTMENT

Federal Emergency Management Agency

Flood elevation determinations:

Maryland; published 7-2-07

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Animal and Plant Health Inspection Service

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Animal Welfare Act; Class B licensee definition; rulemaking petition; comment request; comments due by 7-9-07; published 5-23-07 [FR E7-09901]

Plant-related quarantine, domestic:

Black stem rust; berberis rust-resistant varieties; comments due by 7-12-07; published 6-12-07 [FR E7-11275]

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Forest Service

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Unauthorized mineral operations; criminal citation issuance; clarification; comments due by 7-9-07; published 5-10-07 [FR E7-08706]

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Fishery conservation and management:

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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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100–169	(869–060–00063–1)	49.00	Apr. 1, 2006
170–199	(869–062–00064–2)	50.00	Apr. 1, 2007
200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–062–00066–9)	30.00	Apr. 1, 2007
500–599	(869–060–00067–4)	47.00	Apr. 1, 2006
600–799	(869–062–00068–5)	17.00	Apr. 1, 2007
800–1299	(869–060–00069–1)	60.00	Apr. 1, 2006
1300–End	(869–062–00070–7)	25.00	Apr. 1, 2007
22 Parts:			
1–299	(869–060–00071–2)	63.00	Apr. 1, 2006
300–End	(869–060–00072–1)	45.00	[7] Apr. 1, 2006
23	(869–062–00073–7)	45.00	Apr. 1, 2007
24 Parts:			
0–199	(869–062–00074–0)	60.00	Apr. 1, 2007
200–499	(869–060–00075–5)	50.00	Apr. 1, 2006
500–699	(869–060–00076–3)	30.00	Apr. 1, 2006
700–1699	(869–060–00077–1)	61.00	Apr. 1, 2006
1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
25	(869–060–00079–8)	64.00	Apr. 1, 2006
26 Parts:			
§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 1.61–1.169	(869–060–00081–0)	63.00	Apr. 1, 2006
§§ 1.170–1.300	(869–060–00082–8)	60.00	Apr. 1, 2006
§§ 1.301–1.400	(869–062–00083–9)	47.00	Apr. 1, 2007
§§ 1.401–1.440	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–062–00085–5)	58.00	Apr. 1, 2007
§§ 1.501–1.640	(869–062–00086–3)	49.00	Apr. 1, 2007
§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–060–00090–9)	61.00	Apr. 1, 2006
§§ 1.1401–1.1550	(869–060–00091–2)	58.00	Apr. 1, 2006
§§ 1.1551–End	(869–060–00092–5)	50.00	Apr. 1, 2006
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–060–00094–1)	41.00	Apr. 1, 2006
*40–49	(869–062–00095–2)	28.00	[8] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–060–00097–6)	61.00	Apr. 1, 2006
500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–399	(869–060–00100–0)	64.00	Apr. 1, 2006
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–060–00102–6)	61.00	July 1, 2006
43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
0–99	(869–060–00104–2)	50.00	July 1, 2006
100–499	(869–060–00105–1)	23.00	July 1, 2006
500–899	(869–060–00106–9)	61.00	July 1, 2006
900–1899	(869–060–00107–7)	36.00	July 1, 2006
1900–1910 (§§ 1900 to 1910.999)	(869–060–00108–5)	61.00	July 1, 2006
1910 (§§ 1910.1000 to end)	(869–060–00109–3)	46.00	July 1, 2006
1911–1925	(869–060–00110–7)	30.00	July 1, 2006
1926	(869–060–00111–5)	50.00	July 1, 2006
1927–End	(869–060–00112–3)	62.00	July 1, 2006
30 Parts:			
1–199	(869–060–00113–1)	57.00	July 1, 2006
200–699	(869–060–00114–0)	50.00	July 1, 2006
700–End	(869–060–00115–8)	58.00	July 1, 2006
31 Parts:			
0–199	(869–060–00116–6)	41.00	July 1, 2006
200–499	(869–060–00117–4)	46.00	July 1, 2006
500–End	(869–060–00118–2)	62.00	July 1, 2006
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–060–00119–1)	61.00	July 1, 2006
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–060–00122–1)	37.00	July 1, 2006
700–799	(869–060–00123–9)	46.00	July 1, 2006
800–End	(869–060–00124–7)	47.00	July 1, 2006
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–060–00127–1)	57.00	July 1, 2006
34 Parts:			
1–299	(869–060–00128–0)	50.00	July 1, 2006
300–399	(869–060–00129–8)	40.00	July 1, 2006
*400–End & 35	(869–060–00130–1)	61.00	[9] July 1, 2006
36 Parts:			
1–199	(869–060–00131–0)	37.00	July 1, 2006
200–299	(869–060–00132–8)	37.00	July 1, 2006
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–060–00134–4)	58.00	July 1, 2006
38 Parts:			
0–17	(869–060–00135–2)	60.00	July 1, 2006
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–060–00137–9)	42.00	July 1, 2006
40 Parts:			
1–49	(869–060–00138–7)	60.00	July 1, 2006
50–51	(869–060–00139–5)	45.00	July 1, 2006
52 (52.01–52.1018)	(869–060–00140–9)	60.00	July 1, 2006
52 (52.1019–End)	(869–060–00141–7)	61.00	July 1, 2006
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–060–00143–3)	58.00	July 1, 2006
60 (Apps)	(869–060–00144–7)	57.00	July 1, 2006
61–62	(869–060–00145–0)	45.00	July 1, 2006
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–060–00152–2)	29.00	July 1, 2006
72–80	(869–060–00153–1)	62.00	July 1, 2006
81–85	(869–060–00154–9)	60.00	July 1, 2006
86 (86.1–86.599–99)	(869–060–00155–7)	58.00	July 1, 2006
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–060–00158–1)	45.00	July 1, 2006
136–149	(869–060–00159–0)	61.00	July 1, 2006
150–189	(869–060–00160–3)	50.00	July 1, 2006
190–259	(869–060–00161–1)	39.00	July 1, 2006
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–060–00165–4)	56.00	July 1, 2006
425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–060–00167–1)	61.00	July 1, 2006
790–End	(869–060–00168–9)	61.00	July 1, 2006
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–060–00169–7)	24.00	July 1, 2006
*101	(869–060–00170–1)	21.00	[9] July 1, 2006
102–200	(869–060–00171–9)	56.00	July 1, 2006
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–060–00173–5)	61.00	Oct. 1, 2006
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
0–19	(869–060–00193–0)	61.00	Oct. 1, 2006
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
70–79	(869–060–00196–4)	61.00	Oct. 1, 2006
80–End	(869–060–00197–2)	61.00	Oct. 1, 2006
48 Chapters:			
1 (Parts 1–51)	(869–060–00198–1)	63.00	Oct. 1, 2006
1 (Parts 52–99)	(869–060–00199–9)	49.00	Oct. 1, 2006
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
15–28	(869–060–00203–1)	47.00	Oct. 1, 2006
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
100–185	(869–060–00206–5)	63.00	Oct. 1, 2006
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–060–00211–1)	19.00	Oct. 1, 2006
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–060–00213–8)	34.00	Oct. 1, 2006
50 Parts:			
*1–16	(869–060–00214–6)	11.00	[10] Oct. 1, 2006
17.1–17.95(b)	(869–060–00215–4)	32.00	Oct. 1, 2006
17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
*17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[10] Oct. 1, 2006
18–199	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
600–659	(869–060–00221–9)	31.00	Oct. 1, 2006
660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,389.00	2007
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2007
Individual copies		4.00	2007
Complete set (one-time mailing)		332.00	2006
Complete set (one-time mailing)		325.00	2005

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

[8] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 2007

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 2	July 17	August 1	August 16	August 31	Oct 1
July 3	July 18	August 2	August 17	Sept 4	Oct 1
July 5	July 20	August 6	August 20	Sept 4	Oct 3
July 6	July 23	August 6	August 20	Sept 4	Oct 4
July 9	July 24	August 8	August 23	Sept 7	Oct 9
July 10	July 25	August 9	August 24	Sept 10	Oct 9
July 11	July 26	August 10	August 27	Sept 10	Oct 9
July 12	July 27	August 13	August 27	Sept 10	Oct 10
July 13	July 30	August 13	August 27	Sept 11	Oct 11
July 16	July 31	August 15	August 30	Sept 14	Oct 15
July 17	August 1	August 16	August 31	Sept 17	Oct 15
July 18	August 2	August 17	Sept 4	Sept 17	Oct 16
July 19	August 3	August 20	Sept 4	Sept 17	Oct 17
July 20	August 6	August 20	Sept 4	Sept 18	Oct 18
July 23	August 7	August 22	Sept 6	Sept 21	Oct 22
July 24	August 8	August 23	Sept 7	Sept 24	Oct 22
July 25	August 9	August 24	Sept 10	Sept 24	Oct 23
July 26	August 10	August 27	Sept 10	Sept 24	Oct 24
July 27	August 13	August 27	Sept 10	Sept 25	Oct 25
July 30	August 14	August 29	Sept 13	Sept 28	Oct 29
July 31	August 15	August 30	Sept 14	Oct 1	Oct 29