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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 924

[Docket No. AMS–FV–07–0087; FV07–924–1 IFR]

Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, Oregon; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule decreases the assessment rate established for the Washington-Oregon Fresh Prune Marketing Committee (Committee) for the 2007–2008 and subsequent fiscal periods from $1.75 to $1.00 per ton of prunes handled. The Committee locally administers the marketing order, which regulates the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. Assessments upon fresh prune handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period began April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective July 16, 2007. Comments received by September 11, 2007, will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: Robert J. Curry or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724; Fax: (503) 326–7440; or E-mail: *Robert.Curry@usda.gov* or *GaryD.Olson@usda.gov*.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 924 (7 CFR part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Washington-Oregon prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable prunes beginning April 1, 2007, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule decreases the assessment rate established for the Committee for the 2007–2008 and subsequent fiscal periods from $1.75 to $1.00 per ton of prunes handled.

The order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers in designated counties in Washington and in Umatilla County, Oregon. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate was formulated and discussed at a public meeting, thus all directly affected persons had an opportunity to participate and provide input.

For the 2004–2005 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of $1.75 per ton of fresh prunes handled. This assessment rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 29, 2007, and unanimously recommended 2007–2008 expenditures of $9,043 and a decreased assessment rate of $1.00 per ton. In comparison, last year's budgeted expenditures were $5,600. The assessment rate of $1.00 is $0.75 lower than the rate in effect since the 2004–

2005 fiscal period. The Committee recommended the assessment rate change for the purpose of lowering its monetary reserve to a level commensurate with the maximum permitted by the order of approximately one fiscal period's operational expenses (7 CFR 924.42).

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include $4,800 for the management fee, $1,000 for Committee travel expenses, $3,000 for the annual financial audit, and $100 for compliance. In comparison, budgeted expenses for the 2006–2007 season were $4,200, $800, $500, and $100, respectively. In addition, the Committee also budgeted an additional $343 this fiscal period to cover the cost of insurance, bonds, equipment maintenance, and other possible miscellaneous expenses.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Washington-Oregon prunes. Applying the $1.00 per ton assessment rate to the Committee's 4,400 ton crop estimate should provide $4,400 in assessment income. This assessment income in addition to approximately $4,643 from the Committee's reserve would be adequate to cover the recommended $9,043 budget for the 2007–2008 fiscal period. As of March 31, 2007, there was $8,815 in the Committee's reserve. The assessment rate established with this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although the assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate the Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2007–2008 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 215 producers of fresh prunes in the regulated production area and approximately 10 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,500,000.

Based on information compiled by both the Committee and the National Agricultural Statistics Service, the average annual revenue from the sale of fresh prunes was approximately $8,440 per producer in 2006. This estimate is based on 215 producers with a total utilized production of 5,200 tons selling for an average of $349 per ton. In addition, based on Committee records and 2006 f.o.b. prices ranging from $14.00 to $16.50 per 30-pound container as reported by AMS Market News Service, the entire Washington-Oregon fresh prune industry handled less than $6,500,000 worth of prunes last season. In view of the foregoing, the majority of Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2007–2008 and subsequent fiscal periods from $1.75 to $1.00 per ton. The Committee unanimously recommended 2007–2008 expenditures of $9,043 and the $1.00 per ton assessment rate at the May 29, 2007 meeting. The assessment rate of $1.00 is $0.75 lower than the rate in effect since the 2004–2005 fiscal period. With an estimated 2007–2008 prune crop of 4,400 tons, income from the $1.00 assessment combined with funds from the Committee's monetary reserve should be adequate to cover budgeted expenses. The Committee recommended the lower assessment rate to help decrease the monetary reserve. Funds in the reserve ($8,815 as of March 31, 2007) will be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42).

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include $4,800 for the management fee, $1,000 for Committee travel expenses, $3,000 for the annual financial audit, and $100 for compliance.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Higher assessment rates were considered, but not recommended because of the potential of generating too much income and thus maintaining the reserve fund at an amount higher than program requirements allow.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2007–2008 season could average about $325 per ton. Therefore, the estimated assessment revenue for the 2007–2008 fiscal period as a percentage of total producer revenue could approximate 0.31 percent.

This action decreases the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend and participate in the Committee's deliberations on all issues. Like all Committee meetings, the May 29, 2007 meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action imposes no additional reporting or recordkeeping requirements on either small or large Washington-Oregon fresh prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Furthermore, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

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

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2007–2008 fiscal period began on April 1, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Washington-Oregon fresh prunes handled during such fiscal period; (2) this action decreases the assessment rate for assessable prunes beginning with the 2007–2008 fiscal period; (3) handlers are aware of this action, which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 924

Plums, Prunes, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 924 is amended as follows:

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

■ 1. The authority citation for 7 CFR part 924 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 924.236 is revised to read as follows:

§ 924.236 Assessment rate.

On or after April 1, 2007, an assessment rate of $1.00 per ton is established for the Washington-Oregon Fresh Prune Marketing Committee.

Dated: July 9, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–13583 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

Docket No. AMS–FV–07–0024; FV02–928–3 FR]

Papayas Grown in Hawaii; Termination of Marketing Order 928 and Implementing Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule, termination order.

SUMMARY: This final rule terminates the Federal marketing order (order) for papayas grown in Hawaii, and the rules and regulations established under the order. The Department of Agriculture (USDA) previously determined the order should be terminated due to the results of a referendum in which growers indicated a lack of support for the continuation of the order. However, USDA postponed the termination until licensing agreements regarding development and use of transgenic papaya varieties could be resolved. Sufficient time has elapsed for the industry to resolve any outstanding licensing issues. Therefore, USDA is proceeding with the termination of the order.

DATES: Effective Date: July 16, 2007.

FOR FURTHER INFORMATION CONTACT: Marc McFetridge, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Ave., SW., Stop 0237, Washington, DC 20250–0237; telephone (202) 720–1509, Fax (202) 720–8938; or *Marc.McFetridge@usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action is being taken pursuant to § 608c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' and § 928.64 of the order.

USDA is issuing this rule in conformance with Executive Order 12866.

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

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

This rule terminates the marketing order for papayas grown in Hawaii and the rules and regulations issued thereunder. The order provides the authority to regulate the handling of papayas grown in Hawaii and was administered locally by the Papaya Administrative Committee (PAC).

The order has been in effect since 1971. The order authorizes the establishment of grade, size, quality, pack, and container requirements. The order also authorizes production and marketing research, market development, and paid advertising for Hawaii papayas. The program was funded by assessments imposed on papaya handlers.

Section 928.64(e) of the order specifies that continuance referenda must be conducted among papaya producers every sixth year before October 1. In accordance with this section, USDA conducted a referendum among papaya growers during the

period from May 6 to May 31, 2002, to determine if they favored continuation of their program. The referendum order provided that USDA would consider terminating the provisions of the order if less than two-thirds of the number of growers voting and growers of less than two-thirds of the papaya volume represented in the referendum favored continuance.

Ballots were mailed to 462 known papaya growers in Hawaii. By the close of the voting period, 55 valid votes had been cast. The results show that 49 percent of the growers voting, who produced 21 percent of the volume represented in the referendum, favored continuation of the program. The order failed to pass both criteria for continuance, demonstrating a lack of producer support needed to carry out the objectives of the Act. Thus, USDA determined that the order should be terminated.

However, the papaya industry requested that USDA postpone the termination of the order until licensing issues concerning development and use of transgenic papaya varieties were resolved. It was important for the industry to continue to commercially grow and sell the transgenic papayas. The PAC was authorized to use the patented papayas varieties and wished to transfer this authority to another entity before dissolution of the PAC with the termination of the order. USDA agreed to postpone the termination allowing the PAC to remain in existence while the issues were resolved.

USDA has been in contact with the papaya industry periodically to monitor the papaya industry's progress in resolving the licensing issues. According to the president of the HPIA, the agreements were expected to be finalized within a few months. Sufficient time has elapsed for the industry to resolve any outstanding licensing issues. Therefore, USDA is proceeding with the termination of the order.

Pursuant to section 608c(16)(A) of the Act and § 928.64 of the order, it has been previously found that the order provisions should be terminated. Section 608c(16)(A) of the Act requires USDA to notify Congress at least 60 days before terminating a Federal marketing order program. Congress was so notified on July 12, 2002.

Effective August 1, 2002 (67 FR 50581), the reporting and assessment requirements specified in §§ 928.160 and 928.226, respectively, were suspended. This termination order removes these provisions and other rules and regulations established under the order.

Pursuant to § 928.65 of the order, the members of the Papaya Administrative Committee shall serve as trustees to conclude and liquidate the affairs of the committee.

Final Regulatory Flexibility Analysis

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

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

In 2005 there were 205 producers of papayas in the production area and approximately 60 handlers. Small agricultural producers are defined as those having annual receipts of less than $750,000, and small agricultural service firms, which include handlers, are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $6,500,000.

Based on a reported average Philadelphia wholesale terminal market price in 2006 for fresh papayas of $0.53 per pound, a handler would have to ship in excess of 12 million pounds to have annual receipts of $6.5 million in 2006. Based on a reported average grower price in 2006 of $0.391 per pound, and average annual industry shipments of approximately 28.7 million pounds in 2006, annual total grower revenues would be $11.2 million. Average annual grower revenue would, therefore, be $54,740 in 2006. Thus, the majority of handlers and producers of papayas may be classified as small entities, excluding receipts from other sources.

This final rule terminates the Hawaii papaya marketing order and the rules and regulations established under the order. The order is being terminated because in a referendum held in 2002, papaya producers failed to support continuation of the program. The papaya industry requested postponing the termination of the order until licensing issues were resolved regarding development and use of transgenic papaya varieties. Sufficient time has elapsed for the industry to resolve any outstanding licensing issues. Therefore USDA is proceeding with the termination of the order.

This action eliminates program requirements that were imposed on papaya handlers through July 31, 2002. Until that time, handlers were required to pay an assessment rate of $0.008 per pound handled. Additionally, handlers were required to file monthly reports with the committee.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements being terminated by this rule were previously approved by the Office of Management and Budget (OMB) under OMB No. 0581–0102, Papayas Grown in Hawaii. This information collection was terminated by OMB on August 19, 2002.

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

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

After consideration of all relevant matter presented, including the results of a producer referendum held in 2002, it is hereby found that the papaya marketing order and the rules and regulations in effect under the order do not tend to effectuate the declared policy of the Act and, therefore, are terminated.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This action relieves restrictions on handlers by terminating the requirements of the papaya marketing order; (2) regulations under the order have been suspended for the past five crop years; and (3) no useful purpose would be served by delaying the effective date.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

PART 928—[REMOVED]

■ For the reasons set forth in the preamble, and under authority of 7 U.S.C. 601–674, 7 CFR part 928 is removed.

Dated: July 9, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–13580 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1214

[Doc. No. AMS–FV–07–0052; FV–06–707–C]

Kiwifruit Research, Promotion, and Consumer Information Order; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correcting amendment.

SUMMARY: The Agricultural Marketing Service (AMS) is removing from the Code of Federal Regulations (CFR) its procedural regulations regarding the Kiwifruit Research, Promotion, and Consumer Information Order (Order), a program never implemented.

EFFECTIVE DATE: July 14, 2007.

FOR FURTHER INFORMATION CONTACT: Marlene M. Betts, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, Stop 0244, 1400 Independence Avenue, SW., Room 0634–S, Washington, DC 20250–0244, telephone (202) 720–9915, fax (202) 205–2800, or e-mail *Marlene.Betts@usda.gov.*

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Service (AMS) is removing from the Code of Federal Regulations (CFR), 7 CFR part 1214, Kiwifruit Research, Promotion, and Consumer Information Order (Order). The Order was authorized by the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7461–7473). The proposed Order was published in the **Federal Register** on October 17, 1997, [62 FR 54314] and then again on November 10, 1998, [63 FR 62964] but never finalized. Nevertheless, final referendum procedures were published in the **Federal Register** on October 17, 1997, [62 FR 54310] and added to the CFR in Subpart C, along with reserved parts, Subpart A and Subpart B at 7 CFR part 1214. This action is needed to remove 7 CFR part 1214 from the CFR since the program was never implemented. This document provides for the removal of 7 CFR 1214 in its entirety.

List of Subjects in 7 CFR Part 1214

Administrative practice and procedure, Advertising, Consumer Information, Marketing agreements, Kiwifruit, Promotion, Reporting and recordkeeping requirements.

PART 1214—[REMOVED]

■ Accordingly, under the authority of 7 U.S.C. 7461–7473, 7 CFR part 1214 is removed.

Dated: July 9, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–13546 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 331 and 381

[Docket No. FSIS–2007–0023]

RIN 0583–AD29

Designation of the State of New Mexico Under the Federal Meat Inspection Act and Poultry Products Inspection Act

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing that it is designating the State of New Mexico as a State to receive Federal inspection with respect to operations and transactions involving meat and poultry products within the State because representatives of the State have requested such designation. In response to the State's request, FSIS will assume responsibility for the meat and poultry inspection programs in the State of New Mexico on August 13, 2007. Therefore, FSIS is amending the Federal meat and poultry products inspection regulations by adding New Mexico to the list of designated States.

DATES: This final rule will be effective on August 13, 2007.

FOR FURTHER INFORMATION CONTACT: Ron Eckel, Chief Federal State Audit Branch, Internal Control Division, Office of Program Evaluation, Enforcement, and Review, Food Safety and Inspection Service, USDA, 1299 Farnam Street, Suite 300, Landmark Center Building, Omaha, Nebraska 68102; telephone 402–344–5000.

SUPPLEMENTARY INFORMATION: FSIS has been delegated the authority to exercise the functions of the Secretary of Agriculture as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). These statutes provide that FSIS is to protect the public by verifying that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged.

Under these statutes, a State may administer meat and poultry inspection programs provided that it has developed and is effectively enforcing inspection requirements at least equal to those imposed under titles I and IV of the FMIA and sections 1–4, 6–10, and 12–22 of the PPIA. If States can no longer effectively enforce meat and poultry inspection requirements at least equal to the Federal requirements, they must be ''designated'' by the Secretary to receive Federal inspection (21 U.S.C. 661(c) & 454(c)).

The Governor of New Mexico sent a letter to the Secretary of the United States Department of Agriculture, dated June 22, 2007, requesting the designation of New Mexico for purposes of allowing FSIS to conduct food safety inspections of meat and poultry products within the State of New Mexico. Consequently, the Secretary of Agriculture is designating the State of New Mexico under 21 U.S.C. 661(c) of the FMIA and 21 U.S.C. 454(c) of the PPIA. On and after August 13, 2007, the provisions of titles I and IV of the FMIA and sections 1–4, 6–10, and 12–22 of the PPIA will apply to operations and transactions involving meat and poultry products within the State of New Mexico, unless exempt under 21 U.S.C. 623 or 661(c)(2) of the FMIA or 21 U.S.C. 454(c)(2) or 464 of the PPIA.

Owners or operators of New Mexico's meat and poultry establishments wishing to continue operations after August 13, 2007, must contact the FSIS District Office in Denver, CO, in order to receive Federal inspection. This office will provide information concerning requirements and exemptions under the FMIA and the PPIA, applications for inspection, and requests for surveys of establishments. Address correspondence to Denver Federal Center, P.O. Box 25387, Building 45, Denver, CO 80225. Phone number: (303) 236–9800.

The Acting Administrator, FSIS, has determined that there is good cause for issuing this final rule without prior notice and opportunity for public comment. FSIS has determined that it is in the public interest to ensure a smooth, orderly and expeditious transition to Federal inspection. Representatives of the State of New Mexico have requested that the State be

designated to receive Federal inspection with respect to operations and transactions involving meat and poultry products within the State. The Agency is mandated by law to assume the responsibility for administering the New Mexico meat and poultry inspection programs. It is necessary, therefore, to designate the State of New Mexico, in accordance with the FMIA (21 U.S.C. 661(c)) and the PPIA (21 U.S.C. 454(c)), in order to carry out the Secretary's responsibilities under the FMIA and the PPIA.

In addition, it does not appear that new, relevant information would be made available to the Secretary by public participation in this rulemaking. Accordingly, under the administrative procedures in 5 U.S.C. 553, FSIS finds good cause to conclude that notice and other public procedures are unnecessary and contrary to the public interest.

Executive Order 12866 and Regulatory Flexibility Act

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

The Acting Administrator, FSIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities. FSIS, pursuant to law, is assuming the responsibility, previously held by the State of New Mexico, of administering the meat and poultry inspection programs with respect to operations and transactions within the State of New Mexico. This action will affect approximately 25 meat and poultry establishments. Most, if not all, are very small establishments. In addition, there are approximately 30 custom exempt facilities in New Mexico, all small entities. However, this is not a substantial number of either very small establishments or custom exempt facilities. There are approximately 5,070 very small meat and poultry establishments nationwide, which are either federally or State inspected, and approximately 3,135 custom-exempt facilities nationwide. In addition, it is not anticipated that significant costs will be incurred by these establishments in New Mexico as a result of these actions.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts 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. However, the administrative procedures specified in 9 CFR 306.5 and 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA or the PPIA.

Paperwork Requirements

This final rule has been reviewed under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and the Agency has determined that it imposes no new paperwork requirements.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS web page located at *http://www.fsis.usda.gov/regulations/2007_Interim_&_Final_Rules_Index/index.asp*.

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

List of Subjects

9 CFR Part 331

Meat inspection.

9 CFR Part 381

Poultry and poultry products.

■ Accordingly, 9 CFR parts 331 and 381 are amended as follows:

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

■ 1. The authority citation for part 331 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 331.2 [Amended]

■ 2. The table in § 331.2 is amended in the ''State'' column by adding ''New Mexico'' as the entry immediately above ''New York'' and in the ''Effective date of application of Federal provisions'' column, by adding ''August 13, 2007'' on the line with ''New Mexico.''

PART 381—POULTRY PRODUCTS INSPECTION

■ 3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

§ 381.221 [Amended]

■ 4. The table in § 381.221 is amended in the ''States'' column by adding ''New Mexico'' as the entry immediately above ''New York'' and in the ''Effective date of application of Federal provisions'' column, by adding ''August 13, 2007,'' on the line with ''New Mexico.''

Done at Washington, DC, on: July 10, 2007.

David P. Goldman,

Acting Administrator.

[FR Doc. E7–13650 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–DM–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AI13

List of Approved Spent Fuel Storage Casks: NAC–MPC Revision 5, Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule: Confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of July 24, 2007, for the

direct final rule that was published in the **Federal Register** on May 10, 2007 (72 FR 26535). This direct final rule amended the NRC's regulations to revise the NAC–MPC cask system listing to include Amendment No. 5 to Certificate of Compliance (CoC) No. 1025.

EFFECTIVE DATE: The effective date of July 24, 2007, is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (*http://ruleforum.llnl.gov*). For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219, e-mail *jmm2@nrc.gov.*

SUPPLEMENTARY INFORMATION: On May 10, 2007 (72 FR 26535), the NRC published a direct final rule amending its regulations in 10 CFR Part 72 to revise the NAC–MPC cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 5 to CoC No. 1025. This amendment revises Technical Specifications to incorporate changes to the reporting and monitoring requirements, to incorporate guidance from NRC Interim Staff Guidance-22, and to include editorial changes for clarity. The amendment also revises the CoC description to remove the requirement for tamper-indicating devices on the Vertical Concrete Casks. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on July 24, 2007. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 9th day of July, 2007.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration.

[FR Doc. E7–13681 Filed 7–12–07; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30559; Amdt. No. 3226]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective July 13, 2007. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 13, 2007.

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

For Examination—

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

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

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

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

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

The Rule

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

The SIAPs, as modified by FDC P–NOTAM, and contained in this

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on June 29, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35, and 97.37 [Amended]

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

Effective Upon Publication

FDC date	State	City	Airport	FDC No.	Subject
6/18/07	NV	FALLON	FALLON MUNI	7/4909	VOR/DME OR GPS–B, AMDT 3

[FR Doc. E7–13267 Filed 7–12–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 07–52]

RIN 1505–AB80

Extension of Import Restrictions Imposed on Pre-Classical and Classical Archaeological Objects and Byzantine Period Ecclesiastical and Ritual Ethnological Material From Cyprus

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

ACTION: Final rule.

SUMMARY: This document amends U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on Pre-Classical and Classical Archaeological Objects and Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus which were imposed by Treasury Decision (T.D.) 02–37 and CBP Dec. 06–22. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions. Accordingly, the restrictions will remain in effect for an additional 5 years, and the CBP regulations are being amended to indicate this extension. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. This document also contains the Designated List of Archaeological Objects and Ethnological Material that describes the articles to which the restrictions apply. Note that one subcategory, Coins of Cypriot Types, has been added to the category entitled Metal.

EFFECTIVE DATE: July 16, 2007.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George F. McCray, Esq., Chief, Intellectual Property Rights and Restricted Merchandise Branch, (202) 572–8710. For operational aspects, Michael Craig, Chief, Other Government Agencies Branch, (202) 344–1684.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with the Republic of Cyprus on July 16, 2002, concerning the imposition of import restrictions on certain archaeological material of Cyprus representing the Pre-Classical and Classical periods of its cultural heritage. On July 19, 2002, the former United States Customs Service published Treasury Decision (T.D.) 02–37 in the **Federal Register** (67 FR

47447), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, and included a list designating the types of archaeological materials covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are ''effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists'' (19 CFR 12.104g(a)). T.D. 02–37 is set to expire on July 16, 2007.

We note that prior to the issuance of T.D. 02–37, the former United States Customs Service had issued T.D. 99–35 (64 FR 17529, April 12, 1999) imposing ''emergency'' import restrictions on certain Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus. Under T.D. 99–35, Sec. 12.104g(b) (19 CFR 12.104g(b)) of the regulations pertaining to emergency import restrictions was amended accordingly. This emergency protection was extended in CBP Dec. 03–25 (68 FR 51903, August 29, 2003). The ethnological material protected by the emergency restrictions was not covered by the 2002 bilateral agreement and the 2002 Treasury Decision.

On August 17, 2006, the Republic of Cyprus and the United States amended the bilateral agreement of July 16, 2002, to include the list of Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus that was protected pursuant to the emergency action. The amendment of the bilateral agreement to include this material was reflected in CBP Dec. 06–22, which was published in the **Federal Register** (71 FR 51724) on August 31, 2006. CBP Dec. 06–22 set forth the list of Byzantine Ecclesiastical and Ritual Ethnological Material from Cyprus that was previously protected pursuant to emergency action and announced that import restrictions were now imposed on this cultural property pursuant to the amended bilateral agreement. The amended bilateral agreement is set to expire on July 16, 2007, unless extended by the Parties.

After reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluding that the cultural heritage of Cyprus continues to be in jeopardy from pillage of certain archaeological objects and ethnological materials, made the necessary determination to extend the import restrictions on all the cultural property encompassed by the amended bilateral agreement for an additional five years on May 30, 2007. In addition to all the previously protected cultural material, import restrictions are also being imposed on a new subcategory of objects (Coins). Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions on the currently protected cultural property as well as the new subcategory.

The Designated List of articles that are protected pursuant to the bilateral agreement, as extended, on Pre-Classical and Classical Archaeological Objects and Byzantine Period Ecclesiastical and Ritual Ethnological Material from Cyprus has been revised and is published below. We note that the subcategory Coins of Cypriot Types has been added to the category entitled Metal, pursuant to 19 U.S.C. 2604. This addition comes in response to a request from the Government of the Republic of Cyprus to amend the Designated List. Coins constitute an inseparable part of the archaeological record of the island, and, like other archaeological objects, they are vulnerable to pillage and illicit export.

List of Archaeological Objects From Cyprus Representing Pre-Classical and Classical Periods Ranging in Date From Approximately the 8th Millennium B.C. to Approximately 330 A.D.

I. Ceramic

A. Vessels

1. Neolithic and Chalcolithic (c. 7500–2300 B.C.)—Bowls and jars, including spouted vessels. Varieties include Combed ware, Black Lustrous ware, Red Lustrous ware, and Red-on-White painted ware. Approximately 10–24 cm in height.

2. Early Bronze Age (c. 2300–1850 B.C.)—Forms are hand-made and include bowls, jugs, juglets, jars, and specialized forms, such as askoi, pyxides, gourd-shape, multiple-body vessels, and vessels with figurines attached. Cut-away spouts, multiple spouts, basket handles, and round bases commonly occur. Incised, punctured, molded, and applied ornament, as well as polishing and slip, are included in the range of decorative techniques. Approximately 13–60 cm in height.

3. Middle Bronze Age (c. 1850–1550 B.C.)—Forms are hand-made and include bowls, jugs, juglets, jars, zoomorphic askoi, bottles, amphorae, and amphoriskoi. Some have multiple spouts and basket or ribbon handles. Decorative techniques include red and brown paint, incised or applied decoration, and polishing. Varieties include Red Polished ware, White Painted ware, Black Slip ware, Red Slip ware, and Red-on-Black ware. Approximately 4–25 cm in height.

4. Late Bronze Age (c. 1550–1050 B.C.)—Forms include bowls, jars, jugs and juglets, tankards, rhyta, bottles, kraters, alabastra, stemmed cups, cups, stirrup jars, amphorae, and amphoriskoi. A wide variety of spouts, handles, and bases are common. Zoomorphic vessels also occur. Decorative techniques include painted design in red or brown, polishing, and punctured or incised decoration. Varieties include White Slip, Base Ring ware, White Shaved ware, Red Lustrous ware, Bichrome Wheel-made ware, and Proto-White Painted ware. Some examples of local or imported Mycenaean Late Helladic III have also been found. Approximately 5–50 cm in height.

5. Cypro-Geometric I-III (c. 1050–750 B.C.)—Forms include bowls, jugs, juglets, jars, cups, skyphoi, amphorae, amphoriskos, and tripods. A variety of spouts, handles and base forms are used. Decorative techniques include paint in dark brown and red, ribbing, polish, and applied projections. Varieties include White Painted I-II wares, Black Slip I-II wares, Bichrome II-III wares, and Black-on-Red ware. Approximately 7–30 cm in height.

6. Cypro-Archaic I-II (c. 750–475 B.C.)—Forms include bowls, plates, jugs and juglets, cups, kraters, amphoriskoi, oinochoe, and amphorae. Many of the forms are painted with bands, lines, concentric circles, and other geometric and floral patterns. Animal designs occur in the Free Field style. Molded decoration in the form of female figurines may also be applied. Red and dark brown paint is used on Bichrome ware. Black paint on a red polished surface is common on Black-on-Red ware. Other varieties include Bichrome Red, Polychrome Red, and Plain White. Approximately 12–45 cm in height.

7. Cypro-Classical I-II (c. 475–325 B.C.)—Forms include bowls, shallow dishes, jugs and juglets, oinochoai, and amphorae. The use of painted decoration in red and brown, as well as blue/green and black continues. Some vessels have molded female figurines applied.

Decorative designs include floral and geometric patterns. Burnishing also occurs. Varieties include Polychrome Red, Black-on-Red, Polychrome Red, Stroke Burnished, and White Painted wares. Approximately 6–40 cm in height.

8. Hellenistic (c. 325 B.C.–50 B.C.)—Forms include bowls, dishes, cups, unguentaria, jugs and juglets, pyxides,

and amphorae. Most of the ceramic vessels of the period are undecorated. Those that are decorated use red, brown, or white paint in simple geometric patterns. Ribbing is also a common decorative technique. Some floral patterns are also used. Varieties include Glazed Painted ware and Glazed ware. Imports include Megarian bowls. Approximately 5–25 cm in height.

9. Roman (c. 50 B.C.–330 A.D.)—Forms include bowls, dishes, cups, jugs and juglets, unguentaria, amphora, and cooking pots. Decorative techniques include incision, embossing, molded decoration, grooved decoration, and paint. Varieties include Terra Sigillata and Glazed and Green Glazed wares. Approximately 5–55 cm in height.

B. Sculpture

1. Terracotta Figurines (small statuettes).

(a) Neolithic to Late Bronze Age (c. 7500–1050 B.C.)—Figurines are small, hand-made, and schematic in form. Most represent female figures, often standing and sometimes seated and giving birth or cradling an infant. Features and attributes are marked with incisions or paint. Figurines occur in Red-on-White ware, Red Polished ware, Red-Drab Polished ware, and Base Ring ware. Approximately 10–25 cm in height.

(b) Cypro-Geometric to Cypro-Archaic (c. 1050–475 B.C.)—Figurines show a greater diversity of form than earlier figurines. Female figurines are still common, but forms also include male horse-and-rider figurines; warrior figures; animals such as birds, bulls and pigs; tubular figurines; boat models; and human masks. In the Cypro-Archaic period, terra cotta models illustrate a variety of daily activities, including the process of making pottery and grinding grain. Other examples include musicians and men in chariots. Approximately 7–19 cm in height.

(c) Cypro-Classical to Roman (c. 475 B.C.–330 A.D.)—Figurines mirror the classical tradition of Greece and Roman. Types include draped women, nude youths, and winged figures. Approximately 9–20 cm in height.

2. Large Scale Terracotta Figurines—Dating to the Cypro-Archaic period (c. 750–475 B.C.), full figures about half life-size, are commonly found in sanctuaries. Illustrated examples include the head of a woman decorated with rosettes and a bearded male with spiral-decorated helmet. Approximately 50–150 cm in height.

3. Funerary Statuettes—Dating to the Cypro-Classical period (c. 475–325 B.C.), these illustrate both male and female figures draped, often seated, as expressions of mourning. Approximately 25–50 cm in height.

C. Inscriptions

Writing on clay is restricted to the Late Bronze Age (c. 1550–1050 B.C.). These occur on clay tablets, weights, and clay balls. Approximately 2–7 cm in height.

II. Stone

A. Vessels

Ground stone vessels occur from the Neolithic to the Hellenistic period (c. 7500–50 B.C.). Early vessels are from local hard stone. Most are bowl-shaped; some are trough-shaped with spouts and handles. Neolithic vessels often have incised or perforated decoration. Late Bronze Age vessels include amphoriskoi and kraters with handles. Sometimes these have incised decoration. Alabaster was also used for stone vessels in the Late Bronze Age and Hellenistic period. In the latter period, stone vessels are produced in the same shapes as ceramic vessels: Amphorae, unguentaria, etc. Approximately 10–30 cm in height.

B. Sculpture

1. Neolithic to Chalcolithic (c. 7500–2300 B.C.)—Forms include small scale human heads, fiddle-shaped human figures, steatopygous female figures, cruciform idols with incised decoration, and animal figures. Andesite and limestone are commonly used in these periods. Approximately 5–30 cm in height.

2. Cypro-Classical (c. 475–325 B.C.)—Small scale to life-size human figures, whole and fragments, in limestone and marble, are similar to the Classical tradition in local styles. Examples include the limestone head of a youth in Neo-Cypriot style, votive female figures in Proto-Cypriot style, a kouros in Archaic Greek style, statues and statuettes representing Classical gods such as Zeus and Aphrodite, as well as portrait heads of the Greek and Roman periods. Approximately 10–200 cm in height.

C. Architectural Elements

Sculpted stone building elements occur from the 5th century B.C. through the 3rd century A.D. These include columns and column capitals, relief decoration, chancel panels, window frames, revetments, offering tables, coats of arms, and gargoyles.

D. Seals

Dating from the Neolithic (7500 B.C.) through 3rd century A.D., conical seals, scarabs, cylinder seals, and bread stamps are incised with geometric decoration, pictoral scenes, and inscriptions. Approximately 2–12 cm in height.

E. Amulets and Pendants

Dating to the Chalcolithic period, these pendants are made of picrolite and are oval or rectangular in form. Approximately 4–5 cm in length.

F. Inscriptions

Inscribed stone materials date from the 6th century B.C. through the 3rd century A.D. During the Cypro-Classical period, funerary stelae, and votive plaques were inscribed. From the 1st to the 3rd century A.D. funerary plaques, mosaic floors, and building plaques were inscribed.

G. Funerary Stelae (Uninscribed)

Funerary stelae date from the 6th century B.C. to the end of the Hellenistic period (c. 50 B.C.). Marble and other stone sculptural monuments have relief decoration of animals or human figures seated or standing. Stone coffins also have relief decoration. Approximately 50-155 cm in height.

H. Floor Mosaics

Floor mosaics date as early as the 4th century B.C. in domestic and public contexts and continue to be produced through the 3rd century A.D. Examples include the mosaics at Nea Paphos, Kourion, and Kouklia.

III. Metal

A. Copper/Bronze

1. Vessels—Dating from the Bronze Age (c. 2300 B.C.) through the 3rd century A.D., bronze vessel forms include bowls, cups, amphorae, jugs, juglets, pyxides, dippers, lamp stands, dishes, and plates. Approximately 4–30 cm in height.

2. Bronze Stands—Dating from the Late Bronze Age (c. 1550 B.C.) through the end of the Classical period (c. 325 B.C.), are bronze stands with animal decoration.

3. Sculpture—Dating from the Late Bronze Age (c. 1550) to the end of the Hellenistic period (c. 50 B.C.), small figural sculpture includes human forms with attached attributes such as spears or goblets, animal figures, animal- and vessel-shaped weights, and Classical representations of gods and mythological figures. Approximately 5–25 cm in height.

4. Personal Objects—Dating from the Early Bronze Age (c. 2300 B.C.) to the end of the Roman period (330 A.D.), forms include toggle pins, straight pins, fibulae, and mirrors.

B. Silver

1. Vessels—Dating from the Bronze Age (c. 2300 B.C.) through the end of the Roman period (330 A.D.), forms include bowls, dishes, coffee services, and ceremonial objects such as incense burners. These are often decorated with molded or incised geometric motifs or figural scenes.

2. Jewelry—Dating from the Cypro-Geometric period (c. 1050 B.C.) through the end of the Roman period (330 A.D.), forms include fibulae, rings, bracelets, and spoons.

C. Gold Jewelry

Gold jewelry has been found on Cyprus from the Early Bronze Age (c. 2300 B.C.) through the end of the Roman period (330 A.D.). Items include hair ornaments, bands, frontlets, pectorals, earrings, necklaces, rings, pendants, plaques, beads, and bracelets.

D. Coins of Cypriot Types

Coins of Cypriot types made of gold, silver, and bronze including but not limited to:

1. Issues of the ancient kingdoms of Amathus, Kition, Kourion, Idalion, Lapethos, Marion, Paphos, Soli, and Salamis dating from the end of the 6th century B.C. to 332 B.C.

2. Issues of the Hellenistic period, such as those of Paphos, Salamis, and Kition from 332 B.C. to c. 30 B.C.

3. Provincial and local issues of the Roman period from c. 30 B.C. to 235 A.D. Often these have a bust or head on one side and the image of a temple (the Temple of Aphrodite at Palaipaphos) or statue (statue of Zeus Salaminios) on the other.

List of Ecclesiastical and Ritual Ethnological Material From Cyprus Representing the Byzantine Period Dating From Approximately the 4th Century A.D. Through the 15th Century A.D.

I. Metal

A. Bronze

Ceremonial objects include crosses, censers (incense burners), rings, and buckles for ecclesiastical garments. The objects may be decorated with engraved or modeled designs or Greek inscriptions. Crosses, rings and buckles are often set with semi-precious stones.

B. Lead

Lead objects date to the Byzantine period and include ampulla (small bottle-shaped forms) used in religious observance.

C. Silver and Gold

Ceremonial vessels and objects used in ritual and as components of church treasure. Ceremonial objects include censers (incense burners), book covers, liturgical crosses, archbishop's crowns, buckles, and chests. These are often decorated with molded or incised geometric motifs or scenes from the Bible, and encrusted with semi-precious or precious stones. The gems themselves may be engraved with religious figures or inscriptions. Church treasure may include all of the above, as well as rings, earrings, and necklaces (some decorated with ecclesiastical themes) and other implements (e.g., spoons).

II. Wood

Artifacts made of wood are primarily those intended for ritual or ecclesiastical use during the Byzantine period. These include painted icons, painted wood screens (iconstasis), carved doors, crosses, painted wooded beams from churches or monasteries, thrones, chests and musical instruments. Religious figures (Christ, the Apostles, the Virgin, and others) predominate in the painted and carved figural decoration. Ecclesiastical furniture and architectural elements may also be decorated with geometric or floral designs.

III. Ivory and Bone

Ecclesiastical and ritual objects of ivory and bone boxes, plaques, pendants, candelabra, stamp rings, crosses. Carved and engraved decoration includes religious figures, scenes from the Bible, and floral and geometric designs.

IV. Glass

Ecclesiastical objects such as lamps and ritual vessels.

V. Textiles—Ritual Garments

Ecclesiastical garments and other ritual textiles from the Byzantine period. Robes, vestments and altar clothes are often of a fine fabric and richly embroidered in silver and gold. Embroidered designs include religious motifs and floral and geometric designs.

VI. Stone

A. Wall Mosaics

Dating to the Byzantine period, wall mosaics are found in ecclesiastical buildings. These generally portray images of Christ, Archangels, and the Apostles in scenes of Biblical events. Surrounding panels may contain animal, floral, or geometric designs.

B. Floor Mosaics

Floor mosaics from ecclesiastical contexts. Examples include the mosaics at Nea Paphos, Kourion, Kouklia, Chrysopolitissa Basilica and Campanopetra Basilica. Floor mosaics may have animal, floral, geometric designs, or inscriptions.

VII. Frescoes/Wall Paintings

Wall paintings from the Byzantine period religious structures (churches, monasteries, chapels, etc.) Like the mosaics, wall paintings generally portray images of Christ, Archangels, and the Apostles in scenes of Biblical events. Surrounding paintings may contain animal, floral, or geometric designs.

More information on import restrictions can be obtained from the International Cultural Property Protection Web site (*http://exchanges.state.gov/culprop*). The restrictions on the importation of these archaeological and ethnological materials from Cyprus are to continue in effect for an additional 5 years. Importation of such materials continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). For the same reason, a delayed effective date is not required.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

■ For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2. In § 12.104g(a), the table of the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Cyprus by removing the reference to ''T.D. 02–37, as amended by CBP Dec. 06–22'' and adding in its place ''CBP Dec. 07–52'' in the column headed ''Decision No.''.

Deborah J. Spero,

Acting Commissioner, Bureau of Customs and Border Protection.

Approved: July 9, 2007.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 07–3425 Filed 7–12–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9326]

RIN 1545–BE34

Guidance under Subpart F Relating to Partnerships

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of the temporary regulations.

SUMMARY: This document contains final regulations providing guidance under subpart F relating to partnerships. The final regulations add rules for determining whether a controlled foreign corporation's (CFC's) distributive share of partnership income is excluded from foreign personal holding company income under the exception contained in section 954(i). These regulations will affect CFCs that are qualified insurance companies, as defined in section 953(e)(3), that have an interest in a partnership and U.S. shareholders of such CFCs.

DATES: *Effective Date:* These regulations are effective July 13, 2007.

Applicability Date: For date of applicability, see § 1.954–2(a)(5)(v).

FOR FURTHER INFORMATION CONTACT: Kate Y. Hwa, (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 2006, the IRS and the Treasury Department published in the **Federal Register** a notice of proposed rulemaking (REG–106418–05, 2006–7 IRB 461, 71 FR 2496) by cross-reference to temporary regulations (TD 9240, 2006–7 IRB 454, 71 FR 2462) (collectively, the January 2006 regulations), which provide that a CFC's distributive share of partnership income will qualify for the exception contained in section 954(i) of the Internal Revenue Code (Code) if the CFC is a qualifying insurance company and the income of the partnership would have been qualified insurance income under section 954(i) if received by the CFC directly. Thus, whether the CFC partner's distributive share of partnership income is qualified insurance income is determined at the CFC partner level.

The IRS and the Treasury Department received no comments responding to the January 2006 regulations and no public hearing was requested or held. Accordingly, the proposed regulations are adopted without change by this Treasury decision and the corresponding temporary regulations are removed.

Special Analyses

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

Drafting Information

The principal author of these regulations is Kate Y. Hwa of the Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for 26 CFR part 1 continues to read, in part, as follows:

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

Par. 2. Section 1.954–2 is amended by revising paragraphs (a)(5)(ii)(C) and (a)(5)(iii) *Example 2,* to read as follows:

§ 1.954–2 Foreign personal holding company income.

(a) * * *

(5) * * *

(ii) * * *

(C) A controlled foreign corporation's distributive share of partnership income will not be excluded from foreign personal holding company income under the exception contained in section 954(i) unless the controlled foreign corporation is a qualifying insurance company, as defined in section 953(e)(3), and the income of the partnership would have been qualified insurance income, as defined in section 954(i)(2), if received by the controlled foreign corporation directly. See § 1.952–1(g)(1).

(iii) * * *

Example 2. D Corp, a Country F corporation, is a controlled foreign corporation within the meaning of section 957(a). D Corp is a qualifying insurance company, within the meaning of section 953(e)(3), that is engaged in the business of issuing life insurance contracts. D Corp has reserves of $100x, all of which are allocable to exempt contracts, and $10x of surplus, which is equal to 10 percent of the reserves allocable to exempt contracts. D Corp contributed the $100x of reserves and $10x of surplus to DJ Partnership in exchange for a 40-percent partnership interest. DJ Partnership is an entity organized under the laws of Country G and is treated as a partnership under the laws of Country G and Country F. DJ Partnership earns $30x of investment income during the taxable year that is received from persons who are not related persons with respect to D Corp, within the meaning of section 954(d)(3). D Corp's distributive share of this investment income is $12x. This income is treated as earned by D Corp in Country F under the tax laws of Country F and meets the definition of exempt insurance income in section 953(e)(1). This $12x of investment income would be qualified insurance income, under

section 954(i)(2), if D Corp had received the income directly, because the $110x invested by D Corp in DJ Partnership is equal to D Corp's reserves allocable to exempt contracts under section 954(i)(2)(A) and allowable surplus under section 954(i)(2)(B)(ii). Thus, D Corp's distributive share of DJ Partnership's income will be excluded from foreign personal holding company income under section 954(i).

* * * * *

§ 1.954–2T [Removed]

■ **Par. 3.** Section 1.954–2T is removed.

Dated: July 2, 2007.

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–13496 Filed 7–12–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9338]

RIN 1545–BG11

Information Returns Required with Respect to Certain Foreign Corporations and Certain Foreign-Owned Domestic Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that provide guidance under sections 6038 and 6038A of the Internal Revenue Code (Code). The final regulations clarify the information required to be furnished regarding certain related party transactions of certain foreign corporations and certain foreign-owned domestic corporations. The final regulations also increase the amount of certain penalties, and make certain other changes, to reflect the statutory changes made by the Taxpayer Relief Act of 1997.

DATES: *Effective Date:* These regulations are effective July 13, 2007.

Applicability Date: For dates of applicability, see §§ 1.6038–2(m) and 1.6038A–2(h).

FOR FURTHER INFORMATION CONTACT: Kate Y. Hwa (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2020. Responses to this collection of information are mandatory.

The collection of information is in § 1.6038–2(f)(11). This information is required by the IRS pursuant to section 6038 of the Code. The likely recordkeepers are business or other for-profit institutions. The estimated burden is as follows:

Estimated total annual reporting and/or recordkeeping burden: 1250 hours.

Estimated average annual burden per respondent: 15 minutes.

Estimated number of respondents: 5,000.

Estimated annual frequency of responses: once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains final amendments to the Income Tax Regulations (26 CFR part 1) under sections 6038 and 6038A of the Code. On June 21, 2006, final and temporary regulations (TD 9268, 2006–30 IRB 94) under sections 6038 and 6038A were published in the **Federal Register** (71 FR 35524). On the same day, a notice of proposed rulemaking (REG–109512–05, 2006–30 IRB 100) was published by cross-reference to the temporary regulations in the **Federal Register** (71 FR 35592). The preamble of TD 9268 includes background information and an explanation of provisions regarding these regulations.

The IRS received no comments in response to the notice of proposed rulemaking. No requests to speak at a public hearing were received and no hearing was held. Accordingly, the proposed regulations are adopted without change by this Treasury decision and the corresponding temporary regulations are removed or removed and reserved.

The Treasury Department, however, is considering additional information reporting pursuant to section 6038A of the Code regarding section 163(j) to further the administration of the earning stripping rules.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that these regulations only affect entities with significant foreign operations and any burden on small entities is minimal. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Kate Y. Hwa, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.6038–2 is amended as follows:

■ 1. Paragraphs (a)(1) and (a)(2) are revised.

■ 2. Paragraphs (f)(11), (f)(12), (k)(1) and (m) are revised.

■ 3. Paragraph (k)(5) is amended by adding *Examples 3* and *4*.

The revisions and additions read as follows:

§ 1.6038–2 Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations beginning after December 31, 1962.

(a) * * *

(1) Form 2952, ''Information Return with Respect to Controlled Foreign Corporations,'' if such taxable year ends before December 31, 1982;

(2) Form 5471, ''Information Return of U.S. Persons with Respect to Certain Foreign Corporations,'' if such taxable year ends on or after December 31, 1983; or

* * * * *

(f) * * *

(11) *Transactions with certain related parties.* (i) A summary showing the total amount of each of the following types of transactions of the corporation, which took place during the annual accounting period, with the person required to file this return, any other corporation or partnership controlled by that person, or any United States person owning at the time of the transaction 10 percent or more in value of any class of stock outstanding of the foreign corporation, or of any corporation controlling that foreign corporation—

(A) Sales and purchases of stock in trade;

(B) Sales and purchases of tangible property other than stock in trade;

(C) Sales and purchases of patents, inventions, models, or designs (whether or not patented), copyrights, trademarks, secret formulas or processes, or any other similar property rights;

(D) Compensation paid and compensation received for the rendition of technical, managerial, engineering, construction, scientific, or like services;

(E) Commissions paid and commissions received;

(F) Rents and royalties paid and rents and royalties received;

(G) Amounts loaned and amounts borrowed (except open accounts resulting from sales and purchases reported under other items listed in this paragraph (f)(11) that arise and are collected in full in the ordinary course of business);

(H) Dividends paid and dividends received;

(I) Interest paid and interest received; and

(J) Premiums paid and premiums received for insurance or reinsurance.

(ii) *Special rule for banks.* For purposes of this paragraph (f)(11), if the United States person is a bank, as defined in section 581, or is controlled within the meaning of section 368(c) by a bank, the term transactions shall not, as to a corporation with respect to which a return is filed, include banking transactions entered into on behalf of customers; in any event, however, deposits in accounts between a foreign corporation, controlled (within the meaning of paragraph (b) of this section) by a United States person, and a person described in this paragraph (f)(11) and withdrawals from such accounts shall be summarized by reporting end-of-month balances.

(12) *Accrued payments and receipts.* For purposes of the required summary under paragraph (f)(11) of this section, a corporation that uses an accrual method of accounting shall use accrued payments and accrued receipts for purposes of computing the total amount of each of the types of transactions listed.

* * * * *

(k) *Failure to furnish information*—(1) *Dollar amount penalty*—(i) *In general.* If any person required to file Form 5471 under section 6038 and this section fails to furnish any information described in paragraphs (f) and (g) of this section within the time prescribed by paragraph (i) of this section, such person shall pay a penalty of $10,000 for each annual accounting period of each foreign corporation with respect to which such failure occurs.

(ii) *Increase in penalty for continued failure after notification.* If a failure described in paragraph (k)(1)(i) of this section continues for more than 90 days after the date on which the Director of Field Operations, Area Director, or Director of Compliance Campus Operations mails notice of such failure to the person required to file Form 5471, such person shall pay a penalty of $10,000, in addition to the penalty imposed by section 6038(b)(1) and paragraph (k)(1)(i) of this section, for each 30-day period (or a fraction of) during which such failure continues after such 90-day period has expired. The additional penalty imposed by section 6038(b)(2) and this paragraph (k)(1)(ii) shall be limited to a maximum of $50,000 for each failure.

* * * * *

(5) * * *

Example 3. A, a U.S. person, owns 100 percent of the stock of FC. On April 15, 2008, A timely filed its 2007 income tax return but did not file Form 5471 with respect to FC's 2007 annual accounting period. On June 1, 2008, the Director of Field Operations mailed a notice to A of A's failure to file Form 5471 for 2007 with respect to FC. On August 1, 2008, A submits a written statement asserting facts for reasonable cause for failure to file the 2007 Form 5471 for FC. Based on A's statement and discussions with A, the Director of Field Operations agrees that A had reasonable cause for failure to file FC's 2007 Form 5471 and determined that it is reasonable for A to file FC's 2007 Form 5471 by September 15, 2008. The time prescribed for furnishing information under paragraph (i) of this section is September 15, 2008, and the 90-day period described under paragraphs (k)(1)(ii) and (k)(2)(iv)(A) of this section begins on that same date. Thus, if A files a completed Form 5471 by September 15, 2008, A is not subject to the penalties under paragraphs (k)(1) and (k)(2) of this section. If A does not file a completed Form 5471 by December 14, 2008, in addition to the penalties under paragraphs (k)(1) and (k)(2) of this section, A will also be subject to the penalties for continued failure under paragraphs (k)(1)(ii) and (k)(2)(iv)(A) of this section.

Example 4. The facts are the same as in *Example 3* except A submits the written statement to the Director before a notice of failure to furnish information is mailed to A. The notice is mailed to A on September 7, 2008. Under these facts, the time prescribed for furnishing information under paragraph (i) of this section is September 15, 2008, and the 90-day period after mailing of notice of failure under paragraphs (k)(1)(ii) and (k)(2)(iv)(A) of this section begins on that same date.

* * * * *

(m) *Effective/applicability dates.* Except as otherwise provided, this section applies with respect to information for annual accounting periods beginning on or after June 21, 2006. Paragraphs (k)(1) and (k)(5) *Examples 3* and *4* of this section apply June 21, 2006.

§ 1.6038–2T [Amended]

■ **Par. 3.** In § 1.6038–2T, paragraphs (e) through (m) are revised to read as follows:

§ 1.6038–2T Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations (temporary).

* * * * *

(e) through (l) [Reserved]. For further guidance, see § 1.6038–2(e) through (l).

(m) *Effective/applicability date.* Paragraph (d) of this section shall apply for taxable years ending after October 22, 2004.

■ **Par. 4.** Section 1.6038A–2 is amended by revising paragraphs (b)(8) and (h) to read as follows:

§ 1.6038A–2 Requirement of return.

* * * * *

(b) * * *

(8) *Accrued payments and receipts.* For purposes of this section, a reporting corporation that uses an accrual method of accounting shall use accrued payments and accrued receipts for purposes of computing the total amount of each of the types of transactions listed in this section.

* * * * *

(h) *Effective/applicability date.* Except as otherwise provided, for applicability dates for this section for certain reporting corporations, see § 1.6038A–1(n). Paragraph (b)(8) of this section applies with respect to information for annual accounting periods beginning on or after June 21, 2006.

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

Approved: July 2, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–13587 Filed 7–12–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9321]

RIN 1545–BE79

Application of Section 409A to Nonqualified Deferred Compensation Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

SUMMARY: This document contains corrections to final regulations that were published in the **Federal Register** on Tuesday, April 17, 2007 (73 FR 19234), relating to section 409A.

DATES: This correction is effective April 17, 2007.

FOR FURTHER INFORMATION CONTACT: Stephen Tackney, (202) 622–9639 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under section 409A of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9321) contain errors that may prove misleading and are in need of correction.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9321), which were the subject of FR Doc. 07–1820, is corrected as follows:

1. On page 19235, column 3, in the preamble the paragraph heading III. the language ''Definition of Nonqualified Deferred Compensation Plan'', is corrected to read ''Definition of Deferral of Compensation''.

2. On page 19243, column 1, in the preamble, paragraph E., the last sentence in the first paragraph, the language ''The final regulations adopt this suggestion, so long as the risk of forfeiture to which the stock is subject constitutes a substantial risk of forfeiture for purposes of section 409A.'' is corrected to read ''The final regulations adopt this suggestion.''.

3. On page 19243, column 2, paragraph G., line 2 from the bottom of the paragraph, the language ''Q&A–7 and section II.E. of the preamble'' is corrected to read ''Q&A–7 and sections II.E. and VI.E. of the preamble.''.

4. On page 19247, column 2, in the preamble, lines 3 and 4 from the bottom of the last paragraph, the language ''limited period of time not to exceed one year following the initial existence of'' is corrected to read ''limited period of time not to exceed two years following the initial existence of''.

5. On page 19258, column 2, in the preamble the tenth line from the bottom of the column, the language ''average level of bona fide service'' is corrected to read ''average level of bona fide services''.

6. On page 19264, column 1, in the preamble, paragraph D. line 9 from the bottom of the first paragraph, the language ''with section 409A if the service'' is corrected to read ''with section 409A only if the service''.

7. On page 19264, column 2, in the preamble, paragraph D., the last sentence of the top paragraph, the language ''For a discussion of the ability to provide for different times and forms of payment due to different types of separations from service, including separations from service due to certain disabilities, see section VII.C.4 of this preamble.'' is removed.

8. On page 19265, column 1, in the preamble under paragraph G., the third sentence of the paragraph, the language ''The final regulations clarify that for these purposes, the availability of payments due to the unforeseeable emergency under any other nonqualified deferred compensation plan as defined for purposes of section 409A, including plans that would be nonqualified deferred compensation plans for purposes of section 409A except due to the effective date of the statute, or under any qualified plan (including any assets available by obtaining a loan under a qualified plan), need not be considered in determining whether an emergency is or may be relieved through other means.'' is corrected to read ''The final regulations clarify that for these purposes, the availability of payments under any qualified plan (including any amount available by obtaining a loan under a qualified plan), or under any other nonqualified deferred compensation plan due to the unforeseeable emergency, including plans that would be nonqualified deferred compensation plans for purposes of section 409A except due to the effective date of the statute, need not be considered in determining whether an emergency is or may be relieved through other means.''.

9. On page 19265, column 1, in the preamble under paragraph G., lines 1 through 5 from the bottom of the first paragraph, the language ''qualified plan, from a grandfathered nonqualified deferred compensation plan, or from another nonqualified deferred compensation plan that is subject to section 409A.'' is corrected to read ''qualified plan, or from another nonqualified deferred compensation plan (including a grandfathered plan) due to the unforeseeable emergency.''.

10. On page 19267, column 2, in the preamble under paragraph B., lines 4 and 5 from the bottom of the column, the language ''Where the change in control event consists of an asset purchase, the'' is corrected to read ''Solely for purposes of this rule, the''.

11. On page 19270, column 2, in the preamble under paragraph A., lines 2, 3, and 4 from the top of the paragraph, the language ''contributions, each up to the section 402(g) dollar limit on elective deferrals, are separate, additive limits and are not'' is corrected to read ''contributions is subject to two separate, additive limits and not''.

12. On page 19272, column 1, in the preamble, the paragraph heading of paragraph XII., the language ''Effective Date of Final Regulations'' is corrected to read ''Applicability Date of Final Regulations''.

13. On page 19272, column 2, in the preamble under paragraph B., line 2, the language ''effective January 1, 2008. For periods'' is corrected to read ''applicable January 1, 2008. For periods''.

14. On page 19272, column 2, in the preamble, paragraph B., line 7 from the top of the first paragraph, the language ''relief for periods before the effective'' is corrected to read ''relief for periods before the applicability''.

15. On page 19272, column 2, in the preamble, paragraph B., line 3 from the top of the second paragraph, the language ''becoming effective January 1, 2008, on'' is corrected to read ''becoming applicable January 1, 2008, on''.

16. On page 19272, column 2, in the preamble, paragraph C., line 5 from the top of the paragraph, the language ''rights issued before the effective date

of'' is corrected to read ''rights issued before the applicability date of''.

17. On page 19273, column 1, in the preamble, paragraph C., line 13 from the top of the second paragraph, the language ''2005) or on or before the effective date'' is corrected to read ''2005) or on or before the applicability date''.

18. On page 19273, column 1, in the preamble, paragraph C., line 16 from the bottom of the paragraph, the language ''effective date of the regulations. In'' is corrected to read ''applicability date of the regulations. In''.

19. On page 19273, column 2, in the preamble, paragraph D., line 4 of the second paragraph, the language ''established before the effective date of'' is corrected to read ''established before the applicability date of''.

20. On page 19273, column 2, in the preamble, paragraph E., line 7 of the first paragraph, the language ''the time such regulations were effective.'' is corrected to read ''the time such regulations were applicable.''.

Guy R. Traynor,

Federal Register Liaison, Legal Processing Division, Publication & Regulations Branch, Associate Chief Counsel (Procedure & Administration).

[FR Doc. E7–13588 Filed 7–12–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 9337]

RIN 1545–BE21

Withholding Exemptions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations providing guidance under section 3402(f) of the Internal Revenue Code (Code) for employers and employees relating to the Form W–4, ''Employee's Withholding Allowance Certificate.'' The regulations provide rules for income tax withholding when the IRS notifies the employer and the employee of the maximum number of withholding exemptions permitted. The regulations also provide rules for the use of substitute forms and preserve the IRS's ability to require the submission of certain copies of withholding exemption certificates. The regulations primarily affect taxpayers who are employers and employees.

DATES: *Effective Date:* These regulations are effective July 13, 2007.

Applicability Date: Except as provided in section 31.3402(f)(2)–1(g)(5), section 31.3402(f)(2)–1(g) applies on April 14, 2005. Section 31.3402(f)(2)–1(g)(2)(iii)(A), (B), and (C) and section 31.3402(f)(2)–1(g)(2)(ix) apply on October 11, 2007, except taxpayers may rely on such paragraphs for notices issued prior to such date. Section 31.3402(f)(5)–1(a)(1) applies on April 14, 2005. Section 31.3402(f)(5)–1(a)(2) applies October 11, 2007.

FOR FURTHER INFORMATION CONTACT: Ilya Enkishev, (202) 622–0047 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations do not impose any new information collection. The Office of Management and Budget (OMB) previously approved the information collection requirements concerning Form W–4 contained in the regulations under section 6001 (§ 31.6001–5; OMB Control No. 1545–0798) and in the regulations under section 3402 (§ 31.3402(f)(2)–1; OMB Control No. 1545–0010) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Under section 3402(f)(2)(A) of the Internal Revenue Code, every employee is required to furnish his or her employer with a signed withholding exemption certificate on or before commencing employment. The regulations prescribe the form of the certificate as the Form W–4. The maximum number of withholding exemptions to which an employee is entitled depends upon the employee's marital status, the employee's filing status, the number of the employee's dependents, the number of exemptions claimed by the employee's spouse (if any) on a Form W–4, and the amount of the employee's estimated itemized deductions, tax credits, and certain other deductions from income.

For many years, the regulations under section 3402(f) required employers to submit to the IRS a copy of each Form W–4 on which an employee claimed more than a certain number of withholding exemptions. Employers had to also submit a copy of each Form W–4 on which the employee claimed a complete exemption from withholding for the taxable year if the employer reasonably expected, when the Form W–4 was received, that the employee's wages from that employer would usually be $200 or more per week. The regulations also provided that the IRS could notify an employer that a named employee was not entitled to claim a complete exemption from withholding and was not entitled to claim more withholding exemptions than the number specified by the IRS in the notice. The IRS issued this notice (often called a ''lock-in letter'') if the IRS found that the withholding exemption certificate contained a materially incorrect statement or if the IRS found, after written request to the employee for verification of the statements on the certificate, that the IRS lacked sufficient information to determine if the certificate was correct. In these cases, the employer was required to withhold tax based on the number of withholding exemptions specified in the notice from the IRS unless otherwise notified by the IRS.

On April 14, 2005, the Department of Treasury published temporary regulations (TD 9196) in the **Federal Register** (70 FR 19694) under section 3402(f) modifying the rules relating to the submission of Forms W–4 and relating to the IRS' notification of the number of withholding exemptions permitted. The Department of Treasury also published a notice of proposed rulemaking (REG–162813–04) cross-referencing the temporary regulations in the **Federal Register** on the same day.

Effective when published, the temporary regulations changed the procedures for submitting copies of Forms W–4 to the IRS. Specifically, under the temporary regulations employers were no longer routinely required to submit a copy of any Form W–4 on which an employee claimed more than 10 withholding exemptions. In addition, employers were no longer routinely required to submit a copy of any Form W–4 on which an employee claimed complete exemption from withholding for the taxable year if the employer reasonably expected, when the Form W–4 was received, that the employee's wages from that employer would usually be $200 or more per week. Rather, the temporary regulations provided that employers must submit copies of Forms W–4 only if instructed to do so in published guidance or in a written notice to the employer from the IRS. At this time, the IRS has not issued any published guidance requiring the submission of Forms W–4 to the IRS.

The temporary regulations authorized the IRS to issue a notice to an employer specifying the maximum withholding exemptions permitted to be claimed by the employee without first obtaining a copy of the withholding exemption certificate from the employer. Under the temporary regulations, the IRS issued this notice to the employer with a copy for the employee. The IRS also sent another copy to the employee at the employee's last known address. The temporary regulations provided that the employer must withhold tax in accordance with the notice as of the date specified in the notice, which was required to be at least 45 calendar days after the date of the notice. If the employee wanted to claim complete exemption from withholding or claim more withholding exemptions than the number specified by the IRS in the notice, the employee must contact the IRS to provide information to support the claim. The previous, and now obsolete, regulations permitted the employee to send this information to the employer to forward to the IRS. To reduce burdens on employers and to facilitate efficient responses to the employee, the temporary regulations required the employee to contact the IRS directly.

Finally, the temporary regulations also permitted employers to give their employees a substitute withholding exemption certificate, if the employers also gave them the worksheets contained in the Form W–4 in effect at that time. The temporary regulations also authorized employers to refuse to accept a substitute form developed by an employee.

The proposed regulations were identical to the temporary regulations described in the Preamble. The publication of the proposed and temporary regulations followed a comprehensive review of withholding compliance, which found that withholding noncompliance remained a problem with some employees. In connection with the publication of the proposed and temporary regulations, the IRS developed a process to use information already reported on Forms W–2, Wage and Tax Statements, to more effectively identify and address employees with withholding compliance problems.

A public hearing on the proposed regulations was held on July 26, 2005. Written and electronic comments responding to the notice of proposed rulemaking were received. After consideration of all the comments, the Department of Treasury adopts the proposed regulations, as modified herein, as final regulations, and removes the corresponding temporary regulations.

Summary of Comments and Explanation of Provisions

The publication of this Treasury decision follows the implementation of the IRS's new process for using information already reported on Forms W–2 to more effectively identify employees with withholding compliance problems. The modifications to the proposed regulations that are included in these final regulations reflect both consideration of the comments submitted by taxpayers and changes needed following the implementation of the new process.

The comments received were generally favorable to the changes proposed by the proposed regulations and implemented by the temporary regulations. Commentators observed that the regulations reduced burdens on employers by eliminating the requirement that employers submit questionable Forms W–4 to the IRS and the requirement that employers transmit communications from the employee to the IRS. One commentator recommended that, as an alternative to the withholding compliance program, the problem of underwithholding should be addressed by increasing the employee's estimated tax penalty if insufficient taxes are withheld and otherwise paid by the employee for the year. While tax penalties do deter some employees from submitting Forms W–4 claiming excessive withholding exemptions, the IRS has concluded that the withholding compliance program implemented under the temporary regulations is a more efficient and effective manner of deterring serious underwithholding.

Submission of Withholding Exemption Certificates

Under the temporary regulations, employers were no longer routinely required to submit copies of Forms W–4 that met the previously established criteria, often referred to as ''Questionable W–4s''. Rather, the temporary regulations provided that an employer must submit a copy of any currently effective Form W–4 only if directed to do so in a written notice to the employer from the IRS or if directed to do so under any published guidance.

Some commentators observed that requiring employers to submit questionable Forms W–4 to the IRS may have deterred employees from furnishing a Form W–4 claiming excessive withholding exemptions. Some employers have expressed the concern that eliminating the submission requirement will result in more employees submitting Forms W–4 claiming excessive withholding allowances. While the Department of Treasury and the IRS acknowledge the possible deterrent effect of a requirement to submit certain Forms W–4 to the IRS, they have concluded that the final regulations are a more efficient and effective manner of deterring withholding compliance problems. Accordingly, the final regulations do not require the routine submission of Forms W–4, but permit the IRS to require submission of Forms W–4 under specific criteria either by written notice or by future published guidance. The final regulations do not change an employee's obligations to provide an accurate Form W–4 to an employer and to satisfy his or her tax obligations on a timely basis. Thus, employees may be subject to penalties if they claim excessive withholding exemptions on Forms W–4 or fail to file their tax returns and pay their full tax liabilities on a timely basis.

Some commentators have suggested that if the IRS requires an employer to submit certain Forms W–4 by a written notice or published guidance, the employer should have the ability to provide the requested Forms W–4 by electronic means. The final regulations do not address this comment as the available and appropriate means for submission can be determined by the IRS in specific cases or in the context of any future published guidance requiring the submission of Forms W–4.

Valid and Invalid Withholding Exemption Certificates

In the Preamble to the proposed and temporary regulations, the Department of Treasury and IRS requested comments specifically with regard to the criteria for identifying a valid withholding exemption certificate contained in § 31.3402(f)(5)–1(a)(1) of the Employment Tax Regulations. While a few comments were received, they were not likely to provide significant assistance to employers or the IRS in identifying potentially invalid withholding exemption certificates. Accordingly, these final regulations do not change the existing rules on when to treat a withholding exemption certificate as invalid.

Effect of Notice Specifying the Maximum Withholding Exemptions Permitted

The final regulations, like the temporary regulations, authorize the IRS to issue a notice to an employer specifying the maximum number of

withholding exemptions permitted for a specific employee. The IRS may issue such a notice after it determines an employee is not entitled to claim exemption from withholding or more than a specified number of withholding exemptions based on IRS records, without first obtaining a copy of the withholding exemption certificate from the employer. Alternatively, the IRS may issue such notice after it reviews a particular withholding exemption certificate and determines that the withholding exemption certificate contains a materially incorrect statement or determines, after a request to the employee for verification of the statements on the certificate, that the IRS lacks sufficient information to determine if the certificate is correct.

The IRS will send the notice both to the employer (with a copy for the employee) and to the employee directly. The final regulations provide a period during which the employee can address the pending withholding adjustment by contacting the IRS. The final regulations provide that the earliest the notice may be effective is 45 calendar days after the date of the notice. The notice may specify a later effective date.

One commentator expressed a concern held by some employers regarding the need to ''warehouse'' the notice for the 45-day period and suggested that instead the IRS either (1) send the notice first to the employee before involving the employer or (2) not require the employer to implement the notice until a subsequent ''final'' notice is sent to the employer. The final regulations retain the approach of the proposed and temporary regulations, including a delay period, to balance the need to ensure that the employee receives the notice and to provide time for the employee to discuss the appropriate withholding with the IRS. Consistent with the intent to ensure that the employee receives the notice, the final regulations also provide that if the IRS is unable to determine a last known address for the employee, the IRS will use other available information as appropriate to provide the notice to the employee.

The final regulations also clarify that the notice to an employer specifying the maximum withholding exemptions permitted for a specific employee will also specify the marital status for purposes of calculating the required withholding under the notice. Accordingly, the employer must use the maximum number of withholding exemptions permitted and marital status specified in the notice for calculating income tax withholding, unless a new withholding exemption certificate is submitted by the employee that must be honored under these final regulations. Specifically, if, at any time, the employee furnishes a withholding exemption certificate that claims a marital status, a number of withholding exemptions, and any additional withholding that results in more withholding than would result from applying the marital status and number of withholding exemptions permitted in the notice, the employer must withhold tax based on that certificate. The IRS may also issue a modification notice to the employer that the employer must implement as of the date in the notice. This notice may change the marital status and/or the maximum number of withholding exemptions permitted.

Although this issue was not raised in the comments, in the course of conducting the withholding compliance program, the IRS has received questions from taxpayers asking about the implications of receiving a notice specifying the maximum number of withholding exemptions permitted and marital status when possible exclusions from withholding apply. Receipt of an IRS notice does not impose a requirement to withhold income taxes where one does not already exist. For example, under section 3401(a)(8)(A)(i) of the Code, employers do not have to withhold income taxes from payments made to employees who are United States citizens working in foreign countries if the employer reasonably believes that the payments are excluded from taxation under section 911 of the Code. Issuance of an IRS notice to an employer properly relying on this exclusion does not impose a withholding requirement on amounts covered by the exclusion. However, if withholding is required, such as on wages paid in excess of the amount excludable under section 911, or if the exclusion ceases to apply to amounts paid by the employer to the employee, the employer must withhold on the basis of the marital status and maximum number of withholding exemptions set forth in the IRS notice. An example has been added to the regulations to illustrate this point.

Employer Furnishing IRS Notice to Employee

The final regulations provide that, if the employee is still employed by the employer, the employer must furnish the notice of maximum number of withholding exemptions permitted to the employee within 10 business days of receipt. Commentators questioned whether they may furnish the employee's copy electronically. The final regulations clarify that the employer may furnish the copy of the IRS notice to the employee within the 10 required business days using any reasonable business practice. For example, an employer might provide the employee with a paper copy of the notice or might transmit a copy using a secure and reliable electronic means of communication.

Terminated, Rehired, and Seasonal Employees

The proposed and temporary regulations provided that the employer is not required to furnish the IRS employee notice to the employee if the employee is no longer employed by the employer. In such a case, the employer must send a written response to the IRS office designated in the notice indicating that the employee is no longer employed by the employer. Some commentators have expressed concerns over application of the regulations to employees who are not currently performing services, but may resume employment in the future, such as seasonal employees or rehired employees. Specifically, the comments requested assistance in determining when an employee is ''no longer employed,'' and asked whether an employer is required to retain an IRS notice for future implementation should an employee be rehired or resume performance of services. One commentator recommended that the employer be required to retain the notice no later than the end of the calendar year in which the employee terminates, or one year after termination.

After consideration of these comments, the final regulations modify the proposed regulations to clarify that the determination of whether the employee is employed is made as of the date of the notice, and is based on all the facts and circumstances, including whether the employer has treated the employment relationship as terminated for other purposes. The final regulations also specifically state that an employee who is not currently performing services is nevertheless employed for purposes of this rule if on the date of the notice (a) The employer pays wages subject to income tax withholding to the employee with respect to prior employment on or after the date specified in the notice, (b) the employer reasonably expects the employee to resume the performance of services for the employer within twelve months of the date of the notice, or (c) the employee is on a bona fide leave of absence if the period of such leave does not exceed twelve months or if the individual retains a right to reemployment with the employer by

contract or under an applicable statute, such as the Family Medical Leave Act.

If the employer must furnish the notice under these final regulations, the employer must withhold based on the notice as of the date specified in the notice unless one of the regulatory exceptions applies. Specifically, the employer must withhold based on the notice unless (a) the employer receives a modification notice, (b) the employee has provided or provides a new Form W–4 that results in more withholding than would result based on the notice, (c) the employer is required to furnish the notice only because the employer reasonably expects the employee to resume the performance of services within twelve months of the date of the notice but the employee does not resume the performance of services until after such time, or (d) the employment relationship is terminated for more than twelve months. The regulations include examples to illustrate these requirements.

Notices to Other Employers

One commentator questioned whether an employer has any obligation with respect to an IRS notice issued to another employer, such as a related entity or an employer using the same entity as its ''payroll agent,'' with respect to the same employee. The commentator also proposed that an employer be able to rely on any subsequent notices provided by the IRS with regard to an employee (for example, modifying the maximum number of withholding exemptions permitted) while the employee was employed by another employer.

The final regulations do not adopt these proposals. Other than when an employer qualifies as a ''successor employer'' within the meaning of section 3121(a)(1) of the Code and § 31.3121(a)(1)–1(b) of the Employment Tax Regulations and uses the alternate procedure described in Rev. Proc. 2004–53, 2004–34 I.R.B. 320, an employer's liability for withholding under section 3402 is determined separately with regard to that employer. Rev. Proc. 2004–53 provides that, under the alternative procedure, the predecessor employer must transfer to the successor employer all current Forms W–4 that were provided to the predecessor by the acquired employees and any written notices received from the IRS under § 31.3402(f)(2)–1(g). The revenue procedure also provides that the successor employer must withhold amounts from the employees on the basis of the maximum number of withholding exemptions specified in any written notices from the IRS under § 31.3402(f)(2)–1(g). Accordingly, the provision of an IRS notice or a subsequent IRS notice to another employer is not relevant in determining the employer's obligation to withhold income taxes under these final regulations.

Substitute Forms W–4

Some commentators have suggested that employers must refuse to accept substitute Forms W–4 developed by employees. After consideration of this comment, the final regulations provide that employers may not accept a substitute form developed by an employee, and the employee submitting such form will be treated as failing to furnish a withholding exemption certificate.

Effective Date

The final regulations are generally effective on April 14, 2005, the date the temporary regulations were published in the **Federal Register**. However, the new provisions in the final regulations that (a) specify when an employee who is not currently performing services is employed for purposes of the requirements to furnish the employee notice and withhold based on the notice, (b) require the employer to withhold based on the notice if a terminated employment relationship is resumed within 12 months, and (c) require employers to refuse to accept substitute withholding exemption certificates developed by employees apply on October 11, 2007. However, taxpayers may rely on such provisions for notices issued prior to such date.

Special Analyses

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

Drafting Information

The principal author of these regulations is Ilya Enkishev, Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Department of Treasury participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT THE SOURCE

■ **Paragraph 1.** The authority citation for part 31 continues to read in part as follows:

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

■ **Par. 2.** Section 31.3402(f)(2)–1 is amended by revising paragraph (g) to read as follows:

§ 31.3402(f)(2)–1 Withholding exemption certificates.

* * * * *

(g) *Submission of certain withholding exemption certificates and notice of the maximum number of withholding exemptions permitted*—(1) *Submission of certain withholding exemption certificates*—(i) *In general.* An employer must submit to the Internal Revenue Service (IRS) a copy of any currently effective withholding exemption certificate as directed in a written notice to the employer from the IRS or as directed in published guidance.

(A) *Notice to submit withholding exemption certificates.* A notice to the employer to submit withholding exemption certificates may relate either to one or more named employees, to one or more reasonably segregable units of the employer, or to withholding exemption certificates under certain specified criteria. The notice will designate the IRS office where the copies of the withholding exemption certificates must be submitted. Alternatively, upon notice from the IRS, the employer must make available for inspection by an IRS employee withholding exemption certificates received from one or more named employees, from one or more reasonably segregable units of the employer, or from employees who have furnished withholding exemption certificates under certain specified criteria.

(B) *Published guidance.* Employers may also be required to submit copies of withholding exemption certificates

under certain specified criteria when directed to do so by the IRS in published guidance. For purposes of the preceding sentence, the term published guidance means a revenue procedure or notice published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

(ii) *Withholding after submission of withholding exemption certificate.* After a copy of a withholding exemption certificate has been submitted to the IRS under this paragraph (g)(1), the employer must withhold tax on the basis of the withholding exemption certificate, if the withholding exemption certificate meets the requirements of § 31.3402(f)(5)–1. However, the employer may not withhold on the basis of the withholding exemption certificate if the certificate must be disregarded based on a notice of the maximum number of withholding exemptions permitted under the provisions of paragraph (g)(2) of this section.

(2) *Notice of the maximum number of withholding exemptions permitted*—(i) *Notice to employer.* The IRS may notify the employer in writing that the employee is not entitled to claim a complete exemption from withholding or more than the maximum number of withholding exemptions specified by the IRS in the written notice. The notice will also specify the applicable marital status for purposes of calculating the required amount of withholding. The notice will specify the IRS office to be contacted for further information. The notice of maximum number of withholding exemptions permitted may be issued if—

(A) The IRS determines that a copy of a withholding exemption certificate submitted under paragraph (g)(1) of this section or otherwise provided to the IRS contains a materially incorrect statement or determines, after a request to the employee for verification of the statements on the certificate, that the IRS lacks sufficient information to determine if the certificate is correct.

(B) The IRS otherwise determines that the employee is not entitled to claim a complete exemption from withholding and is not entitled to claim more than a specified number of withholding exemptions.

(ii) *Notice to employee.* If the IRS provides a notice to the employer under this paragraph (g)(2), the IRS will also provide the employer with a similar notice for the employee (employee notice) that identifies the maximum number of withholding exemptions permitted and specifies the marital status to be used for calculating the required amount of withholding. The employee notice will also indicate the process by which the employee can provide additional information to the IRS for purposes of determining the appropriate number of withholding exemptions and/or modifying the specified marital status. The IRS will also mail a similar notice to the employee's last known address. For further guidance regarding the definition of last known address, see § 301.6212–2 of this chapter. If the IRS is unable to determine a last known address for the employee, the IRS will use other available information as appropriate to mail the notice to the employee.

(iii) *Requirement to furnish.* If the employee is employed by the employer as of the date of the notice, the employer must furnish the employee notice to the employee within 10 business days of receipt. The employer may follow any reasonable business practice to furnish the copy of the notice to the employee. For purposes of this paragraph (g)(2)(iii), the determination of whether an employee is employed as of the date of the notice is based on all the facts and circumstances, including whether the employer has treated the employment relationship as terminated for other purposes. An employee that is not performing services for the employer as of the date of the notice is employed by the employer as of the date of the notice for purposes of this paragraph (g)(2)(iii) if—

(A) The employer pays wages with respect to prior employment to the employee subject to income tax withholding on or after the date specified in the notice;

(B) The employer reasonably expects the employee to resume the performance of services for the employer within twelve months of the date of the notice; or

(C) The employee is on a bona fide leave of absence if the period of such leave does not exceed twelve months or the employee retains a right to reemployment with the employer under an applicable statute or by contract.

(iv) *Requirement to notify the IRS.* If the employer is not required to furnish the notice to the employee under paragraph (g)(2)(iii) of this section, the employer must send a written response to the IRS office designated in the notice indicating that the employee is not employed by the employer.

(v) *Requirement to withhold based on the notice.* If the employer is required to furnish the employee notice to the employee under paragraph (g)(2)(iii), then the employer must withhold tax on the basis of the maximum number of withholding exemptions and the marital status specified in the notice for any wages paid after the date specified in the notice, except as provided in paragraphs (g)(2)(vi), (vii), (viii), (ix), and (x) of this section. The employer must withhold tax in accordance with the notice as of the date specified in the notice, which shall be no earlier than 45 calendar days after the date of the notice.

(vi) *Employment resumes after twelve months.* If the employer is required to furnish the employee notice to the employee only pursuant to paragraph (g)(2)(iii)(B) of this section and the employee resumes the performance of services for the employer more than 12 months after the date of the notice, then the employer is not required to withhold based on the notice.

(vii) *Requirement to withhold based on an existing Form W–4.* If a withholding exemption certificate is in effect with respect to the employee before the employer receives a notice of the maximum number of withholding exemptions permitted under this paragraph (g)(2), the employer must continue to withhold tax in accordance with the existing withholding exemption certificate, rather than on the basis of the notice, if the existing withholding exemption certificate does not claim complete exemption from withholding and claims a marital status, a number of withholding exemptions, and any additional withholding that results in more withholding than would result from applying the marital status and number of withholding exemptions specified in the notice.

(viii) *Modification notice.* After issuing the notice specifying the maximum number of withholding exemptions permitted and the marital status, the IRS may issue a subsequent notice that modifies the original notice (modification notice). The modification notice may change the marital status and/or the number of withholding exemptions permitted. The employer must withhold based on the modification notice as of the date specified in the modification notice.

(ix) *Requirement to withhold after termination of employment.* If the employee is employed as of the date of the notice under paragraph (g)(2)(iii) of this section but the employer or employee terminates the employment relationship after the date of the notice, the employer must continue to withhold based on the maximum number of withholding exemptions and the marital status specified in the notice or a modification notice if any wages subject to income tax withholding are paid with respect to the prior employment after such date. Furthermore, the employer must withhold based on the notice or

modification notice if the employee resumes an employment relationship with the employer within 12 months after the termination of the employment relationship. Whether the employment relationship is terminated is based on all the facts and circumstances.

(x) *Requirement to withhold based on new Form W–4.* The employee may furnish a new withholding exemption certificate after the employer receives a notice or modification notice from the IRS of the maximum number of withholding exemptions permitted under this paragraph (g)(2).

(A) *Employee requests more withholding.* If the employee furnishes a new withholding exemption certificate after the employer receives the notice or modification notice, the employer must withhold tax on the basis of that new certificate only if the new certificate does not claim complete exemption from withholding and claims a marital status, a number of withholding exemptions, and any additional withholding that results in more withholding than would result under the notice or modification notice.

(B) *Employee requests less withholding.* If the employee furnishes a new withholding exemption certificate after the employer receives the notice or modification notice, the employer must disregard the new certificate and withhold on the basis of the notice or modification notice if the employee claims complete exemption from withholding or claims a marital status, a number of withholding exemptions, and any additional withholding that results in less withholding than would result under the notice or modification notice. If the employee wants to put a new certificate into effect that results in less withholding than that required under the notice or modification notice, the employee must contact the IRS. The employer must withhold on the basis of the notice or modification notice unless the IRS subsequently notifies the employer to withhold based on the new certificate.

(3) *Definition of employer.* For purposes of this paragraph (g), the term employer includes any person authorized by the employer to receive withholding exemption certificates, to make withholding computations, or to make payroll distributions.

(4) *Examples.* The following examples illustrate the rules of this section.

Example 1. Employer U receives a notice from the IRS that identifies the maximum number of withholding exemptions permitted and specifies the marital status for Employee A. Employee A is not currently performing any services for Employer U. However, Employer U is continuing to make certain wage payments to Employee A. Employer U must furnish the employee notice to Employee A within 10 business days of receipt and must withhold based on the notice on any wages paid to Employee A on or after the date specified in the notice.

Example 2. Employer V receives a notice in October of Year 1 from the IRS that identifies the maximum number of withholding exemptions permitted and specifies the marital status for Employee B. Employee B has not performed services for Employer V since August of Year 1. However, since Employee B has performed services for Employer V for several years on a seasonal basis, Employer V reasonably expects Employee B to resume the performance of services for Employer V in June of Year 2, a date that is within 12 months of the date of the notice. Employer V is required to furnish the notice to Employee B within 10 business days of receipt. Employee B does not resume the performance of services until June of Year 3. Employer V is not required to withhold based on the notice.

Example 3. Employer W receives a notice from the IRS that identifies the maximum number of withholding exemptions permitted and specifies the marital status for Employee C. Employee C began a 4-month unpaid maternity leave of absence three weeks before Employer W received the notice. Employer W must furnish the employee notice to Employee C within 10 business days of receipt. When Employee C resumes performing services when her maternity leave ends, Employer W must withhold based on the notice.

Example 4. Employer X receives a notice from the IRS in Year 1 that identifies the maximum number of withholding exemptions permitted and specifies the marital status for Employee D. Employer X must furnish the employee notice to Employee D within 10 business days of receipt and withhold based on the notice. In Year 2, Employee D terminates the employment relationship. Employee D applies for a different position with Employer X and resumes employment 10 months after having left her previous position with Employer X. Since Employer X rehired Employee D within 12 months after the termination of employment, Employer X must withhold based on the notice.

Example 5. Employer Y receives a notice from the IRS that identifies the maximum number of withholding exemptions permitted and specifies the marital status for Employee E. Employer Y must furnish the employee notice to Employee E within 10 business days of receipt. After receipt of this notice, Employee E contacts the IRS and establishes that he is entitled to claim a higher number of withholding exemptions. Employer Y receives a modification notice from the IRS that changes the maximum number of withholding exemptions permitted for Employee E. Employer Y must withhold tax based on the modification notice as of the date specified in such notice.

Example 6. Employer Z pays remuneration to Employee F, a United States citizen, for services performed in Country M. Employer Z receives a notice from the IRS in Year 1 that identifies the maximum number of withholding exemptions permitted and specifies the marital status for Employee F. Employer Z must furnish the employee notice to Employee F within 10 business days of receipt. Employer Z reasonably believes all the remuneration paid to Employee F in Year 1 is excluded from Employee F's gross income under section 911 of the Internal Revenue Code. Since section 3401(a)(8)(B) excludes such remuneration from wages for income tax withholding purposes, Employer X does not have to withhold on such remuneration, notwithstanding the maximum number of exemptions permitted and marital status specified in the notice. In Year 2, Employee F returns to the United States to perform services. Employer Z does not reasonably believe any part of Employee F's remuneration paid in Year 2 is excluded from Employee F's gross income under section 911. Rather, Employer Z reasonably believes that remuneration paid to Employee F in Year 2 is subject to income tax withholding. Employer Z must withhold on the remuneration paid to Employee F based on the notice.

(5) *Effective/applicability date.* Except as provided in this paragraph (g)(5), paragraph (g) applies on April 14, 2005. Paragraphs (g)(2)(iii)(A), (B), and (C) and paragraph (g)(2)(ix) apply on October 11, 2007, except taxpayers may rely on such paragraphs for notices issued prior to such date.

§ 31.3402(f)(2)–1T [Removed]

■ **Par. 3.** Section 31.3402(f)(2)–1T is removed.

■ **Par. 4.** Section 31.3402(f)(5)–1 is amended by revising paragraph (a) to read as follows:

§ 31.3402(f)(5)–1 Form and contents of withholding exemption certificates.

(a)(1) *Form W–4.* Form W–4, ''Employee's Withholding Allowance Certificate,'' is the form prescribed for the withholding exemption certificate required to be furnished under section 3402(f)(2). A withholding exemption certificate must be prepared in accordance with the instructions and regulations applicable thereto, and must set forth fully and clearly the data that is called for therein. Blank copies of paper Forms W–4 will be supplied to employers upon request to the Internal Revenue Service (IRS). An employer may also download and print Form W–4 from the IRS Internet site at www.irs.gov. In lieu of the prescribed form, employers may prepare and use a form the provisions of which are identical with those of the prescribed form, but only if employers also provide employees with all the tables, instructions, and worksheets contained in the Form W–4 in effect at that time, and only if employers comply with all revenue procedures relating to substitute forms in effect at that time.

(2) Employers are prohibited from accepting a substitute form developed by an employee, and the employee submitting such form will be treated as failing to furnish a withholding exemption certificate. For further guidance regarding the employer's obligations when an employee is treated as failing to furnish a withholding exemption certificate, see § 31.3402(f)(2)–1.

(3) *Effective/applicability date.* Paragraph (a)(1) applies on April 14, 2005. Paragraph (a)(2) applies to any substitute withholding exemption certificate furnished to an employer on or after October 11, 2007.

* * * * *

§ 31.3402(f)(5)–1T [Removed]

■ **Par. 5.** Section 31.3402(f)(5)–1T is removed.

Kevin Brown,

Deputy Commissioner for Services and Enforcement.

Approved: July 2, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–13492 Filed 7–12–07; 8:45 am]

BILLING CODE 4830–01–P

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; correction.

SUMMARY: The Employment Standards Administration's Office of Labor-Management Standards (''OLMS'') of the Department of Labor is correcting a final rule that appeared in the **Federal Register** of July 2, 2007, (72 FR 36106). That document revised the Form LM–30, Labor Organization Officer and Employee Report, its instructions, and related provisions in the Department's regulations. In that document, the effective date of the final rule (August 16, 2007) was omitted from one paragraph in the preamble and the beginning date for the mandatory submission of Form LM–30 reports filed under the final rule (November 16, 2008) was inadvertently omitted from the same paragraph. This document corrects those omissions.

EFFECTIVE DATE: Effective on 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:

Background

The final rule that is the subject of this correction appeared in the **Federal Register** of July 2, 2007, (72 FR 36106); the final rule revised the Form LM–30, Labor Organization Officer and Employee Report, its instructions, and related provisions in the Department's regulations. The rule implemented section 202 of the Labor-Management Reporting and Disclosure Act of 1959, 29 U.S. 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 of interest with their duty to the labor organization and its members. A paragraph in the preamble to the final rule, at 72 FR 36113, left blank the effective date of the rule and the beginning date for the mandatory submission of Form LM–30 reports filed under the rule. This correction remedies this inadvertent omission by inserting the appropriate dates.

Need for Correction

As published, the final rule omits the pertinent dates from the paragraph, at 72 FR 36113 (col. 3), that describes the prospective effect of the final rule.

Correction

Accordingly, the preamble to the final rule (FR Doc. 07–3155), is corrected as follows:

Section II, Subsection A [Corrected]

On page 36113, in the third column, the last paragraph of Section II, subsection A, is corrected to read:

DOL is applying these changes prospectively only. This final rule will apply to fiscal years beginning on or after August 16, 2007. Therefore, no report subject to today's rule will be due until at least November 16, 2008. There is ample time from publication of this final rule until November 16, 2008 for all filers to obtain any information they need to comply with the filing requirements.

Signed at Washington, DC this 9th day of July, 2007.

Dixon M. Wilson,

Deputy Assistant Secretary for Employment Standards.

[FR Doc. E7–13534 Filed 7–12–07; 8:45 am]

BILLING CODE 4510–CP–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in August 2007. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: Effective August 1, 2007.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine

lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

This amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during August 2007, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during August 2007, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during August 2007.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 5.49 percent for the first 20 years following the valuation date and 5.16 percent thereafter. These interest assumptions represent an increase (from those in effect for July 2007) of 0.16 percent for the first 20 years following the valuation date and 0.16 percent for all years thereafter.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.50 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent an increase of 0.25 percent in the immediate rate from those in effect for July 2007 and are otherwise unchanged. For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during August 2007, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 166, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
166	8–1–07	9–1–07	3.50	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 166, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	
166	8–1–07	9–1–07	3.50	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for August 2007, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used to Value Benefits

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*		*	*	*	
August 2007	.0549	1–20	.0516	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of July 2007.

Vincent K. Snowbarger,

Deputy Director, Pension Benefit Guaranty Corporation.

[FR Doc. E7–13594 Filed 7–12–07; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 105

[Docket Nos. TSA–2006–24191; USCG–2006–24196]

RIN 1652–AA41

Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License

AGENCY: United States Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule; extension of compliance date.

SUMMARY: The Department of Homeland Security (DHS), through the United States Coast Guard (Coast Guard), issues this final rule to extend compliance dates for the redesignation of secure areas. The Coast Guard is delaying the date by which facilities wishing to redefine their secure areas must submit an amendment to their facility security plan. Amendments to facility security plans are now due by September 4, 2007.

DATES: This final rule is effective July 13, 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 dockets TSA–2006–24191 and USCG–2006–24196, and are available for inspection or copying at the Docket Management Facility, 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 LCDR Jonathan Maiorine, telephone 1–877–687–2243. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

SUPPLEMENTARY INFORMATION:

I. Regulatory History

On May 22, 2006, The Department of Homeland Security (DHS) through the United States Coast Guard (Coast Guard) and the Transportation Security Administration (TSA) published a joint notice of proposed rulemaking entitled ''Transportation Worker Identification Credential (TWIC) Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License'' in the **Federal Register** (71 FR 29396). This was followed by a 45 day comment period and four public meetings. The Coast Guard and TSA issued a joint final rule, under the same title, on January 25, 2007 (72 FR 3492) (hereinafter referred to as the original TWIC final rule). The preamble to that final rule contains a discussion of all the comments received on the NPRM, as well as a discussion of the provisions found in the original TWIC final rule, which became effective on March 26, 2007.

II. Background and Purpose

A complete discussion of the background and purpose of the original TWIC final rule may be found beginning at 72 FR 3494. This final rule is being issued in order to amend the original TWIC final rule to reflect delays in the issuance of guidance.

III. Discussion of Change

The Coast Guard is delaying the date by which facilities wishing to redefine their secure areas must submit an amendment to their facility security plan. The original final rule required these submissions to be made to the appropriate Captain of the Port (COTP) by July 25, 2007. The Coast Guard issued its Navigation and Vessel Inspection Circular (NVIC) containing guidance on which facilities are eligible for this redefinition, and what would be an acceptable new definition of ''secure area,'' on July 6, 2007. In order to provide facility owners and operators time to take this guidance into account before submitting their revised plan, we are delaying the deadline for these submission until September 4, 2007. This amendment may be found at 33 CFR 105.115.

IV. Regulatory Requirements

A. Administrative Procedure Act

We did not publish a notice of proposed rulemaking (NPRM) for this final rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, because providing opportunity for public comment is unnecessary and would be contrary to the public interest. The provision being amended by this final rule without prior notice and comment eases a restriction on the public by providing the public (owners and operators of facilities regulated by 33 CFR part 105) with more time to comply with the regulatory requirements. For the same reason, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

B. Executive Order 12866 (Regulatory Planning and Review)

The original TWIC final rule was a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review and therefore it was reviewed by the Office of Management and Budget. E.O. 12866 requires an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Final Assessment for the original TWIC final rule is available in both the TSA and Coast Guard dockets where indicated under the **ADDRESSES** section of this preamble. A summary of that assessment was included in the original TWIC final rule at 72 FR 3570–3572.

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this rule to be minimal and a full Regulatory Evaluation unnecessary.

We anticipate that these changes will not substantially increase TWIC related compliance costs to the affected entities and in most cases will provide advantages through deadline extensions.

C. 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.

We do not expect this rule to substantially increase TWIC related compliance costs, as it extends a deadline. The Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888-REG-FAIR (1–888–734–3247).]

E. 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).

F. 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.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. 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.

M. 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.

N. Environment

The provisions of this rule have been analyzed under the Department of Homeland Security (DHS) Management Directive (MD) 5100.1, Environmental Planning Program, which is the DHS policy and procedures for implementing the National Environmental Policy Act (NEPA), and related E.O.s and requirements. The changes being made by this final rule have no effect on the environmental analysis that accompanied the promulgation of the original TWIC final rule. That analysis can be found at 72 FR 3576–3577.

Accordingly, there are no extraordinary circumstances presented by this rule that would limit the use of a categorical exclusion (CATEX) under MD 5100.1, Appendix A, paragraph 3.2. The implementation of this rule, like the implementation of the original TWIC final rule, is categorically excluded under the following CATEX listed in MD 5100.1, Appendix A, Table 1: CATEX A1 (personnel, fiscal, management and administrative activities); CATEX A3 (promulgation of rules, issuance of rulings or interpretations); and CATEX A4 (information gathering, data analysis and processing, information dissemination, review, interpretation and development of documents). CATEX B3 (proposed activities and operations to be conducted in an existing structure that would be compatible with and similar in scope to ongoing functional uses) and CATEX B 11 (routine monitoring and surveillance activities that support law enforcement or homeland security and defense operations) would also be applicable.

List of Subjects in 33 CFR Part 105

Facilities, Maritime security, Reporting and recordkeeping requirements, Security measures.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 105 as follows:

PART 105—MARITIME SECURITY: FACILITIES

■ 1. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 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.

§ 105.115 [Amended]

■ 2. Amend § 105.115(c) by removing the date ''July 25, 2007'' and adding in its place the date ''September 4, 2007''.

Dated: July 10, 2007.

F.J. Sturm,

Acting Assistant Commandant for Prevention.

[FR Doc. 07–3447 Filed 7–11–07; 12:11 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–069]

RIN 1625–AA00

Safety Zone; Milwaukee Harbor, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Milwaukee Harbor Safety Zone in Milwaukee Harbor during June through September 2007. This action is necessary to protect vessels and people from the hazards associated with fireworks displays. This safety zone will restrict vessel traffic from a portion of the Captain of the Port Lake Michigan Zone.

DATES: Effective from 9 p.m. on June 28, 2007 to 11 p.m. on September 8, 2007.

FOR FURTHER INFORMATION CONTACT: CWO Brad Hinken, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7154.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone, Milwaukee Harbor, Milwaukee, WI, 33 CFR 165.935 for the following events:

(1) *Summerfest fireworks display* on June 28, 2007 from 9 p.m. through 11 p.m.;

(2) *Festa Italiana fireworks displays* on July 19, 2007 from 9 p.m. through 11:30 p.m.; on July 20, 2007 from 9 p.m. through 11:30 p.m.; on July 21, 2007 from 9 p.m. through 11:30 p.m.; and on July 22, 2007 from 9 p.m. through 11:30 p.m.;

(3) *German Fest fireworks display* on July 27, 2007 from 9 p.m. through 11 p.m.; on July 28, 2007 from 9 p.m. through 11 p.m.; and on July 29, 2007 from 9 p.m. through 11 p.m.;

(4) *Mexican Fiesta fireworks display* on August 24, 2007 from 9 p.m. through 11 p.m.; and

(5) *Indian Summer fireworks displays* on September 8, 2007 from 9 p.m. through 11 p.m.

All vessels must obtain permission from the Captain of the Port or his on-scene representative to enter, move within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.935 Safety Zone, Milwaukee Harbor, Milwaukee, WI (published on June 13, 2007 at 72 FR 32522) and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. The Captain of the Port may be contacted via U.S. Coast Guard Sector Detroit on channel 16, VHF–FM.

Dated: June 28, 2007.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E7–13575 Filed 7–12–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA–B–7722]

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.
Arkansas: Lonoke	City of Ward (07–06–1213P).	May 17, 2007, May 24, 2007, *Lonoke Democrat*.	The Honorable Art Brook, Mayor, City of Ward, P.O. Box 237, Ward, AR 72176.	April 30, 2007	050372
California:					
Riverside	City of Murrieta (07–09–0801P).	May 24, 2007, May 31, 2007, *The Californian*.	The Honorable Douglas R. McAllister, Mayor, City of Murrieta, 26442 Beckman Court, Murrieta, CA 92562.	August 30, 2007	060751
Riverside	City of Palm Springs (07–09–0588P).	May 3, 2007, May 10, 2007, *The Press-Enterprise*.	The Honorable Ron Oden, Mayor, City of Palm Springs, 3200 East Tahquitz Canyon Way, Palm Springs, CA 92262.	August 9, 2007	060257
San Diego	City of Vista (07–09–0589P).	May 24, 2007, May 31, 2007, *San Diego Transcript*.	The Honorable Morris Vance, Mayor, City of Vista, P.O. Box 1988, Vista, CA 92085.	August 30, 2007	060297
Colorado:					
El Paso	City of Colorado Springs (06–08–B643P).	May 23, 2007, May 30, 2007, *El Paso County Advertiser and News*.	The Honorable Lionel Rivera, Mayor, City of Colorado Springs, P.O. Box 1575, Colorado Springs, CO 80901.	August 29, 2007	080060
El Paso	Unincorporated areas of El Paso County (06–08–B643P).	May 23, 2007, May 30, 2007, *El Paso County Advertiser and News*.	The Honorable Dennis Hisey, Chairman, El Paso County, Board of Commissioners, 27 East Vermijo Avenue, Colorado Springs, CO 80903.	August 29, 2007	080059
El Paso	Unincorporated areas of El Paso County (07–08–0044P).	May 16, 2007, May 23, 2007, *El Paso County Advertiser and News*.	The Honorable Dennis Hisey, Chairman, El Paso County Board of Commissioners, 27 East Vermijo Avenue, Colorado Springs, CO 80903.	August 22, 2007	080059

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.
Delaware: New Castle.	Unincorporated areas of New Castle County (07–03–0213P).	May 18, 2007, May 25, 2007, *Newark Post*.	Mr. Christopher Koons, County Executive, New Castle County, 87 Read's Way, New Castle, DE 19720.	August 24, 2007	105085
Florida:					
Charlotte	Unincorporated areas of Charlotte County (07–04–0469P).	May 24, 2007, May 31, 2007, *Charlotte Sun*.	The Honorable Thomas G. Moore, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	April 27, 2007	120061
Collier	City of Naples (07–04–2297P).	May 24, 2007, May 31, 2007, *Naples Daily News*.	The Honorable Bill Barnett, Mayor, City of Naples, 735 Eighth Street South, Naples, FL 34102.	April 27, 2007	125130
Manatee	Unincorporated areas of Manatee County (06–04-C664P).	May 24, 2007, May 31, 2007, *Bradenton Herald*.	The Honorable Amy E. Stein, Chairman, Manatee County Board of Commissioners, P.O. Box 1000, Bradenton, FL 34206.	August 30, 2007	120153
Walton	City of Freeport (07–04–3565X).	May 17, 2007, May 24, 2007, *Northwest Florida Daily News*.	The Honorable J. Mickey Marse, Mayor, City of Freeport, P.O. Box 339 , Freeport, FL 32439.	April 30, 2007	120319
Illinois:					
Cook	Village of Tinley Park (06–05–C262P).	May 17, 2007, May 24, 2007, *Daily Herald*.	The Honorable Edward J. Zabrocki, Mayor, Village of Tinley Park, 16250 South Oak Park Avenue, Tinley Park, IL 60477.	April 25, 2007	170169
Cook	Unincoporated areas of Cook County (06–05–C262P).	May 17, 2007, May 24, 2007, *Daily Herald*.	The Honorable Todd H. Stroger, President, Cook County Board of Supervisors, 118 North Clark Street, Room 537, Chicago, IL 60602.	April 25, 2007	170054
Kane	City of Batavia (06–05–BP93P).	May 10, 2007, May 17, 2007, *Kane County Chronicle*.	The Honorable Jeffery Schielke, Mayor, City of Batavia, 100 North Island Avenue, Batavia, IL 60510.	May 16, 2007	170321
Kane	City of St. Charles (07–05–0398P).	May 24, 2007, May 31, 2007, *Press Republican*.	The Honorable Donald P. DeWitte, Mayor, City of St. Charles, Two East Main Street, St. Charles, IL 60174.	August 30, 2007	170330
Kane	Unincorporated areas of Kane County (06–05–BP93P).	May 10, 2007, May 17, 2007, *Kane County Chronicle*.	The Honorable Karen McConnaughay, County Board Chairman, Kane County, 719 South Batavia Avenue, Building A, Geneva, IL 60134.	May 16, 2007	170896
Lake	Village of Hawthorn Woods (07–05–2482P).	May 24, 2007, May 31, 2007, *Lake County News Sun*.	The Honorable Keith Hunt, Mayor, Village of Hawthorn Woods, Two Lagoon Drive, Hawthorn Woods, IL 60047.	May 30, 2007	170366
Indiana:					
DeKalb	City of Butler (07–05–2078P).	May 8, 2007, May 15, 2007, *The Butler Bulletin*.	The Honorable Floyd Coburn, Mayor, City of Butler, 201 South Broadway, Butler, IN 46706.	August 14, 2007	180047
DeKalb	Unincorporated areas of DeKalb County (07–05–2078P).	May 8, 2007, May 15, 2007, *The Butler Bulletin*.	The Honorable William C. Ort, Chairman, De Kalb County Board of Commissioners, 100 South Main Street, Auburn, IN 46706.	August 14, 2007	180044
Kansas: Butler	City of Andover (07–07–0419P).	May 24, 2007, May 31, 2007, *The El Dorado Times*.	The Honorable Ben Lawrence, Mayor, City of Andover, 909 North Andover Road, Andover, KS 67002.	April 27, 2007	200383
Minnesota: Dakota	City of Burnsville (07–05–0873P).	May 24, 2007, May 31, 2007, *Burnsville Sun-Current*.	The Honorable Elizabeth Kautz, Mayor, City of Burnsville, 100 Civic Center Parkway, Burnsville, MN 55337.	August 30, 2007	270102
Ohio:					
Fairfield	City of Lancaster (07–05–1581P).	April 26, 2007, May 3, 2007, *Lancaster Eagle-Gazette*.	The Honorable David S. Smith, Mayor, City of Lancaster, 104 East Main Street, Lancaster, OH 43130.	August 2, 2007	390161
Fairfield	Unincorporated areas of Fairfield County (07–05–1581P).	April 26, 2007, May 3, 2007, *Lancaster Eagle-Gazette*.	The Honorable Judy Shupe, Chairman, Fairfield County Board of Commissioners, 210 East Main Street, Room 301, Lancaster, OH 43130.	August 2, 2007	390158

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.
Stark	City of North Canton (07–05–0382P).	May 10, 2007, May 17, 2007, *The Repository*.	The Honorable David J. Held, Mayor, City of North Canton, 145 North Main Street, North Canton, OH 44720.	April 12, 2007	390521
Warren	City of Springboro (07–05–0652P).	April 19, 2007, April 26, 2007, *The Pulse-Journal*.	The Honorable John Agenbroad, Mayor, City of Springboro, 1255 South Main Street, Springboro, OH 45066.	July 26, 2007	390564
Warren	Unincorporated areas of Warren County (07–05–0652P).	April 19, 2007, April 26, 2007, *The Pulse-Journal*.	The Honorable C. Michael Kilburn, President, Warren County, Board of Commissioners, 406 Justice Drive, Lebanon, OH 45036.	July 26, 2007	390757
Oklahoma:					
Cleveland	City of Moore (07–06–1131P).	May 3, 2007, May 10, 2007, *The Norman Transcript*.	The Honorable Glenn Lewis, Mayor, City of Moore, 301 North Broadway, Moore, OK 73160.	May 18, 2007	400044
Cleveland	City of Norman (06–06–B933P).	May 17, 2007, May 24, 2007, *The Norman Transcript*.	The Honorable Harold Haralson, Mayor, City of Norman, P.O. Box 370, Norman, OK 73070.	May 25, 2007	400046
Tulsa and Wagoner.	City of Broken Arrow (06–06–BH69P).	May 10, 2007, May 17, 2007, *The Tulsa World*.	The Honorable Richard Carter, Mayor, City of Broken Arrow, P.O. Box 610, Broken Arrow, OK 74013.	August 16, 2007	400236
Pennsylvania:					
Blair	Township of Snyder (07–03–0770P).	May 24, 2007, May 31, 2007, *Altoona Mirror*.	The Honorable Charles Diehl, Chairman, Snyder Township Board of Supervisors, Township Building R.D.3, Tyrone, PA 16686.	April 30, 2007	421393
Blair	Borough of Tyrone (07–03–0770P).	May 24, 2007, May 31, 2007, *Altoona Mirror*.	Mr. George Mason, Borough Manager, Borough of Tyrone, 1100 Logan Avenue, Tyrone, PA 16686.	April 30, 2007	420164
Centre	Township of Ferguson (07–03–0218P).	May 3, 2007, May 10, 2007, *Centre Daily Times*.	The Honorable Richard Mascolo, Chairman, Board of Supervisors, Township of Ferguson, 3147 Research Drive, State College, PA 16801.	August 9, 2007	420260
Puerto Rico: Puerto Rico.	Commonwealth of Puerto Rico (06–02–B001P).	May 17, 2007, May 24, 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.	August 23, 2007	720000
Texas:					
Bexar	City of San Antonio (07–06–0242P).	May 17, 2007, May 24, 2007, *Daily Commercial Recorder*.	The Honorable Phil Hardberger, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	April 30, 2007	480045
Collin	City of Melissa (07–06–0946P).	May 17, 2007, May 24, 2007, *McKinney Courier-Gazette*.	The Honorable David Dorman, Mayor, City of Melissa, 901 State Highway 121, Melissa, TX 75454.	August 23, 2007	481626
Collin	City of Plano (07–06–0506P).	May 17, 2007, May 24, 2007, *Plano Star Courier*.	The Honorable Pat Evans, Mayor, City of Plano, P.O. Box 860358, Plano, TX 75086–0358.	August 23, 2007	480140
Cooke	City of Gainesville (06–06–BH22P).	May 24, 2007, May 31, 2007, *Gainesville Daily Register*.	The Honorable Glenn Loch, Mayor, City of Gainesville, 200 South Rusk Street, Gainesville, TX 76240.	August 30, 2007	480154
Denton	City of Lewisville (07–06–0282P).	May 16, 2007, May 23, 2007, *Lewisville Leader*.	The Honorable Gene Carey, Mayor, City of Lewisville, P.O. Box 299002 , Lewisville, TX 75029.	April 30, 2007	480195
Travis	Unincorporated areas of Travis County (07–06–0283P).	May 17, 2007, May 24, 2007, *Austin American-Statesman*.	The Honorable Samuel T. Biscoe, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	August 23, 2007	481026
Wichita	City of Wichita Falls (07–06–0210P).	May 17, 2007, May 24, 2007, *Wichita Falls Times/Record* News.	The Honorable Lanham Lyne, Mayor, City of Wichita Falls, P.O. Box 1431, Wichita Falls, TX 76307.	May 30, 2007	480662
Virginia: Loudoun	Town of Leesburg (07–03–0584P).	May 16, 2007, May 23, 2007, *Loudoun Times Mirror*.	The Honorable Kristen C. Umstattd, Mayor, Town of Leesburg, P.O. Box 88, Leesburg, VA 20178.	April 27, 2007	510091

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

Dated: July 3, 2007.

David I. Maurstad,

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

[FR Doc. E7–13618 Filed 7–12–07; 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:

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Alexander County, North Carolina and Incorporated Areas Docket Nos.: FEMA–B–7708 and FEMA–D–7676			
Beaverdam Creek	At the confluence with Big Branch into South Yadkin River	+1,026	Alexander County (Unincorporated Areas).
	Approximately 2.5 miles upstream of Vashti Road	+1,151	
Beaver Branch	At the confluence with Lambert Creek	+1,087	Alexander County (Unincorporated Areas).
	Approximately 500 feet upstream of SR 1307	+1,161	
Big Branch	At the confluence with Elk Shoals Creek	+894	Alexander County (Unincorporated Areas).
	Approximately 600 feet upstream of SR 1619	+1,057	
Big Branch into South Yadkin River.	At the confluence with South Yadkin River	+1,026	Alexander County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Vashti Cemetery Road.	+1,181	
Catawba River	Approximately 1.0 mile upstream of the confluence of Elk Shoals Creek.	+848	Alexander County (Unincorporated Areas).
	At the Alexander/Caldwell County boundary	+936	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Duck Creek	At the confluence of Middle Little River	+1,036	Alexander County (Unincorporated Areas).
	At the confluence with Holsclaw Creek	+1,157	
Elk Shoals Creek	Approximately 0.5 mile upstream of the confluence with Catawba River.	+848	Alexander County (Unincorporated Areas).
	Approximately 400 feet upstream of SR 1631	+991	
Tributary 1	At the confluence with Elk Shoals Creek	+883	Alexander County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Elk Shoals Creek.	+896	
Tributary 2	At the confluence with Elk Shoals Creek	+889	Alexander County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Elk Shoals Creek.	+903	
Glade Creek	At the confluence with Lower Little River	+901	Alexander County (Unincorporated Areas).
	Approximately 900 feet upstream of Rogers Lake Dam Upper.	+1,195	
Tributary 1	At the confluence with Glade Creek	+1,015	Alexander County (Unincorporated Areas), Town of Taylorsville.
	Approximately 0.8 mile upstream of SR 1607	+1,093	
Grassy Creek	At the confluence with Lower Little River	+1,093	Alexander County (Unincorporated Areas).
	Approximately 1,050 feet upstream of the confluence of Grassy Creek Tributary 2.	+1,185	
Tributary 1	At the confluence with Grassy Creek	+1,098	Alexander County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Grassy Creek.	+1,122	
Tributary 2	At the confluence with Grassy Creek	+1,182	Alexander County (Unincorporated Areas).
	Approximately 0.7 mile upstream of SR 16	+1,211	
Greasy Creek	At the confluence with Wallace Creek	+1,016	Alexander County (Unincorporated Areas).
	Approximately 0.4 mile upstream of Carson Chapel Road (SR 1418).	+1,175	
Tributary 1	At the confluence with Greasy Creek	+1,035	Alexander County (Unincorporated Areas), Town of Taylorsville.
	Approximately 0.4 mile upstream of Hammer Road	+1,199	
Guys Branch	At the confluence with Elk Shoals Creek	+906	Alexander County (Unincorporated Areas).
	Approximately 0.5 mile upstream of the confluence with Elk Shoals Creek.	+922	
Holsclaw Creek	At the confluence with Duck Creek	+1,157	Alexander County (Unincorporated Areas).
	Approximately 0.9 mile upstream of SR 1302	+1,238	
Isaac Creek	At the confluence with Upper Little River	+936	Alexander County (Unincorporated Areas).
	Approximately 0.7 mile upstream of SR 1143	+957	
Island Creek	At the confluence with Catawba River	+851	Alexander County (Unincorporated Areas).
	Approximately 0.4 mile upstream of SR 1621	+875	
Jumping Run	At the confluence with Rock Creek	+983	Alexander County (Unincorporated Areas).
	Approximately 600 feet upstream of SR 127	+1,099	
Lambert Creek	At the confluence with Lower Little River	+1,087	Alexander County (Unincorporated Areas).
	Approximately 700 feet upstream of the confluence of Poplar Creek.	+1,180	
Tributary 1	At the confluence with Lambert Creek	+1,113	Alexander County (Unincorporated Areas).
	Approximately 800 feet upstream of SR 1307	+1,174	
Lower Little River	At the confluence with Catawba River	+852	Alexander County (Unincorporated Areas).
	Approximately 0.9 mile upstream of SR 1332	+1,130	
Tributary 1	At the confluence with Lower Little River	+865	Alexander County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
	Approximately 1.9 miles upstream of the confluence with Lower Little River.	+973	
Tributary 2	At the confluence with Lower Little River	+983	Alexander County (Unincorporated Areas).
	Approximately 1,600 feet upstream of SR 1124	+1,100	
Tributary 2A	At the confluence with Lower Little River Tributary 2	+1,085	Alexander County (Unincorporated Areas).
	Approximately 1,650 feet upstream of the confluence with Lower Little River Tributary 2.	+1,122	
Tributary 3	At the confluence with Lower Little River	+995	Alexander County (Unincorporated Areas).
	Approximately 1.4 miles upstream of SR 1110	+1,093	
Tributary 4	At the confluence with Lower Little River	+1,022	Alexander County (Unincorporated Areas), Town of Taylorsville.
	Approximately 1,000 feet upstream of School Drive	+1,163	
Middle Little River	Approximately 300 feet downstream of SR 1137	+935	Alexander County (Unincorporated Areas).
	At the Alexander/Caldwell County boundary	+1,295	
Tributary 2	At the confluence with Middle Little River	+1,030	Alexander County (Unincorporated Areas).
	Approximately 0.7 mile upstream of the confluence with Middle Little River.	+1,036	
Mill Creek	At the confluence with South Yadkin River	+1,020	Alexander County (Unincorporated Areas).
	Approximately 0.4 mile upstream of confluence with South Yadkin River.	+1,025	
Miller Creek	At the confluence with South Yadkin River	+857	Alexander County (Unincorporated Areas).
	Approximately 300 feet upstream of Sprinkle Dairy Road	+1,009	
Mountain Creek	Approximately 0.8 mile upstream of the confluence with Middle Little River.	+936	Alexander County (Unincorporated Areas).
	Approximately 200 feet upstream of SR 1150	+1,057	
Muddy Fork Creek	At the confluence with Lower Little River	+1,063	Alexander County (Unincorporated Areas), Town of Taylorsville.
	Approximately 1.3 miles upstream of SR 1409	+1,108	
Tributary 1	At the confluence with Muddy Fork Creek	+1,076	Alexander County (Unincorporated Areas), Town of Taylorsville.
	Approximately 1.6 miles upstream of Old Wikesboro Road	+1,181	
Poplar Creek	At the confluence with Lambert Creek	+1,176	Alexander County (Unincorporated Areas).
	Approximately 0.5 mile upstream of SR 1305	+1,199	
Rock Creek	At the confluence with Middle Little River	+957	Alexander County (Unincorporated Areas).
	At the confluence of Jumping Run	+983	
Tributary 1	At the confluence with Rock Creek	+957	Alexander County (Unincorporated Areas).
	Approximately 1,000 feet upstream of the confluence with Rock Creek.	+958	
Rocky Creek	Approximately 0.5 mile upstream of Branton Road (SR 1601).	+1,097	Alexander County (Unincorporated Areas).
	Approximately 150 feet upstream of Alexander/Wilkes County boundary.	+1,192	
Snow Creek	Approximately 150 feet downstream of the Iredell/Alexander County boundary.	+1,013	Alexander County (Unincorporated Areas).
	Approximately 50 feet upstream of the Iredell/Alexander County boundary.	+1,013	
South Yadkin River	Approximately 500 feet downstream of the Iredell/Alexander County boundary.	+843	Alexander County (Unincorporated Areas).
	Approximately 500 feet downstream of Vashti Road (SR 1403).	+1,066	
Spring Creek	At the confluence with Lower Little River	+1,047	Alexander County (Unincorporated Areas).
	Approximately 1.7 miles upstream of SR 1121	+1,121	

Flooding source(s)	Location of referenced elevation	*Elevation in feet (NGVD) +Elevation in feet (NAVD) # Depth in feet above ground modified	Communities affected
Stirewalt Creek	At the confluence with Lower Little River	+983	Alexander County (Unincorporated Areas) Town of Taylorsville.
	Approximately 750 feet upstream of East Main Avenue	+1,241	
Third Creek	Approximately 850 feet downstream of Smith Farm Road (SR 1637).	+914	Alexander County (Unincorporated Areas).
	Approximately 0.5 mile upstream of Lentz Road	+1,004	
Upper Little River	At the confluence with Catawba River	+936	Alexander County (Unincorporated Areas).
	Approximately 1,600 feet upstream of Alexander/Caldwell County boundary.	+971	
Wallace Creek	At the confluence with South Yadkin River	+905	Alexander County (Unincorporated Areas).
	Approximately 1,200 feet upstream of confluence of Greasy Creek.	+1,018	
White Creek	At the confluence with Holsclaw Creek	+1,157	Alexander County (Unincorporated Areas).
	Approximately 1.5 miles upstream of SR 1303	+1,270	

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

ADDRESSES

Town of Taylorsville

Maps are available for inspection at the Alexander County Planning and Inspection Office, 332 1st Avenue Southwest, Taylorsville, North Carolina.

Alexander County (Unincorporated Areas)

Maps are available for inspection at the Alexander County Planning and Inspection Office, 332 1st Avenue Southwest, Taylorsville, North Carolina.

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

Dated: July 3, 2007.

David I. Maurstad,

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

[FR Doc. E7–13603 Filed 7–12–07; 8:45 am]

BILLING CODE 9110–12–P

Proposed Rules

Federal Register
Vol. 72, No. 134
Friday, July 13, 2007

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Docket No. AMS–FV–07–0085; FV07–922–2 PR]

Apricots Grown in Designated Counties in Washington; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Washington Apricot Marketing Committee (Committee) for the 2007–2008 and subsequent fiscal periods from $1.00 to $1.50 per ton for Washington apricots. The Committee is responsible for local administration of the marketing order regulating the handling of apricots grown in designated counties in Washington. Assessments upon handlers of apricots are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period for the marketing order begins April 1 and ends March 31. The assessment rate would remain in effect indefinitely unless modified, suspended or terminated.

DATES: Comments must be received by July 23, 2007.

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

FOR FURTHER INFORMATION CONTACT: Robert J. Curry or Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW., Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724; Fax: (503) 326–7440; or E-mail: *Robert.Curry@usda.gov* or *GaryD.Olson@usda.gov*.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 922 (7 CFR 922), as amended, regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, apricot handlers in designated counties in Washington are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable Washington apricots beginning April 1, 2007, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would increase the assessment rate established for the Committee for the 2007–2008 and subsequent fiscal periods from $1.00 to $1.50 per ton for Washington apricots handled under the order.

The order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of apricots in designated counties in Washington. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed at a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2005–2006 and subsequent fiscal periods, the Committee recommended, and the USDA approved, an assessment rate of $1.00 per ton of apricots handled. This rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 24, 2007, and unanimously recommended 2007–2008 expenditures of $6,743. In comparison, last year's budgeted expenditures were $6,400. In addition, the Committee recommended that the current $1.00 per ton assessment rate be increased by $0.50 to $1.50 per ton of apricots handled. The Committee recommended the higher assessment rate to cover budgeted expenses while increasing its monetary reserve to a level commensurate with program objectives and requirements.

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include $4,800 for management fees, $1,000 for Committee travel, $500 for the annual financial audit, and $100 for compliance. Budgeted expenses for these items in 2006–2007 were $4,800, $1,000, $600, and $100, respectively. The Committee added $343 to its budgeted expenses this year for equipment maintenance, insurance, bonds, and miscellaneous expenses.

The assessment rate recommended by the Committee was derived by dividing its anticipated expenses of $6,743 by the projected apricot crop of 5,400 tons. Applying the $1.50 per ton assessment rate to the Committee's 5,400 ton crop estimate should provide $8,100 in assessment income. Income derived from handler assessments would not only adequately cover budgeted expenses, but would also add approximately $1,357 to the current $3,980 reserve fund. As a consequence, the projected fiscal year-end reserve balance of $5,337 would be within the maximum permitted by the order of approximately one fiscal period's operational expenses.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be effective for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of the Committee's meetings are available from the Committee or USDA. The Committee's meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committee's recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2007–2008 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 300 apricot producers within the regulated production area and approximately 22 regulated handlers. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,500,000.

The Washington Agricultural Statistics Service has prepared a report showing that the total 5,400 ton apricot utilization sold for an average of $1,150 per ton in 2006 with a total value of approximately $6,200,000. Based on the number of producers in the production area (300), the average annual producer revenue from the sale of apricots in 2006 can thus be estimated at approximately $20,700. In addition, based on information from the Committee and USDA's Market News Service, 2006 f.o.b. prices ranged from $15.00 to $20.00 per 24-pound loose-pack container, and from $16.00 to $18.00 for 2-layer tray pack containers. Of the approximate 3,728 tons of the 2006 season fresh apricots packed-out, about 1,569 tons were packed in loose-pack containers and about 2,159 tons in tray-pack containers (weighing an average of about 20 pounds each). The total receipts for 2006 were less than $6,500,000. Thus, the majority of producers and handlers of Washington apricots may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2007–2008 and subsequent fiscal periods from $1.00 to $1.50 per ton for apricots handled under authority of the order. The Committee also unanimously recommended 2007–2008 expenditures of $6,743. With the 2007–2008 Washington apricot crop estimate of 5,400 tons, the Committee anticipates assessment income of $8,100. The Committee recommended the assessment rate increase to cover budgeted expenses and to increase the monetary reserve. With this proposed assessment rate and budget, the Committee would be in a position to add about $1,357 to its monetary reserve, with a projected balance on March 31, 2008, of approximately $5,337—an amount within the maximum permitted by the order of approximately one fiscal period's operational expenses.

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include $4,800 for management fees, $1,000 for Committee travel, $500 for the annual financial audit, and $100 for compliance. Budgeted expenses for these items in 2006–2007 were $4,800, $1,000, $600, and $100, respectively. The Committee added $343 to its budgeted expenses this year for equipment maintenance, insurance, bonds, and miscellaneous expenses.

The Committee discussed alternatives to this recommended assessment increase. Leaving the assessment rate at the current $1.00 per ton was discussed, but not seriously considered since such a rate would have further eroded the Committee's reserves. Higher and lower rates were also considered but not recommended because the $1.50 rate would not only meet the Committee's objectives for the 2007–2008 season, but also increase the reserve to a level commensurate with order provisions.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2007–2008 season could average about $1,000 per ton for fresh Washington apricots. Therefore, the estimated assessment revenue for the 2007–2008 fiscal period as a percentage of total producer revenue is 0.15 percent for Washington apricots.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order.

In addition, the Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend and participate in Committee deliberations on all issues. Like all Committee meetings, the May 24, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on the issues. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Washington apricot handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Furthermore, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

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

A 10-day comment period is provided to allow interested persons to respond to this proposed rule. Ten days is deemed appropriate because: (1) The 2007–2008 fiscal period began on April 1, 2007, and the order requires that the assessment rate for each fiscal period apply to all assessable apricots handled during such fiscal period; (2) the Washington apricot harvest and shipping season is expected to begin as early as the last week of June; (3) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; and (4) handlers are aware of this action, which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 922 is proposed to be amended as follows:

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 922 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 922.235 is revised to read as follows:

§ 922.235 Assessment rate.

On or after April 1, 2007, an assessment rate of $1.50 per ton is established for the Washington Apricot Marketing Committee.

Dated: July 9, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–13581 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. AMS–FV–07–0004; AO–192–A7; FV06–984–1]

Walnuts Grown in California; Secretary's Decision and Referendum Order on Proposed Amendment of Marketing Agreement and Order No. 984

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This decision proposes amendments to Marketing Order No. 984, which regulates the handling of walnuts grown in California (order), and provides growers with the opportunity to vote in a referendum to determine if they favor the changes. The amendments were proposed by the Walnut Marketing Board (Board), which is responsible for local administration of the order. The amendments would: change the marketing year; include ''pack'' as a handler function; restructure the Board and revise nomination procedures; rename the Board and add authority to change Board composition; modify Board meeting and voting procedures; add authority for marketing promotion and paid advertising; add authority to accept voluntary financial contributions and to carry over excess assessment funds; broaden the scope of the quality control provisions and add the authority to recommend different regulations for different market destinations; add authority for the Board to appoint more than one inspection service; replace outdated order language with current industry terminology; and other related amendments.

The Department of Agriculture (USDA) proposed three additional amendments: To establish tenure limitations for Board members, to require that continuance referenda be conducted on a periodic basis to ascertain producer support for the order, and to make any necessary conforming changes.

The proposed amendments are intended to improve the operation and functioning of the marketing order program.

DATES: The referendum will be conducted from August 1 to 17, 2007. The representative period for the purpose of the referendum is August 1, 2006, through July 31, 2007.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: *Melissa.Schmaedick@usda.gov.*

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

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing issued on April 18, 2006, and published in the April 24, 2006, issue of the **Federal Register** (71 FR 20902) and a Recommended Decision issued on March 19, 2007, and published in the March 27, 2007, issue of the **Federal Register** (72 FR 14368).

This action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Preliminary Statement

The proposed amendments are based on the record of a public hearing held on May 17 and 18, 2006, in Modesto, California. The hearing was held to consider the proposed amendment of the order. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) hereinafter referred to as the ''Act,'' and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Notice of this hearing was published in the **Federal Register** on April 24, 2006 (71 FR 20902). The notice of hearing contained proposals submitted by the Walnut Marketing Board (Board), which is responsible for local

administration of the order, and by the Agricultural Marketing Service (AMS).

The proposed amendments to marketing order 984 would:

1. Change the marketing year from August 1 through July 31 to September 1 through August 31. This proposal would amend § 984.7, Marketing year, and would result in conforming changes being made to § 984.36, Term of office, and § 984.48, Marketing estimates and recommendations.

2. Specify that the act of packing walnuts is considered a handling function. This proposal would amend § 984.13, to handle, as well as clarify the definition of ''pack'' in § 984.15 by including the term ''shell'' as a function of ''pack.''

3. (a) Amend all parts of the order that refer to cooperative seats on the Board, redistribute member seats among districts, and provide designated seats for a handler handling 35 percent or more of production, if such handler exists. This proposal would amend § 984.35, Walnut Marketing Board, and § 984.14, Handler.

3. (b) Amend the Board member nomination process to reflect proposed changes in the Board structure, as outlined in 3(a). This proposal would amend § 984.37, Nominations, and § 984.40, Alternate.

4. Require Board nominees to submit a written qualification and acceptance statement prior to selection by USDA. This proposal would amend § 984.39, Qualify by acceptance.

5. Change the name of the Walnut Marketing Board to the California Walnut Board. This proposal would amend § 984.6, Board, and § 984.35, Walnut Marketing Board.

6. Add authority to reestablish districts, reapportion members among districts, and revise groups eligible for representation on the Board. This proposal would add a new paragraph (d) to § 984.35, Walnut Marketing Board.

7. Add percentage requirements to Board quorum and voting requirements, add authority for the Board to vote by ''any other means of communication'' (including facsimile) and add authority for Board meetings to be held by telephone or by ''any other means of communication'', providing that all votes cast at such meetings shall be confirmed in writing. This proposal would amend § 984.45, Procedure, and would result in a conforming change in § 984.48(a), Marketing estimates and recommendations.

8. Add authority to carry over excess assessment funds. This proposal would amend § 984.69, Assessments.

9. Add authority to accept voluntary financial contributions. This proposal would add a new § 984.70, Contributions.

10. Clarify that members and alternate members may be reimbursed for expenses incurred while performing their duties and that reimbursement includes per diem. This proposal would amend § 984.42, Expenses.

11. Add authority for the Board to appoint more than one inspection service as long as the functions performed by each service are separate and do not duplicate each other. This proposal would amend § 984.51, Inspection and certification of in-shell and shelled walnuts.

12. (a) Broaden the scope of the quality control provisions by adding authority to recommend different regulations for different market destinations. This proposal would amend § 984.50, Grade and size regulations.

12. (b) Add authority that would allow for shelled walnuts to be inspected after having been sliced, chopped, ground, or in any other manner changed from shelled walnuts, if regulations for such walnuts are in effect. This proposal would amend § 984.52, Processing of shelled walnuts.

13. Add authority for marketing promotion and paid advertising. This proposal would amend § 984.46, Research and development.

14. Replace the terms ''carryover'' with ''inventory,'' and ''mammoth'' with ''jumbo,'' to reflect current day industry practices. This proposal would amend § 984.21, Handler inventory, and § 984.67, Exemption, and would also result in conforming changes being made to § 984.48, Marketing estimates and recommendations, and § 984.71, Reports of handler carryover.

15. (a) Clarify to simplify the interhandler transfer provision, and add authority for the Board to recommend to USDA regulations, including necessary reports, for administrative oversight of such transfers. This proposal would amend § 984.59, Interhandler transfers.

15. (b) Clarify that the Board may require reports from handlers or packers that place California walnuts into the stream of commerce. This proposal would amend § 984.73, Reports of walnut receipts.

16. Update and simplify the language in § 984.22, Trade demand, to state ''United States and its territories,'' rather than name ''Puerto Rico'' and ''The Canal Zone''.

17. Amend the order by adding language that would acknowledge that the Board may deliberate, consult, cooperate, and exchange information with the California Walnut Commission. Any information sharing would be kept confidential. This would add a new § 984.91, Relationship with the California Walnut Commission.

In addition, USDA proposed adding two provisions that would help assure that the operation of the program conforms to current Department policy and that USDA can make any necessary conforming changes. These provisions would:

18. Establish tenure requirements for Board members. This proposal would amend § 984.36, Term of office.

19. Require that continuance referenda be conducted on a periodic basis to ascertain industry support for the order and add more flexibility in the termination provisions. This proposal would amend § 984.89, Effective time and termination.

20. Make changes as may be necessary to the order, if any of the proposed changes are adopted, so that all of the order's provisions conform to the effectuated amendments. To the extent necessary, conforming changes have made to the amendments. These conforming changes have been identified in the above list of proposed amendments.

Upon the basis of evidence introduced at the hearing and the record thereof, the Administrator of AMS on March 19, 2007, filed with the Hearing Clerk, U.S. Department of Agriculture, a Recommended Decision and Opportunity to File Written Exceptions thereto by April 16, 2007.

Fifteen exceptions were filed during the exception period. The exceptions expressed concern over the discussion in the Recommended Decision regarding Material Issue No. 11. This proposal would add authority for the Board to appoint more than one inspection service as long as the functions performed by each service are separate and do not duplicate each other. Comments stated that, if this authority were implemented, private sector entities, in addition to USDA, should be able to offer non-traditional inspection services. Persons filing these comments claimed that the proposed amendatory language would prevent any service other than USDA from offering non-traditional inspection. The specifics of these exceptions are further discussed in the Findings and Conclusions; Discussion of Exceptions section of this document. One of the exceptions also offered a comment of general support for the proposal to implement term limits as a method to encourage participation of industry members that have not previously served on the Board.

Small Business Considerations

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions so that small businesses will not be unduly or disproportionately burdened. Marketing orders and amendments thereto are unique in that they are normally brought about through group action of essentially small entities for their own benefit.

Small agricultural growers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $750,000. Small agricultural service firms, which include handlers regulated under the order, are defined as those with annual receipts of less than $6,500,000.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact on growers and handlers of the proposed amendments, and in particular the impact on small businesses. The record evidence shows that the proposed amendments are designed to enhance industry efficiencies and streamline administrative operations of the marketing order. The record evidence is that while some minimal costs may occur, those costs would be outweighed by the benefits expected to accrue to the California walnut industry.

Walnut Industry Background and Overview

According to the record, the California walnut industry currently has 44 handlers and approximately 5000 producers. The crop is produced in a region that spans approximately 400 miles in California's Central Valley.

Fifteen grower witnesses and 7 handler witnesses testified at the hearing. Using the SBA definition ($750,000 in gross annual walnut sales), 7 of the grower witnesses identified themselves as large business entities and 6 as small business entities. All 7 handler witnesses identified themselves as being large business entities according to the SBA definition. Some of the handler witnesses were also growers. According to witnesses, 37 out of an industry total of 44 handlers would qualify as small business entities under the SBA definition. Also, under the order amendments contained herein, it is estimated that five packers would be considered handlers, the majority of whom would be considered small entities.

Based on information presented at the hearing, calculations describing an average California walnut producer provide the following: Dividing 219,000 bearing acres in 2005 by 5,000 producers indicates an average of 44 bearing acres per producer. Dividing the two-year average crop value for 2003 and 2004 ($414,950,000) by 5,000 producers yields an average walnut revenue per producer estimate of about $83,000. According to the hearing record, more than 70 percent of California walnut producers would be classified as small producers according to the SBA definition.

According to a study presented at the hearing, entitled ''Cost to Produce Walnuts in California'' (prepared by Dr. Karen Klonsky, Department of Agriculture and Resource Economics, University of California Davis, 2006), typical average costs for a walnut orchard in the Sacramento Valley are $2,460 per acre in full production. The costs are broken down as follows: (a) Land and trees, $678 (28 percent), (b) cultural costs, $667 (27 percent), (c) harvest, $538 (22 percent), (d) equipment and buildings, $302 (12%), and (e) cash overhead, $275 (11 percent).

At an average grower price in recent years of $0.62 per pound, a grower would need a yield of 2 tons per acre to break even, according to the study. The breakeven price at the State average yield of 1.5 tons per acre is about $0.70 per pound, which is above the actual price received in most recent years, but equal to the 2004 average price received by growers.

Individual grower costs can vary considerably due to such variables as horticultural practices and varieties grown, and also due to orchard location and year of acquisition, and water availability and cost.

Although a majority of producers are considered small business entities, record evidence also indicates that producer revenue has increased over time. The National Agricultural Statistical Service (NASS) crop value estimate for 2004, $451.75 million, was 38 percent higher than in 1995, and was the sixth successive yearly increase. Average revenue per acre in 2004 reached a record $2,082.

Record evidence also indicates that acreage and production are trending upward. Production did not exceed 300,000 tons until 2001, but has exceeded that level for 4 out of the last 5 years. Witnesses stated that the five-year average production for 1996–2000 was 244,000 tons, compared to the five-year average production (2001–2005), which was 318,600 inshell tons.

According to the hearing record, a number of factors have contributed to increased production in recent years. New acres have been planted at a rate of three to five thousand acres per year, some of which are new varieties with higher yields. Witnesses explained that older varieties may yield 1,500 to 3,000 pounds per acre, due to both planting patterns and the typical yield of the variety. New varieties, such as the Chandler, will yield up to 6,000 pounds per acre. Newer plantings have led to a reduction in the cyclical peaks and valleys associated with the alternate-bearing characteristic of tree nuts. This, in turn, has facilitated better inventory management and has made the walnut industry a more reliable ingredient supplier to the food-processing industry.

According to the hearing record, the growing season commences in March of each year with harvest occurring between September and November, depending upon the variety. Inshell California walnuts are a seasonal item with 95 percent of the volume shipped between the months of September and December. This represents roughly 25 percent of the industry's production. Inshell walnuts are marketed primarily as a winter holiday food. According to the hearing record, the purchase of significant quantities of inshell walnuts occurs due to the tradition in many markets of displaying them with other inshell nuts as part of winter holiday decor.

Shelled walnuts are marketed on a year-round basis, and represent about 75 percent of utilization. Large handler infrastructure investments have contributed substantially to the growth of the year-round shelled business, as well as the inshell business.

Over the past ten years sophisticated laser-sorting equipment and new varieties such as the Chandler have contributed to improved quality. Higher customer expectations have accompanied the improvements in technology and quality, with more demand for high-quality, high-specification California walnuts. Marketing success in Japan is cited as a prime example of this trend.

According to the hearing record, shelled walnuts are utilized in a variety of ways, with commercial baking believed to be the single largest utilization category. Retail consumption of walnuts packaged for use in the home has increased dramatically over the past several years. Shelled walnuts may be sold in packages ranging from 2.75

ounce retail packages to large bulk containers of 25 pounds or more for industrial users, wholesalers, and distributors. The last 12 years have seen substantial increases in snack food uses of walnuts, in addition to expansion of ingredient use beyond baking and confectionery items to include usage with salads, rice, and pasta.

A high degree of mechanization in the harvest has reduced the deleterious impact on nut quality from rain and other weather conditions. Once harvested, walnuts are taken to holding stations where a fibrous husk is removed, and the walnuts are then dried to approximately eight percent moisture. They are delivered to handlers for further processing, which includes cleaning, sorting, and shelling.

According to the hearing record, California walnuts rank eighth in exports over all the commodities grown in the state. The top three inshell export markets are Spain, Italy, and Germany. Five-year average export value (2000/01–2004/05) is approximately $52 million, representing 63 percent of total export value for that five-year period. The key export markets for shelled-walnut utilization are: Japan, Germany, Spain, Israel, Korea, and Canada. Five-year average export value for those six countries is $91.8 million, which is about 76 percent of the total value of shelled walnut exports.

California walnuts compete with walnuts grown in China, Turkey, France, Italy, Chile, North Korea, India, Vietnam, Argentina, Brazil, and many areas within the former Soviet Union including Kazakhstan, Ukraine, Hungary, and Moldova. Within the European Union the major competition comes from France and Eastern Europe. In the Pacific Rim, major competitors include China and India.

Material Issues

The amendments included in this decision would: Change the marketing year; include ''pack'' as a handler function; restructure the Board and revise nomination procedures; rename the Board and add authority to change Board composition; modify Board meeting and voting procedures; add authority for marketing promotion and paid advertising; add authority to accept contributions, and to carry over excess assessment funds; broaden the scope of the quality control provisions and add the authority to recommend different regulations for different market destinations; add authority for the Board to designate more than one inspection service; replace outdated order language with current industry terminology; and other related amendments.

The USDA proposed three additional amendments: To establish tenure limitations for Board members, to require that continuance referenda be conducted on a periodic basis to ascertain producer support for the order, and to make any changes to the order as may be necessary to conform with any amendment that may result from the hearing.

All of the proposals are intended to streamline and improve the administration, operation, and functioning of the program. Many of the proposed amendments would update the language of the order, thus better representing and conforming to current practices in the industry. The proposed amendments are not expected to result in any significant cost increases for growers or handlers. More efficient administration of program activities may result in cost savings for the Board. A description of the proposed amendments and their anticipated economic impact on large and small entities is outlined below.

Designation of More Than One Inspection Service

Proposal 11 would amend the order to add authority for the Board to designate more than one inspection service, as long as the functions performed by each service are separate and do not conflict with each other.

To ensure that walnuts are properly graded and meet marketing order minimum standards, the Board currently arranges for inspection of walnuts prior to shipping for all walnut handlers. The marketing order currently authorizes contracting with one agency, the California based Dried Fruit and Nut Association (DFA).

DFA inspects all walnuts that leave California to certify that they meet marketing order minimum standards. Operating as an out-going inspection service, samples of packed walnuts are examined and certified by licensed DFA inspectors at the end of the handling and packing process.

The following data representing current inspection costs, summarizing actual inspection cost data for 2004–05 for the entire industry (44 handlers), was presented at the hearing by Board representatives. According to the record, the 2004–05 cost to serve the 44 handlers was $1.857 million, which is an average cost of just over $42,000 per handler.

Since inspection costs depend largely on volume handled, the four largest handlers account for $1.282 million, or 69% of total inspection expenditure in the 2004–05 crop year. The 37 smaller handlers account for $412,172 in expenditure, about 22 percent of the total, averaging about $11,000 per handler.

ANNUAL WALNUT INSPECTION COSTS USING DFA, 2004–05 CROP YEAR

	DFA cost	No. handlers	Average per handler
Largest Handlers	$1,282,362	4	$320,591
Additional Large Handlers	162,487	3	54,162
Other Handlers	412,172	37	11,140
All Handlers	1,857,021	44	42,205

Source: Walnut Marketing Board

The Federal-State Inspection Service (FSIS) has developed effective, less costly alternative inspection programs.

The Partners in Quality Program, or PIQ, is a documented quality assurance system. Under this program, individual handlers must demonstrate and document their ability to handle and pack product that meets all relevant quality requirements. Effectiveness of the program is verified through periodic, unannounced audits of each handler's system by USDA-approved auditors.

Under the Customer-Assisted Inspection Program, or CAIP, USDA inspectors oversee the in-line sampling and inspection process performed by trained company staff. USDA oversight ranges from periodic visits throughout the day to a continuous on-site presence.

DFA does not offer inspection services that operate similarly to the PIQ and CAIP programs.

Cost savings would occur by reducing the prevalence of double inspections

under the current system. Currently, one inspection is undertaken to meet minimum USDA quality requirements specified in the marketing order. A second inspection is often necessary to meet the considerably higher standards of specific customers. Moving to a PIQ or CAIP program would greatly reduce inspection costs, because meeting higher standards under PIQ or CAIP would also ensure that an inspected lot met minimum marketing order standards.

Witnesses at the hearing testified that the California walnut industry should allow handlers to take advantage of USDA's alternative inspection programs such as the CAIP and the PIQ. Handlers who do not wish to use the alternative inspection services offered by USDA would continue to use the services of the DFA for traditional inspection services, such as end-line and lot inspections.

The proposal also specifies that ''each service shall be separate so as to not conflict with each other,'' meaning that each inspection service would offer distinct and different services (i.e. PIQ vs. lot inspections) so that the integrity of both programs can be maintained.

Witnesses speaking in favor of this proposal explained the importance of a handler's ability to take advantage of inspection services that would most economically fit the size and functions of his or her operation. Currently, all walnut product is inspected by DFA. While this inspection service has worked well for the industry for many years, the DFA inspection service does not accommodate inspection procedures that support larger handler economies of scale. Witnesses stated that USDA programs, such as PIQ and CAIP, are designed to fit larger scale handling operations, and therefore offer cost saving advantages that the DFA service does not. This proposal, if implemented, would allow handlers to use the alternative inspection programs offered by USDA.

Several witnesses indicated that lowering costs to handlers would benefit growers because they expect that the cost reduction would be reflected in increased payments to growers.

Financial impact calculations provided by the Board (shown in the table below) indicate that introducing the option of using PIQ or CAIP programs could result in savings of $1.09 million, an average per handler savings of $156,067 for the industry's seven largest handlers. Due to the high volumes handled, most of the savings accrue to the four largest handlers, estimated at $1.05 million, or an average per handler of $263,169.

WALNUT INSPECTION COST COMPARISON: DFA VS. USDA FOR TOP 7 HANDLERS

	DFA	USDA PIQ/CAIP	Cost savings	
			Total	Per handler
Largest 4 handlers	$1,282,362	$229,688	$1,052,674	$263,169
Additional 3 large handlers	162,487	122,692	39,795	13,265
Largest 7 handlers	1,444,849	352,380	1,092,469	156,067

Source: Walnut Marketing Board.

Data from NASS indicate that the two-year average value of the 2003 and 2004 crops was about $415 million. The current DFA inspection cost ($1.857 million) represents a very small proportion of crop value, about 0.4 percent. If the largest 7 handlers used USDA for inspection at a cost of $352,380 and the remaining 37 handlers continue to work with DFA at an estimated cost of $412,172, then the combined cost of $764,552 would represent 0.2 percent of the recent-year crop value.

Witnesses emphasized the cost effectiveness of having an additional inspection agency. If implemented, this proposal would facilitate the streamlining of handler operations to utilize the inspection service best suited to their operations.

Since potential savings are correlated with economies of scale, record evidence indicates that PIQ and CAIP programs would be most beneficial for large handlers. It is unlikely that the smaller handlers would initially opt for these programs. Smaller handlers that expand their operations in the future may realize benefits from switching to PIQ or CAIP. Witnesses stated that no change in inspection costs is expected for handlers remaining with traditional DFA inspection services. Therefore, no financial disadvantages are expected to result from this proposed amendment. If implemented, this proposal may result in an overall decrease in costs of inspection to the industry.

Inspection of Sliced, Chopped or Ground Shelled Walnuts

Proposal 12b would add authority for shelled walnuts to be inspected after having been sliced, chopped, or ground or in any manner changed from being shelled walnuts, if regulations for such walnuts are in effect.

New walnut product forms are regularly requested by both domestic and foreign customers. In the last 20 years, the industry has become much more capable of producing at a considerably higher level quality and of developing more specific types of products that meet the differing needs of individual customers. To capitalize on this growing capability, a number of witnesses expressed the view that an important tool for increasing sales is the ability to establish standards for these walnut products.

The order currently requires shelled product to be certified as merchantable, that is, meeting the minimum USDA requirements prior to further processing. When handlers are processing for end users that require further processing, this certification represents a costly extra step. After the initial shelled walnut certification, the handlers employ their own quality control procedures to meet the higher customer specifications. This proposal would allow a single inspection at the end of the process that would serve both purposes. If implemented, this proposal would allow the Board to recommend modifications to allow certification of product after it has been modified or chopped, leading to cost savings in the handling process.

Witnesses contended that current standards focus on visually observed characteristics that are significant for consumer acceptance, but often do not adequately address specific quality concerns important to various export markets, including Europe. Such concerns include, for example, moisture content or aflatoxin tolerances. If implemented, this proposal would allow the Board to review scientific data and develop inspection procedures for recommendation and approval by USDA to assure customers that walnuts meet their specified criteria.

Any new quality standards recommended by the Board would be subject to thorough review prior to seeking approval from USDA. Witnesses supported this amendment as it would give the Board authority to pursue quality regulations in addition to existing grade standards, both of which are important to industry customers.

Witnesses emphasized that this proposal would grant authority to the Board to recommend quality standards that could exceed current standards or to develop new standards for product characteristics not currently covered. Witnesses also stated that no specific modifications are currently requested, just flexibility to create them in the future.

While this proposed amendment may result in some cost increases associated with administration and oversight of new quality regulations, it is also expected that some handlers may benefit from lower inspection costs if the inspection requirements for specific markets were modified. Any costs associated with the implementation of this proposal are expected to be outweighed by the overall benefits accrued to the industry.

Marketing Promotion and Paid Advertising.

Proposal 13 would amend the order by adding authority for marketing promotion and paid advertising.

Current promotional activities for California walnuts are undertaken by the California Walnut Commission (CWC). Witnesses stated that the CWCs activities have led to considerable success in increasing demand for the industry's product.

Witnesses explained that with price inelastic demand for walnuts, recent increases in production could have driven down prices and total grower revenue. The CWC's successful promotional activities have helped mitigate that potential impact, keeping average grower prices and grower revenue steady or increasing for several years.

According to the hearing record, adding authority for paid advertising and promotion under the order would benefit the industry by allowing the Board to engage in activities that are currently supported by the Commission. Small businesses would be the greatest beneficiaries of an expanded generic advertising program, because they have the least financial resources to devote to selling their products, according to a witness.

While an increase in advertising and promotional activities may result in increased Board expenditures, witnesses were confident that the positive results of the Board's promotional activities on consumer demand for California walnuts would more than outweigh any increases in costs to the industry.

Impact of Remaining Amendment Proposals

Remaining amendment proposals are largely administrative in nature and would impose no new significant regulatory burdens on California walnut growers or handlers. They should benefit the industry by improving the operation of the program and making it more responsive to industry needs.

Marketing Year

Proposal 1 would amend the order to change the marketing year from August 1 through July 31 to September 1 through August 31. Under the current definition of the order, the California walnut marketing year begins August 1 and continues through July 31. Witnesses explained that, over time, new varieties of walnuts have been introduced, and the areas in which walnuts are cultivated have shifted. The newer varieties mature later than the varieties grown at the time of the program's inception. At the same time, cultivation has slowly moved into areas that previously were not suited for walnut production. With differences in climate, soil, and water, witnesses explained that these new production areas have slightly later growing cycles. The proposed change in the marketing year would better reflect current crop cycles.

Proposed conforming changes would ensure that Board member terms of office and marketing estimates calculated by the Board would conform to the modified marketing year. This amendment is not expected to result in any increases in costs to growers or handlers.

Definition of Pack

Proposal 2 would amend the order by specifying that the act of packing walnuts is considered a handling function. In addition, the term ''pack'' would be amended to include shelling, and would be modified so that packing is applicable to both inshell and shelled walnuts.

According to the hearing record, the order currently defines ''to handle'' as to ''sell, consign, transport, or ship, or in any other way, to put walnuts into the current of commerce''. The definition does not include the specific act of packing. ''To pack'', as currently defined in the order means, ''to bleach, clean, grade or otherwise prepare inshell walnuts for market''. Pack is not currently applicable to shelled walnuts. Witnesses stated that the proposed amendments to the definitions of ''handle'' and ''pack'' would more accurately reflect current industry operations.

This amendment is not expected to result in any increases in costs to growers. If implemented, this proposal may result in some packing entities previously not considered to be handlers under the order to be redefined as handlers. According to witnesses, there are roughly five packer entities that would qualify as handlers under the new definition. While some increases in administration costs on the part of handlers could arise as a result of reporting requirements, record evidence indicates that the benefit of more accurate industry information would merit that expense.

Restructuring of the Board

Proposal 3(a) seeks to amend all parts of the order that refer to cooperative seats on the Board, to redistribute member seats among districts, and to provide designated seats for a major handler, if such handler existed. A major handler would have to handle 35 percent or more of the crop.

According to the hearing record, the recent transition of the industry's largest cooperative from a cooperative entity to a publicly held company was the impetus for this proposal. Witnesses expressed the need to modify the Board structure to provide for representation that accurately reflects the current industry. Witnesses advocated that the Board structure should maintain the current number of Board members and alternates, and that the allocation of member seats between grower and handler positions should remain the same (meaning 4 handler member seats, five grower member seats and one public member).

Witnesses also recommended modifying the allocation of Board representation according to two possible scenarios. The two scenarios include: (1) Membership allocation that acknowledges the existence of a handler handling 35 percent or more of production and, (2) membership allocation in the absence of such handler. According to record evidence, these proposed amendments would not result in any increases in costs.

Nominations

Proposal 3(b) would amend the Board member nomination process to reflect proposed changes in the Board structure, as outlined in 3(a). Current nomination procedures allow for all cooperative seat nominees to be selected

by the cooperative and forwarded to the Secretary for approval and appointment. The cooperative nominee selection process is independent of the Board. All non-cooperative seat nominees are selected through a ballot nomination process overseen by the Board staff, and forwarded to the Secretary for approval and appointment.

According to the hearing record, the revised nomination procedures would allow a handler who handles 35 percent or more of the crop to nominate persons to fill its designated seats (as described in 3(a)) and to forward them to the Secretary for approval and appointment. Nomination of persons to fill all other seats would be conducted by the Board staff.

In the event a handler handling 35 percent or more of the crop does not exist, all Board nominees would be selected through a ballot nomination process conducted by the Board staff.

While some increases in administration costs could arise as a result of an increased number of ballots to be mailed by the Board if a major handler does not exist, record evidence indicates that the expense would be minor and would not directly burden growers or handlers.

Qualify by Acceptance

Proposal 4 would require Board nominees to submit a written qualification and acceptance statement prior to selection by USDA. Currently, the acceptance procedure for persons nominated and selected to serve on the Board involves a two-step process. If this amendment were implemented, the two steps could be combined into one, thus resulting in less paperwork, a shorter acceptance procedure and improved efficiency in the acceptance process. This amendment is not expected to result in any increases in costs to growers or handlers.

California Walnut Board

Proposal 5 would change the name of the Walnut Marketing Board to the California Walnut Board. Witnesses stated that the proposed name of ''California Walnut Board'' would more accurately represent the Board's responsibilities. This amendment is not expected to result in any significant increases in costs to growers or handlers.

Authority To Reestablish Districts and Board Structure

Proposal 6 would add authority to reestablish districts, to reapportion members among districts, and to revise groups eligible for representation on the Board. The intent of this proposal is to provide the Board with a tool to more efficiently respond to the changing character of the California walnut industry. In recommending any such changes, the following would be considered: (1) Shifts in acreage within districts and within the production area during recent years; (2) the importance of new production in its relation to existing districts; (3) the equitable relationship between Board apportionment and districts; (4) changes in industry structure and/or the percentage of crop represented by various industry entities resulting in the existence of two or more handlers handling 35 percent or more of the crop; and (5) other relevant factors. This amendment is not expected to result in any increases in costs to growers or handlers.

Voting Procedures

Proposal 7 would amend Board quorum and voting requirements to add percentage requirements, add authority for the Board to vote by ''any other means of communication'' (including facsimile) and add authority for Board meetings to be held by telephone or by ''any other means of communication''.

Witnesses stated that references to the meeting quorum requirements should be amended to include a percentage equivalent of the current six-out-of-10-member minimum, or sixty percent. In addition, witnesses supported modifying the order language regarding voting requirements to state that a sixty-percent super-majority vote of the members present at a meeting should be required of all Board decisions, except where otherwise specifically provided. The order currently states that a majority vote is needed, with no percentage equivalent specified.

According to the record, the order currently requires that all Board meetings be held at a physical location. Witnesses stated that the order should be amended to allow for some meetings to be held using ''other means of communication'', such as telephone or videoconferencing. Witnesses stated that use of new communication technology would result in timesavings while still allowing the Board to conduct its business. Witnesses stated that it is the intent of the Board that voting procedures for all types of non-traditional meetings can be recommended and adopted as appropriate for each type of technology used.

Amendments proposed under this material issue are not expected to result in any significant changes in costs to growers or handlers.

Carryover of Excess Assessment Funds

Proposal 8 would amend the order to add authority to carry over excess assessment funds. According to the hearing record, the order currently states that any assessment funds held in excess of the marketing year's expenses must be refunded to handlers. Refunds are returned to handlers in accordance with the amount of that handler's pro rata share of the actual expenses of the Board.

This proposed amendment would allow the Board, with the approval of the Secretary, to establish an operating monetary reserve. This would allow the Board to carry over to subsequent production years any excess funds in a reserve, provided that funds already in the reserve do not exceed approximately two years' expenses. If reserve funds do exceed that amount, the assessment rate could be reduced so as to cause reserves to diminish to a level below the two-year threshold.

According to the record, reserve funds could be used to defray expenses during any production year before assessment income is sufficient to cover such expenses, or to cover deficits incurred during any fiscal period when assessment income is less than expenses. Additionally, reserve funds could be used to defray expenses incurred during any period when any or all of the provisions of the order are suspended, or to meet any other such costs recommended by the Board and approved by the Secretary. This proposal is not expected to result in any significant increases in costs to growers or handlers.

Contributions

Proposal 9 would amend the order by adding authority to accept contributions. If implemented, this proposed amendment would grant authority to the Board to accept voluntary contributions. Contributions could only be used to pay for research and development activities, and would be free from any encumbrances by the donor. According to the hearing record, the Board would retain oversight of the application of such contributions.

Witnesses supported this proposal by stating that it would provide the Board and the industry with valuable resources to enhance research and development activities. It is not expected that this proposal would result in any additional costs to growers or handlers.

Reimbursement of Expenses

Proposal 10 would amend the order to clarify that members and alternate

members may be reimbursed for expenses incurred while performing their duties and that reimbursement includes per diem. According to the hearing record, this proposed amendment would not have any impact on the current expense reimbursement activities of the Board. Rather, it would clarify and update order language to more clearly state that while Board members and alternates serve without compensation, expenses incurred while performing the duties of a Board member that have been authorized by the Board will be reimbursed. It is not expected that this proposal would result in any additional costs to growers or handlers.

Quality Regulations

Proposal 12a would broaden the scope of the quality control provisions by adding authority to recommend different regulations for different market destinations. Witnesses emphasized the usefulness in terms of market development of being able to establish different regulations for individual markets and/or regions. Witnesses stated that allowing the Board to make such recommendations would help the walnut industry adapt to changing international market conditions.

Updating Order Terminology

Proposal 14 would amend the order by replacing the terms ''carryover'' with ''inventory,'' and ''mammoth'' with ''jumbo,'' to reflect current day industry procedures. This proposal would also result in conforming changes being made to the ''Marketing estimates and recommendations'' and ''Reports of handler carryover'' sections of the order.

Handler carryover, defines the amount of California walnuts (both merchantable as well as the estimated quantity of merchantable walnuts to be produced from shelling stock and unsorted material), wherever located, held by California walnut handlers at any given time.

Witnesses explained that the current term ''carryover'' is misleading in that the term implies the amount of inventory held by handlers from one marketing year to the next. Witnesses stated that the term ''inventory'' would more accurately convey the intent of this definition, and would also reflect current day calculations of walnut availability.

Section 984.67, Exemptions, of the order provides for situations under which California walnuts may be exempted from complying with order regulations. One exemption is applicable to lots of merchantable inshell walnuts that are mammoth size or larger, as defined by the United States Standards for Walnuts in the Shell.

Witnesses stated that given the new varieties currently being produced in the industry, the term ''mammoth'' no longer applies. According to record evidence, the current production's equivalent to ''mammoth'' size is ''jumbo'' size, as defined by the United States Standards for Walnuts in the Shell. Thus, witnesses stated that the order language should be updated to reflect the industry's current terminology and size of walnuts being produced. This proposal is not expected to result in any increases in costs to growers or handlers.

Interhandler Transfers

Proposal 15(a) would amend the order to clarify the term ''transfer'' and to add authority for the Board to recommend methods and procedures, including necessary reports, for administrative oversight of such transfers.

Witnesses stated that it would be beneficial to simplify current order language so that all interhandler transfers were considered a ''sale of inshell and shelled walnuts within the area of production by one handler to another.'' Witnesses explained that the proposed language restated the current application of this provision in walnut transactions in simpler terms. This proposal is not expected to result in any increases in costs to growers or handlers.

Reporting Requirements

Proposal 15(b) would amend the order to clarify that the Board may require reports from handlers and packers to include interhandler transfers or any other activity that involves placing California walnuts into the stream of commerce.

According to the hearing record, current authority provided in this section only applies to the reporting of handler walnut receipts from growers. Witnesses stated that this authority should be broadened to include interhandler transfers, or receipts from any other entity as recommended by the Board and approved by the Secretary. This proposal is not expected to result in any increases in costs to growers or handlers.

Trade Demand

Proposal 16 would update and simplify the language in § 984.22, Trade demand, to state ''United States and its territories,'' rather than name ''Puerto Rico'' and ''The Canal Zone''. Witnesses explained that the reference to ''Puerto Rico'' and ''The Canal Zone'' in the order is outdated and should be updated to reference ''United States and its territories''.

According to record evidence, this amendment would not impact trade demand calculations under the order since the purpose of the reference is to accurately identify the amount of shelled or inshell walnuts demanded by the United States, including its territories. Thus, while the terminology identifying the geographic regions included in the calculation would change, the intent of the original language would remain unchanged. This proposal is not expected to result in any increases in costs to growers or handlers.

Relationship With California Walnut Commission

Proposal 17 would amend the order by adding language that would acknowledge that the Board may deliberate, consult, cooperate and exchange information with the California Walnut Commission (CWC). Any information sharing would be kept confidential.

Recorded evidence indicates the CWC and the Federal marketing order program are currently administered out of the same office location and employ the same staff. Thus, this proposal, if implemented, would formalize the relationship that currently exists between the two entities. Witnesses stated that collaboration between the two programs leads to reduced administrative costs, as much of the information collected by each entity can be shared. This amendment is not expected to result in any increases in costs to growers or handlers.

In addition, USDA proposed adding two provisions that would help assure that the operation of the program conforms to current Department policy.

Proposal 18 would establish tenure requirements for Board members. Currently, the term of office of each member and alternate member of the Board is 2 years. There are no provisions related to term limits in the marketing order.

The recorded evidence suggests that term limits for Board members could increase industry participation on the Board, provide for more diverse membership, provide the Board with new perspectives and ideas, and increase the number of individuals in the industry with Board experience. This amendment is not expected to result in any increases in costs to growers or handlers.

Proposal 19 would require that continuance referenda be conducted on a periodic basis to ascertain industry

support for the order and add more flexibility in the termination provisions.

Currently, there is no requirement in the order that continuance referenda be conducted on a periodic basis. The USDA believes that growers should have an opportunity to periodically vote on whether a marketing order should continue. Continuance referenda provide an industry with a means to measure grower support for the program. Experience has shown that programs need significant industry support to operate effectively. This amendment is not expected to result in any increases in costs to growers or handlers.

The proposals put forth at the hearing would streamline program organization, but are not expected to result in a significant change in industry production, handling or distribution activities. In discussing the impacts of the proposed amendments on growers and handlers, recorded evidence indicates that the changes are expected to be positive because the administration of the programs would be more efficient, and therefore more effective, in executing Board duties and responsibilities. There would be no significant cost impact on either small or large growers or handlers.

Interested persons were invited to present evidence at the hearing on the probable regulatory and informational impact of the proposed amendments to the order on small entities. The recorded evidence is that the amendments are designed to increase efficiency in the functioning of the order.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. These amendments are designed to enhance the administration and functioning of marketing order 984 to benefit of the California walnut industry.

Paperwork Reduction Act

Current information collection requirements for Part 984 are approved by OMB under OMB No. 0581–0178, Vegetable and Specialty Crops. Any changes in those requirements as a result of this proceeding would be submitted to OMB for approval. Witnesses stated that existing forms could be adequately modified to serve the needs of the Board. While conforming changes to the forms would need to be made (such as changing the name of the Board), the functionality of the forms would remain the same.

As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

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

Civil Justice Reform

The amendments to Marketing Order No. 984 proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposal.

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

Findings and Conclusions; Discussion of Exceptions

The findings and conclusions, rulings, and general findings and determinations included in the Recommended Decision set forth in the March 27, 2007, issue of the **Federal Register** (72 FR 14368) are hereby approved and adopted subject to the following additions and modifications:

Based upon the briefs and exceptions filed, the findings and conclusions in material issue number 11 of the Recommended Decision concerning whether or not to add authority to designate more than one inspection service are amended by adding the following six paragraphs to read as follows:

Exceptions to the Recommended Decision stated that if the authority to designate more than one inspection service were implemented, private sector entities, in addition to USDA, should be able to offer non-traditional inspection services, such as the PIQ and the CAIP. Exceptions further stated that the current proposed language (meaning, ''each service shall be separate so as to not duplicate each other'') would prevent any private sector company from offering those services.

The proposed amendment, if implemented, would not prevent any private sector company from offering traditional or non-traditional inspection services, as long as the services were recommended by the Board and approved by USDA.

The Agricultural Marketing Service is responsible for ensuring that all handlers regulated under a marketing order program are in compliance with any regulations that are in effect. Under the marketing order for California walnuts, the Board is responsible for locally administering the program, which includes monitoring industry's compliance with order requirements, and reporting any violations to USDA for enforcement measures.

While the USDA supports and encourages cost-saving measures, it is important that the program maintains its integrity and that any quality or size regulations in effect are not compromised. Furthermore, it is important that inspection of product is conducted with uniformity and consistency. For this reason, it is important that the language stating that ''each service shall be separate so as to not duplicate each other'' be maintained.

Finally, the proposed order language would provide authority for the Board to recommend the use of alternative inspection methods and services as they are developed and accredited. The proposed authority is intended to allow industry to benefit from cost-saving advances in technology while also ensuring uniform application of inspection methodology and standards industry wide.

Based upon the exception filed, the findings and conclusions in material issue number 18 of the Recommended Decision concerning whether or not to establish a limit on the number of consecutive terms a person may serve as a member of the Board are amended by adding the following paragraph to read as follows:

One of the exceptions filed offered a comment of general support for the proposal to implement term limits as a method to encourage participation of industry members that have not previously served on the Board.

Rulings on Exceptions

In arriving at the findings and conclusions and the regulatory provisions of this decision, the exceptions to the Recommended Decision were carefully considered in conjunction with the recorded evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with the exceptions, such exceptions are denied.

Marketing Agreement and Order

Annexed hereto and made a part hereof is the document entitled ''Order Amending the Order Regulating the Handling of Walnuts Grown in California.'' This document has been decided upon as the detailed and appropriate means of effectuating the foregoing findings and conclusions.

It is hereby ordered, That this entire decision be published in the **Federal Register**.

Referendum Order

It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR part 900.400 *et seq.*) to determine whether the annexed order amending the order regulating the handling of walnuts grown in California is approved or favored by growers, as defined under the terms of the order, who during a representative period were engaged in the production of walnuts in the production area.

The representative period for the conduct of such referendum is hereby determined to be August 1, 2006, through July 31, 2007.

The agents of the Secretary to conduct such referendum are hereby designated to be Shereen Marino and Kurt Kimmel, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (559) 487–5901.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

Dated: July 9, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

Order Amending the Order Regulating the Handling of Walnuts Grown in California [1]

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of the marketing agreement and order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings and Determinations Upon the Basis of the Hearing Record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure effective thereunder (7 CFR part 900), a public hearing was held upon the proposed amendments to Marketing Agreement and Order No. 984 (7 CFR part 984), regulating the handling of walnuts grown in California. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of walnuts grown in the production area in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area that is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, prescribe, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of walnuts grown in the production area; and

(5) All handling of walnuts grown in the production area as defined in the marketing agreement and order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, all handling of walnuts grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby proposed to be amended as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the Recommended Decision issued by the Administrator on March 19, 2007, and published in the **Federal Register** on March 27, 2007, will be and are the terms and provisions of this order amending the order and are set forth in full herein.

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Revise § 984.6 to read as follows:

§ 984.6 Board.

Board means the California Walnut Board established pursuant to § 934.35.

3. Revise § 984.7 to read as follows:

§ 984.7 Marketing year.

Marketing year means the twelve months from September 1 to the following August 31, both inclusive, or any other such period deemed appropriate and recommended by the Board for approval by the Secretary.

4. Revise § 984.13 to read as follows:

§ 984.13 To handle.

To handle means to pack, sell, consign, transport, or ship (except as a common or contract carrier of walnuts owned by another person), or in any other way to put walnuts, inshell or shelled, into the current of commerce either within the area of production or from such area to any point outside

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

thereof, or for a manufacturer or retailer within the area of production to purchase directly from a grower: The term ''to handle'' shall not include sales and deliveries within the area of production by growers to handlers, or between handlers.

5. Revise § 984.14 to read as follows:

§ 984.14 Handler.

Handler means any person who handles inshell or shelled walnuts.

6. Revise § 984.15 to read as follows:

§ 984.15 Pack.

Pack means to bleach, clean, grade, shell or otherwise prepare walnuts for market as inshell or shelled walnuts.

7. Revise § 984.21 to read as follows:

§ 984.21 Handler inventory.

Handler inventory as of any date means all walnuts, inshell or shelled (except those held in satisfaction of a reserve obligation), wherever located, then held by a handler or for his or her account.

8. Revise § 984.22 to read as follows:

§ 984.22 Trade demand.

(a) *Inshell.* The quantity of merchantable inshell walnuts that the trade will acquire from all handlers during a marketing year for distribution in the United States and its territories.

(b) *Shelled.* The quantity of merchantable shelled walnuts that the trade will acquire from all handlers during a marketing year for distribution in the United States and its territories.

9. Revise § 984.35 to read as follows:

§ 984.35 California Walnut Board.

(a) A California Walnut Board is hereby established consisting of 10 members selected by the Secretary, each of whom shall have an alternate nominated and selected in the same way and with the same qualifications as the member. The members and their alternates shall be selected by the Secretary from nominees submitted by each of the following groups or from other eligible persons belonging to such groups:

(1) Two handler members from District 1;

(2) Two handler members from District 2;

(3) Two grower members from District 1;

(4) Two grower members from District 2;

(5) One grower member nominated at-large from the production area; and,

(6) One member and alternate who shall be selected after the selection of the nine handler and grower members and after the opportunity for such members to nominate the tenth member and alternate. The tenth member and his or her alternate shall be neither a walnut grower nor a handler.

(b) In the event that one handler handles 35% or more of the crop the membership of the Board shall be as follows:

(1) Two handler members to represent the handler that handles 35% or more of the crop;

(2) Two members to represent growers who market their walnuts through the handler that handles 35% or more of the crop;

(3) Two handler members to represent handlers that do not handle 35% or more of the crop;

(4) One member to represent growers from District 1 who market their walnuts through handlers that do not handle 35% or more of the crop;

(5) One member to represent growers from District 2 who market their walnuts through handlers that do not handle 35% or more of the crop;

(6) One member to represent growers who market their walnuts through handlers that do not handle 35% or more of the crop shall be nominated at large from the production area; and,

(7) One member and alternate who shall be selected after the selection of the nine handler and grower members and after the opportunity for such members to nominate the tenth member and alternate. The tenth member and his or her alternate shall be neither a walnut grower nor a handler.

(c) Grower Districts:

(1) *District 1.* District 1 encompasses the counties in the State of California that lie north of a line drawn on the south boundaries of San Mateo, Alameda, San Joaquin, Calaveras, and Alpine Counties.

(2) *District 2.* District 2 shall consist of all other walnut producing counties in the State of California south of the boundary line set forth in paragraph (c)(1) of this section.

(d) The Secretary, upon recommendation of the Board, may reestablish districts, may reapportion members among districts, and may revise the groups eligible for representation on the Board as specified in paragraphs (a) and (b) of this section: *Provided, That* any such recommendation shall require at least six concurring votes of the voting members of the Board. In recommending any such changes, the following shall be considered:

(1) Shifts in acreage within districts and within the production area during recent years;

(2) The importance of new production in its relation to existing districts;

(3) The equitable relationship between Board apportionment and districts;

(4) Changes in industry structure and/or the percentage of crop represented by various industry entities resulting in the existence of two or more major handlers;

(5) Other relevant factors.

10. Revise § 984.36 to read as follows:

§ 984.36 Term of office.

The term of office of Board members, and their alternates shall be for a period of two years ending on August 31 of odd-numbered years, but they shall serve until their respective successors are selected and have qualified. Board members may serve up to three consecutive, two-year terms of office. In no event shall any member serve more than six consecutive years on the Board. For purposes of determining when a Board member has served three consecutive terms, the accrual of terms shall begin following any period of at least twelve consecutive months out of office. The limitation on tenure shall not apply to alternates.

11. Revise § 984.37 to read as follows:

§ 984.37 Nominations.

(a) Nominations for all grower members shall be submitted by ballot pursuant to an announcement by press releases of the Board to the news media in the walnut producing areas. Such releases shall provide pertinent voting information, including the names of candidates and the location where ballots may be obtained. Ballots shall be accompanied by full instructions as to their markings and mailing and shall include the names of incumbents who are willing to continue serving on the Board and such other candidates as may be proposed pursuant to methods established by the Board with the approval of the Secretary. Each grower, regardless of the number and location of his or her walnut orchard(s), shall be entitled to cast only one ballot in the nomination and each vote shall be given equal weight. If the grower has orchards in both grower districts, he or she shall advise the Board of the district in which he/she desires to vote. The person receiving the highest number of votes for each grower position shall be the nominee.

(b) Nominations for handler members shall be submitted on ballots mailed by the Board to all handlers in their respective Districts. All handlers' votes shall be weighted by the kernelweight of walnuts certified as merchantable by each handler during the preceding marketing year. Each handler in the production area may vote for handler

member nominees and their alternates. However, no handler with less than 35% of the crop shall have more than one member and one alternate member. The person receiving the highest number of votes for each handler member position shall be the nominee for that position.

(c) A calculation to determine whether or not a handler who handles 35 percent or more of the crop shall be made prior to nominations. For the first nominations held upon implementation of this language, the 35 percent threshold shall be calculated using an average of crop handled for the year in which nominations are made and one year's handling prior. For all future nominations, the 35 percent handling calculation shall be based in the average of the two years prior to the year in which nominations are made. In the event that one handler handles 35% or more of the crop the membership of the Board, nominations shall be as follows:

(1) Nominations of growers who market their walnuts to the handler that handles 35% or more of the crop shall be conducted by that handler and the names of the nominees shall be forwarded to the Board for approval and appointment by the Secretary.

(2) Nominations for the two handler members representing the major handler shall be conducted by the major handler and the names of the nominees shall be forwarded to the Board for approval and appointment by the Secretary.

(3) Nominations on behalf of all other grower members (Groups (b)(4), (5) and (6) of § 984.35) shall be submitted after ballot by such growers pursuant to an announcement by press releases of the Board to the news media in the walnut producing areas. Such releases shall provide pertinent voting information, including the names of candidates and the location where ballots may be obtained. Ballots shall be accompanied by full instructions as to their markings and mailing and shall include the names of incumbents who are willing to continue serving on the Board and such other candidates as may be proposed pursuant to methods established by the Board with the approval of the Secretary. Each grower in Groups (Groups (b)(4), (5) and (6) of § 984.35), regardless of the number and location of his or her walnut orchard(s), shall be entitled to cast only one ballot in the nomination and each vote shall be given equal weight. If the grower has orchard(s) in both grower districts he or she shall advise the Board of the district in which he or she desires to vote. The person receiving the highest number of votes for grower position shall be the nominee.

(4) Nominations for handler members representing handlers that do not handle 35% or more of the crop shall be submitted on ballots mailed by the Board to those handlers. The votes of these handlers shall be weighted by the kernelweight of walnuts certified as merchantable by each handler during the preceding marketing year. Each handler in the production area may vote for handler member nominees and their alternates of this subsection. However, no handler shall have more than one person on the Board either as member or alternate member. The person receiving the highest number of votes for a handler member position of this subsection shall be the nominee for that position.

(d) Each grower is entitled to participate in only one nomination process, regardless of the number of handler entities to whom he or she delivers walnuts. If a grower delivers walnuts to more than one handler entity, the grower must choose which nomination process he or she participates in.

(e) The nine members shall nominate one person as member and one person as alternate for the tenth member position. The tenth member and alternate shall be nominated by not less than 6 votes cast by the nine members of the Board.

(f) Nominations in the foregoing manner received by the Board shall be reported to the Secretary on or before June 15 of each odd-numbered year, together with a certified summary of the results of the nominations. If the Board fails to report nominations to the Secretary in the manner herein specified by June 15 of each odd-numbered year, the Secretary may select the members without nomination. If nominations for the tenth member are not submitted by September 1 of any such year, the Secretary may select such member without nomination.

(g) The Board may recommend, subject to the approval of the Secretary, a change to these nomination procedures should the Board determine that a revision is necessary.

12. Revise § 984.38 to read as follows:

§ 984.38 Eligibility.

No person shall be selected or continue to serve as a member or alternate to represent one of the groups specified in § 984.35(a)(1) through (6) or § 984.38(b)(1) through (6), unless he or she is engaged in the business he or she is to represent, or represents, either in his or her own behalf or as an officer or employee if the business unit engaged in such business. Also, each member or alternate member representing growers in District 1 or District 2 shall be a grower, or officer or employee of the group he or she is to represent.

13. Revise § 984.39 to read as follows:

§ 984.39 Qualify by acceptance.

Any person nominated to serve as a member or alternate member of the Board shall, prior to selection by USDA, qualify by filing a written qualification and acceptance statement indicating such person's willingness to serve in the position for which nominated.

14. Revise § 984.40 to read as follows:

§ 984.40 Alternate.

(a) An alternate for a member of the Board shall act in the place and stead of such member in his or her absence or in the event of his or her death, removal, resignation, or disqualification, until a successor for his or her unexpired term has been selected and has qualified.

(b) In the event any member of the Board and his or her alternate are both unable to attend a meeting of the Board, any alternate for any other member representing the same group as the absent member may serve in the place of the absent member, or in the event such other alternate cannot attend, or there is no such other alternate, such member, or in the event of his disability or a vacancy, his or her alternate may designate, subject to the disapproval of the Secretary, a temporary substitute to attend such meeting. At such meeting, such temporary substitute may act in the place of such member.

15. Revise § 984.42 to read as follows:

§ 984.42 Expenses.

The members and their alternates of the Board shall serve without compensation, but shall be allowed their necessary expenses incurred by them in the performance of their duties under this part.

16. Amend § 984.45 by revising paragraphs (b) and (c) and adding paragraph (d) to read as follows:

§ 984.45 Procedure.

* * * * *

(b) All decisions of the Board, except where otherwise specifically provided (see § 984.35(d)), shall be by a sixty-percent (60%) super-majority vote of the members present. A quorum of six members, or the equivalent of sixty percent (60%) of the Board, shall be required for the conduct of Board business.

(c) The Board may vote by mail or telegram, or by any other means of communication, upon due notice to all members. The Board, with the approval of the Secretary, shall prescribe the minimum number of votes that must be

cast when voting is by any of these methods, and any other procedures necessary to carry out the objectives of this paragraph.

(d) The Board may provide for meetings by telephone, or other means of communication and any vote cast at such a meeting shall be confirmed promptly in writing: *Provided, That* if any assembled meeting is held, all votes shall be cast in person.

17. Revise § 984.46 to read as follows:

§ 984.46 Research and development.

The Board, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of walnuts. The expenses of such projects shall be paid from funds collected pursuant to § 984.69 and § 984.70.

18. Amend § 984.48 by revising paragraphs (a) introductory text, (a)(2), (4), and (5) to read as follows:

§ 984.48 Marketing estimates and recommendations.

(a) Each marketing year the Board shall hold a meeting, prior to October 20, for the purpose of recommending to the Secretary a marketing policy for such year. Each year such recommendation shall be adopted by the affirmative vote of at least 60% of the Board and shall include the following, and where applicable, on a kernel weight basis:

* * * * *

(2) The Board's estimate of the handler inventory on September 1 of inshell and shelled walnuts;

* * * * *

(4) The Board's estimate of the trade demand for such marketing year for shelled and inshell walnuts, taking into consideration trade inventory, imports, prices, competing nut supplies, and other factors;

(5) The Board's recommendation for desirable handler inventory of inshell and shelled walnuts on August 31 of each marketing year;

* * * * *

19. Amend § 984.50 by revising the heading and paragraph (d) to read as follows:

§ 984.50 Grade, quality and size regulations.

* * * * *

(d) Additional grade, size or other quality regulation. The Board may recommend to the Secretary additional grade, size or other quality regulations, and may also recommend different regulations for different market destinations. If the Secretary finds on the basis of such recommendation or other information that such additional regulations would tend to effectuate the declared policy of the Act, he or she shall establish such regulations.

* * * * *

20. Revise § 984.51 by revising paragraph (a) to read as follows:

§ 984.51 Inspection and certification of inshell and shelled walnuts.

(a) Before or upon handling of any walnuts for use as free or reserve walnuts, each handler at his or her own expense shall cause such walnuts to be inspected to determine whether they meet the then applicable grade and size regulations. Such inspection shall be performed by the inspection service or services designated by the Board with the approval of the Secretary; Provided, That if more than one inspection service is designated, the functions performed by each service shall be separate, and shall not duplicate each other. Handlers shall obtain a certificate for each inspection and cause a copy of each certificate issued by the inspection service to be furnished to the Board. Each certificate shall show the identity of the handler, quantity of walnuts, the date of inspection, and for inshell walnuts the grade and size of such walnuts as set forth in the United States Standards for Walnuts (Juglans regia) in the Shell. Certificates covering reserve shelled walnuts for export shall also show the grade, size, and color of such walnuts as set forth in the United States Standards for Shelled Walnuts (Juglans regia). The Board, with the approval of the Secretary, may prescribe procedures for the administration of this provision.

* * * * *

21. Amend § 984.52 by revising paragraph (a) and adding a new paragraph (c) to read as follows:

§ 984.52 Processing of shelled walnuts.

(a) No handler shall slice, chop, grind, or in any manner change the form of shelled walnuts unless such walnuts have been certified as merchantable or unless such walnuts meet quality regulations established under § 984.50(d) if such regulations are in effect.

* * * * *

(c) The Board shall establish such procedures as are necessary to insure that all such walnuts are inspected prior to being placed into the current of commerce.

22. Revise § 984.59 to read as follows:

§ 984.59 Interhandler transfers.

For the purposes of this part, transfer means the sale of inshell and shelled walnuts within the area of production by one handler to another. The Board, with the approval of the Secretary, may establish methods and procedures, including necessary reports, for such transfers.

23. Amend § 984.67 by revising paragraph (a) to read as follows:

§ 984.67 Exemptions.

(a) Exemption from volume regulation. Reserve percentages shall not apply to lots of merchantable inshell walnuts which are of jumbo size or larger as defined in the then effective United States Standards for Walnuts in the Shell, or to such quantities as the Board may, with the approval of the Secretary, prescribe.

* * * * *

24. Amend § 984.69 by revising paragraph (c) to read as follows:

§ 984.69 Assessments.

* * * * *

(c) *Accounting.* If at the end of a marketing year the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (c)(2) or (c)(3) of this section, it shall be refunded to handlers from whom collected and each handler's share of such excess funds shall be the amount of assessments he or she has paid in excess of his or her pro rata share of the actual expenses of the Board.

(2) Excess funds may be used temporarily by the Board to defray expenses of the subsequent marketing year: Provided, That each handler's share of such excess shall be made available to him or her by the Board within five months after the end of the year.

(3) The Board may carry over such excess into subsequent marketing years as a reserve: Provided, That funds already in reserve do not exceed approximately two years' budgeted expenses. In the event that funds exceed two marketing years' budgeted expenses, future assessments will be reduced to bring the reserves to an amount that is less than or equal to two marketing years' budgeted expenses. Such reserve funds may be used:

(i) To defray expenses, during any marketing year, prior to the time assessment income is sufficient to cover such expenses;

(ii) To cover deficits incurred during any year when assessment income is less than expenses;

(iii) To defray expenses incurred during any period when any or all provisions of this part are suspended;

(iv) To meet any other such costs recommended by the Board and approved by the Secretary.

* * * * *

25. Add a new § 984.70 to read as follows:

§ 984.70 Contributions.

The Board may accept voluntary contributions but these shall only be used to pay expenses incurred pursuant to § 984.46, Research and development. Furthermore, such contributions shall be free from any encumbrances by the donor and the Board shall retain complete control of their use.

26. Revise § 984.71 to read as follows:

§ 984.71 Reports of handler inventory.

Each handler shall submit to the Board in such form and on such dates as the Board may prescribe, reports showing his or her inventory of inshell and shelled walnuts.

27. Revise § 984.73 to read as follows:

§ 984.73 Reports of walnut receipts.

Each handler shall file such reports of his or her walnut receipts from growers, handlers, or others in such form and at such times as may be requested by the Board with the approval of the Secretary.

28. Amend § 984.89 by redesignating paragraph (b)(4) as (b)(5) and adding a new paragraph (b)(4) to read as follows:

§ 984.89 Effective time and termination.

* * * * *

(b) * * *

(4) Within six years of the effective date of this amendment the Secretary shall conduct a referendum to ascertain whether continuance of this part is favored by producers. Subsequent referenda to ascertain continuance shall be conducted every six years thereafter. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance of this part is not favored by a two thirds (2/3) majority of voting producers, or a two thirds (2/3) majority of volume represented thereby, who, during a representative period determined by the Secretary, have been engaged in the production for market of walnuts in the production area. Such termination shall be announced on or before the end of the production year.

* * * * *

29. Add a new § 984.91 to read as follows:

§ 984.91 Relationship with the California Walnut Commission.

In conducting Board activities and other objectives under this part, the Board may deliberate, consult, cooperate and exchange information with the California Walnut Commission, whose activities complement those of the Board. Any sharing of information gathered under this subpart shall be kept confidential in accordance with provisions under section 10(i) of the Act.

[FR Doc. 07–3412 Filed 7–10–07; 9:28 am]

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1767

RIN 0572–AC08

Accounting Requirements for RUS Electric Program Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service, an agency delivering the United States Department of Agriculture's Rural Development Utilities Programs, hereinafter referred to as Rural Development, proposes to amend its regulation on accounting policies and procedures for Rural Development Electric Programs borrowers as set forth in 7 CFR Part 1767, Accounting Requirements for Rural Development Electric Program Borrowers. This proposed rule seeks to reconcile Part 1767 with the Uniform System of Accounts as set forth by the Federal Energy Regulatory Commission (FERC); to adopt FERC accounting guidance for Regional Transmission Organizations, Asset Retirement Obligations with modifications, Other Comprehensive Income, and Derivatives and Hedging Instruments; to amend accounting interpretations for Special Equipment Accounting, Storm Damage, Rural Economic Development Loan and Grant Program and Consolidated Financial Statements; to set forth accounting interpretations that establish uniform reporting procedures for Accounting for Cushion of Credit Accounts and Renewable Energy Credits, and to codify guidance on records retention currently published in Bulletin 180–2. This proposed rule also seeks to correct a number of administrative errors currently existing within this part.

DATES: Written comments must be received by Rural Development or carry a postmark or equivalent no later than September 11, 2007.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Rural Utilities Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RUS–07–Electric–0002 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.
- *Agency Web Site: http://www.usda.gov/rus/index2/Comments.htm.* Follow the instructions for submitting comments.
- *E-mail: RUSComments@usda.gov.* Include in the subject line of the message ''Accounting Requirements for Electric Borrowers.''
- *Mail:* Addressed to Michele Brooks, Acting Director, Program Development and Regulatory Analysis, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250–1522.
- *Hand Delivery/Courier:* Addressed to Michele Brooks, Acting Director, Program Development and Regulatory Analysis, Rural Development, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 5168–S, Washington, DC 20250–1522.

Instructions: All submissions received must include the agency name and the subject heading ''Accounting Requirements for Electric Borrowers''. All comments received must identify the name of the individual (and the name of the entity, if applicable) who is submitting the comment. All comments received will be posted without change to *http://www.usda.gov/rus/index2/Comments.htm*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Diana C. Alger, Chief, Technical Accounting and Auditing Staff, Program Accounting Services Division, Rural Development, Ag Box 1523, Room 2221, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 720–5227.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is exempted from the Office of Management and Budget

(OMB) review for purposes of Executive Order 12866 and, therefore has not been reviewed by OMB.

Regulatory Flexibility Act Certification

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since Rural Development is not required by 5 U.S.C. 551 *et seq.* or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Information Collection and Recordkeeping Requirements

This rule contains no new reporting or recordkeeping burdens under OMB control number 0572–0003 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

National Environment Policy Act Certification

It has been determined by Rural Development that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Program under numbers 10.850—Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, (202) 512–1800.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require a consultation with State and local officials. See the final rule related notice entitled, ''Department Programs and Activities Excluded from Executive Order 12372'' (50 FR 47034) advising that Rural Development loans and loan guarantees were not covered by Executive Order 12372.

Background

In order to facilitate the effective and economical operation of a business enterprise, adequate and reliable financial records must be maintained. Accounting records must provide a clear, accurate picture of current economic conditions from which management can make informed decisions in charting the company's future. The rate regulated environment in which an electric utility operates causes an even greater need for financial information that is accurate, complete, and comparable with that of other electric utilities.

Rural Development, as a Federal lender and mortgagee, and in furthering the objectives of the Rural Electrification Act (RE Act) (7 U.S.C. 901 *et seq.*), has a legitimate programmatic interest and a substantial financial interest in requiring adequate records to be maintained. In order to provide Rural Development with financial information that can be analyzed and compared with the operations of other borrowers in the Rural Development program, all Rural Development borrowers must maintain financial records that utilize uniform accounts and uniform accounting policies and procedures. The standard Rural Development security instrument, therefore, requires borrowers to maintain their books, records, and accounts in accordance with methods and principles of accounting prescribed by Rural Development in the Rural Development Uniform System of Accounts (USoA) for its electric borrowers.

The Uniform System of Accounts promulgated by the Federal Energy Regulatory Commission (FERC) serves as a basis for this part. When new or revised accounting guidance is provided by FERC for electric utilities, Rural Development must review this guidance within the framework of this part for applicability to our borrowers. FERC issued Order 627, Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities, on October 10, 2002. A review of this Order has determined that this guidance should be adopted with modification. Order 627 established Account 219, Accumulated Other Comprehensive Income, an account number already in use in this part and identified as Other Margins and Equities. Therefore, Rural Development proposes to establish Account 209, Accumulated Other Comprehensive Income, and modifies Section 1767.15(w) Accounting for Other Comprehensive Income, accordingly. All other accounts and instructions will be adopted as set forth in Order 627.

On April 9, 2003, FERC issued Order 631, Accounting, Financial Reporting and Rate Filing Requirements for Asset Retirement Obligations. The purpose of this order was the incorporation of the requirements of Statement of Financial Accounting Standard No. 143, Accounting for Asset Retirement Obligations, issued in June 2001 by the Financial Accounting Standards Board. A review of this Order has determined that this guidance should be adopted with modification. In addition to a number of changes in instructions and account descriptions to accommodate the prescribed accounting for Asset Retirement Obligations, FERC established new accounts to record transactions associated with asset retirement obligations. One of the new accounts created by this Order was Account 403.1, Depreciation expense for asset retirement costs. This account number is already used within the mandated subaccounts of 403 to represent Depreciation Expense—Steam Production Plant. Therefore, Rural Development is proposing to establish Account 403.8, Depreciation Expense—Asset Retirement Obligations, and modifies paragraph (C) of the description for Account 103, Experimental Electric Plant Unclassified, accordingly. All other accounts and instructions will be adopted as set forth in Order 631 with one exception. Rural Development does not intend to require that separate subsidiary records be maintained for the amount of accrued cost of removal other than legal obligations for the retirement of plant recorded in Account 108, Accumulated Provision for Depreciation of Electric Utility Plant.

Order 668, Accounting and Financial Reporting for Public Utilities Including Regional Transmission Organizations (RTO), issued by FERC on December 16, 2005, amended the USoA and established standard accounting guidance for RTO costs to provide better comparability between utilities and to improve the transparency of financial information pertaining to RTOs along with a better understanding of RTO costs. The new accounts established by FERC in this Order and the instructions are proposed for adoption by Rural Development. In 1997, in response to FERC Orders 888 and 889 on open access, Rural Development revised its USoA to require borrowers to allocate employee pensions and benefits expense, as well as payroll taxes and insurance costs to the appropriate functional operations, maintenance, and administrative expense accounts to which labor charges are accrued to make available to management reliable financial information concerning the actual cost of products and services it provides. To ensure comparable results, Rural Development must modify the

newly added accounts accommodate to this allocation.

To ensure that borrowers consistently account for their financial operations and to keep pace with the changing environment in which they operate, the Rural Development USoA must be revised and updated from time to time. Rural Development is, therefore, proposing to amend and revise several accounting interpretations found in Section 1767.41, Accounting Methods and Procedures required of all Rural Development Borrowers. Interpretation 119, Special Equipment, is revised to conform to guidance provided in a Rural Development letter dated November 14, 2000, providing guidelines for requesting a waiver from the special equipment accounting procedures. Interpretation 136, Storm Damage, is revised to provide new guidance on accounting for reimbursements of storm damage by the Federal Emergency Management Administration. Interpretation 626, Rural Economic Development Loan and Grant Program, is revised to include accounting guidance for recording the default on the repayment of economic development loans made by borrowers to local economic development projects. Interpretation 404, Consolidated Financial Statements, is revised to clarify the requirements for reporting consolidated subsidiaries on Forms 7 and 12. Rural Development is also proposing to set forth new accounting interpretations that establish uniform accounting and reporting procedures for Cushion of Credit Accounts and Renewable Energy Credits. Although the Cushion of Credits Payments Program was added to the RE Act in 1987, accounting requirements have not been formalized through inclusion in this part. Rural Development seeks to rectify this oversight with this proposed rule. Conversely, renewable energy credits (REC) are a new and emerging phenomenon. There is no authoritative guidance available for recording and reporting for RECs. The guidance provided in this proposal is our first attempt at establishing guidance. Comments in this area are specifically requested and will be instrumental in developing the final guidelines.

Bulletin 180–2, Record Retention Recommendations for Rural Development Electric Borrowers, effective June 26, 2003, currently provides the Agency's recommendations for record retention. This rule proposes to codify these requirements with modifications in subpart D.

This proposed rule contains a number of other revisions to make administrative corrections to addresses for submitting requests, position titles, update current version of forms, change publication names, and to correct for errors found in the previously codified version of this part.

List of Subjects in 7 CFR Part 1767

Administrative practice and procedure, Agriculture, Electric power, Loan programs-energy, Rural areas, Uniform System of Accounts.

For the reason set forth in the preamble, Rural Development hereby proposes to amend 7 CFR chapter XVII as follows:

PART 1767—ACCOUNTING REQUIREMENTS FOR RUS ELECTRIC BORROWERS

1. The authority for part 1767 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*

2. Section 1767.10 is amended by:

a. Revising the definition of *Cost of removal;*

b. Removing the definitions of *Capital lease and Operating Lease;* and

c. Adding the definitions of *Form 7; Form 12; Lease Capital; Lease Operating;* and *Regional Market* in alphabetical order as set forth below.

The additions and revision read as follows:

§ 1767.10 Definitions.

* * * * *

Cost of removal is the cost of demolishing, dismantling, tearing down or otherwise removing electric plant, including the cost of transportation and handling incidental thereto. It does not include the cost of removal activities associated with asset retirement obligations that are capitalized as part of the tangible long-lived assets that give rise to the obligation. (See § 1767.15 (y).

* * * * *

Form 7 is the January 2004 revision (or the revision of any other date which may be specified) of such Form 7, Financial and Statistical Report, or any later revision which shall have been at the time prescribed for use by Rural Development.

Form 12 is the December 2002 revision (or the revision of any other date which may be specified) of such Form 12, Operating Report—Financial, or any later revision which shall have been at the time prescribed for use by Rural Development.

* * * * *

Lease, capital is a lease of property used in utility or nonutility operations, which meets one or more of the criteria stated in § 1767.15 (s).

Lease, operating is a lease of property used in utility or nonutility operations, which does not meet any of the criteria stated in § 1767.15 (s).

* * * * *

Regional Market is an organized energy market operated by a public utility, whether directly or through a contractual relationship with another entity.

* * * * *

3. In § 1767.12, paragraph (a) is revised to read as follows:

§ 1767.12 Accounting system requirements.

(a) Each Rural Development electric borrower must maintain and keep its books of accounts and all other books and records that support the entries in such books of accounts in accordance with §§ 1767.13–1767.31.

* * * * *

4. In § 1767.13, paragraph (a) is revised, and paragraph (e) is amended by redesignating paragraph (e)(4) as (e)(5) and adding a new (e)(4) to read as follows:

§ 1767.13 Departures from the prescribed Rural Development uniform system of accounts.

(a) No departures are to be made to the prescribed Rural Development USoA without the prior written approval of Rural Development. Requests for departures from the Rural Development USoA shall be addressed, in writing, to the Assistant Administrator, Program Accounting and Regulatory Analysis. (AA–PARA).

* * * * *

(e) * * *

(4) A resolution from the borrower's Board of Directors authorizing such action; and

* * * * *

5. Section 1767.14 is revised to read as follows:

§ 1767.14 Interpretations of the Rural Development uniform system of accounts.

To maintain uniformity in accounting, borrowers must submit questions concerning interpretations of the Rural Development USoA, in writing, to the AA–PARA, for consideration and decision.

(Approved by the Office of Management and Budget under control number 0572–0002).

6. Amend § 1767.15, as follows:

a. Revise paragraphs (a)(4), (a)(6), and (t)(2);

b. Redesignate paragraphs (t)(3) and (t)(4) as (t)(4) and (t)(5), respectively, and add a new paragraph (t)(3); and

c. Add new paragraphs (v) through (y).

The additions and revisions read as follows:

§ 1767.15 General instructions.

(a) * * *

(4) No utility shall destroy any such books or records unless the destruction thereof is permitted by the rules and regulations contained in subpart D of this part.

* * * * *

(6) When the utility chooses to recognize the gain in the year of reacquisition as a taxable gain, Account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, shall be credited with the amount of the related tax effect, such amount to be allocated to the periods affected in accordance with the provisions of Account 190, Accumulated Deferred Income Taxes.

* * * * *

(t) * * *

(2) The utility shall record a capital lease as an asset in Account 101.1, Property Under capital Leases, Account 120.6, Nuclear Fuel Under Capital Leases or Account 121 Nonutility Property.

(3) The utility, as a lessee, shall recognize an asset retirement obligation arising from the plant under a capital lease unless the obligation is recorded as an asset and liability under a capital lease. The utility shall record the asset retirement cost by debiting Account 101.1, Property Under Capital Leases, or Account 120.6, Nuclear Fuel Under Capital Leases, or Account 121, Nonutility Property, as appropriate, and crediting the liability for the asset retirement obligation in Account 230, Asset Retirement Obligations. Asset retirement costs recorded in Account 101.1, Account 120.6, or Account 121 shall be amortized by charging rent expense, or Account 518, Nuclear Fuel Expense, or Account 421, Miscellaneous Nonoperating Income, as appropriate, and crediting a separate subaccount of the account in which the asset retirement costs are recorded. Charges for the periodic accretion of the liability in Account 230, Asset Retirement Obligations, shall be recorded by a charge to Account 411.10, Accretion Expense, for electric utility plant, and Account 421, Miscellaneous Nonoperating Income, for nonutility plant and a credit to Account 230, Asset Retirement Obligations.

* * * * *

(v) *Depreciation Accounting*—(1) *Method.* Utilities must use a method of depreciation that allocates in a systematic and rational manner the service value of depreciable property over the service life of the property.

(2) *Service lives.* Estimated useful service lives of depreciable property must be supported by engineering, economic, and other depreciation studies.

(3) *Rate.* Utilities must use percentage rates of depreciation that are based on a method of depreciation that allocates in a systematic and rational manner the service value of depreciable property to the service life of the property. Where composite depreciation rates are used, they should be based on the weighted average estimated useful service lives of the depreciable property comprising the composite group.

(w) *Accounting for other comprehensive income.* (1) Utilities shall record items of other comprehensive income in Account 209, Accumulated Other Comprehensive Income. Amounts included in this account shall be maintained by each category of other comprehensive income. Examples of categories of other comprehensive income include foreign currency items, minimum pension liability adjustments, unrealized gains and losses on available-for-sale type securities and cash flow hedge amounts. Supporting records shall be maintained for Account 209 so that the cumulative amount of other comprehensive income for each item included in this account can be readily identified.

(2) When an item of other comprehensive income enters into the determination of net income in the current or subsequent periods, a reclassification adjustment shall be recorded in Account 209 to avoid double counting of that amount.

(3) When it is probable that an item of other comprehensive income will be included in the development of cost-of-service rates in subsequent periods, that amount of unrealized losses or gains will be recorded in Accounts 182.3 or 254 as appropriate.

(x) *Accounting for derivative instruments and hedging activities.* (1) Utilities shall recognize derivative instruments as either assets or liabilities in the financial statements and measure those instruments at fair value, except those falling within recognized exceptions. Normal purchases or sales are contracts that provide for the purchase or sale of goods that will be delivered in quantities expected to be used or sold by the utility over a reasonable period in the normal course of business. A derivative instrument is a financial instrument or other contract with all of the following characteristics:

(i) It has one or more underlyings and a notional amount or payment provision. Those terms determine the amount of the settlement or settlements, and, in some cases, whether or not a settlement is required.

(ii) It requires no initial net investment or an initial net investment that is smaller than would be required for other types of contracts that would be expected to have a similar response to changes in market factors.

(iii) Its terms require or permit net settlement, can readily be settled net by a means outside the contract, or provide for delivery of an asset that puts the recipient in a position not substantially different from net settlement.

(2) The accounting for the changes in the fair value of derivative instruments depends upon its intended use and designation. Changes in the fair value of derivative instruments not designated as fair value or cash flow hedges shall be recorded in Account 175, Derivative instrument assets, or Account 244, Derivative Instrument Liabilities, as appropriate, with the gains recorded in Account 421, Miscellaneous Nonoperating Income, and losses recorded in Account 426.5, Other Deductions.

(3) A derivative instrument may be specifically designated as a fair value or cash flow hedge. A hedge is used to manage risk to price, interest rates, or foreign currency transactions. A company shall maintain documentation of the hedge relationship at the inception of the hedge that details the risk management objective and strategy for undertaking the hedge, the nature of the risk being hedged, and how hedge effectiveness will be determined.

(4) If the utility designates the derivative instrument as a fair value hedge against exposure to changes in the fair value of a recognized asset, liability, or a firm commitment, it shall record the change in fair value of the derivative instrument to Account 176, Derivates in Instruments Assets-Hedges, or Account 245, Derivative Instrument Liabilities-Hedges, as appropriate, with a corresponding adjustment to the subaccount of the item being hedged. The ineffective portion of the hedge transaction shall be reflected in the same income or expense account that will be used when the hedged item enters into the determination of net income. In the case of a fair value hedge of a firm commitment a new asset or liability is created. As a result of the hedge relationship, the new asset or liability will become part of the carrying amount of the item being hedged.

(5) If the utility designates the derivative instrument as a cash flow hedge against exposure to variable cash flows of a probable forecasted transaction, it shall record changes in the fair value of the derivative instrument in Account 176, Derivative Instrument Assets-Hedges, or Account

245, Derivative Instrument Liabilities-Hedges, as appropriate, with a corresponding amount in Account 209, accumulated other comprehensive income, for the effective portion of the hedge. The ineffective portion of the hedge transaction shall be reflected in the same account or expense account that will be used when the hedged item enters into the determination of net income. Amounts recorded in other comprehensive income shall be reclassified into earning in the same period or periods that the hedged forecasted item enters into the determination of net income.

(y) *Accounting for asset retirement obligations.* (1) An asset retirement obligation represents a liability for the legal obligation associated with the retirement of a tangible long-lived asset that a company is required to settle as a result of an existing or enacted law, statute, ordinance, or written or oral contract or by legal construction of a contract under the doctrine of promissory estoppel. An asset retirement cost represents the amount capitalized when the liability is recognized for the long-lived asset that gives rise to the legal obligation. The amount recognized for the liability and an associated asset retirement cost shall be stated at the fair value of the asset retirement obligation in the period in which the obligation is incurred.

(2) The utility shall initially record a liability for an asset retirement obligation in Account 230, Asset retirement obligations, and charge the associated asset retirement costs to electric utility plant (including Accounts 101.1 and 120.6), and nonutility plant, as appropriate, related to the plant that gives rise to the legal obligation. The asset retirement cost shall be depreciated over the useful life of the related asset that gives rise to the obligation. For periods subsequent to the initial recording of the asset retirement obligation, a utility shall recognize the period to period changes of the asset retirement obligation that result from the passage of time due to the accretion of the liability and any subsequent measurement changes to the initial liability for the legal obligation recorded in Account 230, Asset retirement obligations, as follows:

(i) The utility shall record the accretion of the liability by debiting Account 411.10, Accretion Expense, for electric utility plant, Account 413, Expenses of Electric Plant Leased to Others, for electric plant leased to others, and Account 421, Miscellaneous Nonoperating Income, for nonutility plant and crediting Account 230, Asset Retirement Obligations; and

(ii) The utility shall recognize any subsequent measurement changes of the liability initially recorded in Account 230, Asset Retirement Obligations, for each specific asset retirement obligation as an adjustment of that liability in Account 230 with the corresponding adjustment to electric utility plant, electric plant leased to others, and nonutility plant, as appropriate. The utility shall on a timely basis monitor any measurement changes of the asset retirement obligations.

(3) Gains or losses resulting from the settlement of asset retirement obligations associated with utility plant resulting from the difference between the amount of the liability for the asset retirement obligation included in Account 230, Asset Retirement Obligations, and the actual amount paid to settle the obligation shall be accounted for as follows:

(i) Gains shall be credited to Account 411.6, Gains from disposition of utility plant, and;

(ii) Losses shall be charged to Account 411.7, Losses from Disposition of Utility Plant.

(4) Gains or losses on the settlement of asset retirement obligations associated with nonutility plant resulting from the difference between the amount of the liability for the asset retirement obligation in Account 230, Asset Retirement Obligations, and the amount paid to settle the obligation, shall be accounted for as follows:

(i) Gains shall be credited to Account 421, Miscellaneous Nonoperating Income, and;

(ii) Losses shall be charged to Account 426.5, Other Deductions.

(5) For purposes of analyses a utility shall maintain supporting documentation so as to be able to furnish accurately and expeditiously with respect to each asset retirement obligation the full details of the identity and nature of the legal obligation, the year incurred, the identity of the plant giving rise to the obligation, the full particulars relating to each component and supporting computations related to the measurement of the asset retirement obligation.

7. Amend § 1767.16 as follows:

a. Add paragraph (a)(4) to read as set forth below;

b. Amend paragraph (c)(17)(i) by revising the description of the value of W to read as set forth below; and,

c. Add paragraph (c)(21) to read as set forth below;

The additions and revisions read as follows:

§ 1767.16 Electric plant instructions.

(a) * * *

(4) Plant acquired by lease which qualifies as capital lease property under § 1767.15(s), Criteria for Classifying Leases, shall be recorded in Account 101.1, Property under Capital Leases, or Account 120.6, Nuclear Fuel under Capital Leases, as appropriate.

* * * * *

(c) * * *

(17) * * *

(i) * * *

W = Average balance in construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment, and fabrication, less asset retirement costs related to plant under construction.

* * * * *

(21) Asset retirement. The costs recognized as a result of asset retirement obligations incurred during the construction and testing of utility plant shall constitute a component of construction costs.

* * * * *

8. Amend § 1767.18 as follows:

a. In the subject table, under heading *Utility Plant,* add entries 175 and 176;

b. Under 101.1 Property Under Capital Leases, revise paragraph C.;

c. Under 103 Experimental Electric Plant Unclassified, amend paragraph C. by revising the first sentence;

d. Under 108 Accumulated Provision for Depreciation of Electric Utility Plant, amend paragraph C. by adding an entry for 108.9;

e. Revise paragraph A. of 121 Nonutility Property;

f. Revise paragraph A. of 124 Other Investments;

g. Revise 125 Sinking Funds;

h. Revise 126 Depreciation Fund;

i. Revise 128 Other Special Funds;

j. Add Account 175 Derivative Instrument Assets;

k. Add Account 176 Derivative Instrument Assets—Hedge ; and

l. Revise paragraph B. of 182.3 Other Regulatory Assets.

The additions and revisions read as follows:

§ 1767.18 Assets and other debits.

* * * * *

Utility Plant

* * * * *

175 Derivative Instrument Assets

176 Derivative Instrument Assets—Hedges

* * * * *

101.1 Property Under Capital Leases

C. Records shall be maintained with respect to each capital lease reflection: (1) Name of lessor, (2) basic details of

lease, (3) terminal date, (4) original cost or fair market value of property leased, (5) future minimum lease payments, (6) executory costs, (7) present value of minimum lease payments, (8) the amount representing interest and the interest rate used, and (9) expenses paid. Records shall also be maintained for plant under a lease, to identify the asset retirement obligation and cost originally recognized for each lease and the periodic charges and credits made to the asset retirement obligations and asset retirement costs.

* * * * *

103 Experimental Electric Plant Unclassified

* * * * *

C. The depreciation on property in this account shall be charged to Account 403.8, Depreciation Expense, for asset retirement costs, as appropriate, and credited to Account 108, Accumulated Provision for Depreciation of Electric Utility Plant. * * *

* * * * *

108 Accumulated Provision for Depreciation of Electric Utility Plant

* * * * *

C. * * *

108.9 Accumulated Provision for Depreciation of Asset Retirement Costs

* * * * *

121 Nonutility Property

A. This account shall include the book cost of land, structure, and equipment or other tangible or intangible property owned by the utility, but used in utility service and not properly includible in Account 105, Electric Plant held for Future Use. This account shall also include, where applicable, amounts recorded for asset retirement costs associated with nonutility plant.

* * * * *

124 Other Investments

A. This account shall include the book cost of investments in securities issued or assumed by nonassociated companies, investment advances to such companies, and any investments not accounted for elsewhere. This account shall also included unrealized holding gains and losses on trading and available-for-sale types of security investments. Include also the offsetting entry to the recording of amortization of discount or premium on interest bearing investments. (See Account 419, Interest and Dividend Income.)

* * * * *

125 Sinking Funds

This account shall include the amount of cash and book cost of investments held in sinking funds. This account shall also include unrealized holding gains and losses on trading and available-for-sale-types of investments. A separate account, with appropriate title, shall be kept for each sinking fund. Transfers from this account to special deposit accounts, may be as necessary for the purpose of paying matured sinking fund obligations, or obligations called for redemption but not presented, or the interest thereon.

126 Depreciation Fund

This account shall include the amount of cash and the book cost of investments which have been segregated in a special fund for the purpose of identifying such assets with the accumulated provisions for depreciation. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments.

128 Other Special Funds

This account shall include the amount of cash and book cost of investments which have been segregated in special funds for insurance, employee pensions, savings, relief, hospital, and other purposes not provided for elsewhere. This account shall also include unrealized holding gains and losses on trading and available-for-sale types of security investments. A separate account, with appropriate title, shall be kept for each fund.

Note: Amounts deposited with a trustee under the terms of an irrevocable trust agreement for pensions or other employee benefits shall not be included in this account.

* * * * *

175 Derivative Instrument Assets

This account shall include the amounts paid for derivative instruments, and the change in the fair value hedges. Account 421, Miscellaneous Nonoperating Income, shall be credited or debited, as appropriate, with the corresponding amount of the change in the fair value of the derivative instrument.

176 Derivative Instrument Assets-Hedges

A. This account shall include the amounts paid for derivative instruments, and the change in the fair value of derivative instrument assets designated by the utility as cash flow or fair value hedges.

B. When a utility designates a derivative instrument asset as a cash flow hedge it will record the change in the fair value of the derivative instrument in this account with a concurrent charge to Account 209, accumulated other comprehensive income, with the effective portion of the gain or loss. The ineffective portion of the cash flow hedge shall be charged to the same income or expense account that will be used when the hedged item enters into the determination of net income.

C. When a utility designates a derivative instrument as a fair value hedge it shall record the change in the fair value of the derivative instrument in this account with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion of the fair value hedge shall be charged to the same income or expense account that will be used when the hedged item enters into the determination of net income.

* * * * *

182.3 Other Regulatory Assets

* * * * *

B. The amounts included in this account are to be established by those charges which would have been included in net income, or accumulated other comprehensive income, determinations in the current period under the general requirements of the Uniform System of Accounts but for it being probable that such items will be included in a different period(s) for purposes of developing the rates that the utility is authorized to charge for its utility services. When specific identification of the particular source of a regulatory asset cannot be made, such as in plant phase-ins, rate moderation plans, or rate levelization plans, Account 407.4, Regulatory Credits, shall be credited. The amounts recorded in this account are generally to be charged, concurrently with the recovery of the amounts in rates, to the same account that would have been charged if included in income when incurred, except all regulatory assets established through the use of Account 407.4 shall be charged to Account 407.3, Regulatory Debits, concurrent with the recovery of the amounts in rates.

* * * * *

9. Amend 1767.19 as follows:

a. In the table of contents, under *Margins and Equities,* add an entry for 209;

b. In the table of contents, under Long-term Debt, add an entry for 224.18;

c. Add a new entry for 209 Accumulated Other Comprehensive Income;

d. In 224 Other Long-Term Debt, paragraph B., add an entry for subaccount 224.18;

e. Add 224.18 Other Long-Term Debt Grant Funds;

f. Add 230 Asset Retirement Obligations;

g. Add 244 Derivative Instrument Liabilities;

h. Add 245 Derivative Instrument Liabilities-Hedges; and

i. Revise paragraph B. of 254 Other Regulatory Liabilities.

The additions and revisions read as follows:

§ 1767.19 Liabilities and other credits.

* * * * *

Margins and Equities

* * * * *

209 Accumulated Other Comprehensive Income

* * * * *

Long-Term Debt

224.18 Other Long-Term Debt—Grant Funds

* * * * *

209 Accumulated Other Comprehensive Income

A. This account shall include revenues, expenses, gains, and losses that are properly includable in other comprehensive income during the period. Examples of other comprehensive income include foreign currency items, minimum pension liability adjustment, unrealized gains and losses on certain investments in debt and equity securities, and cash flow hedges. Records supporting the entries to this account shall be maintained so that the utility can furnish the amount of other comprehensive income for each item included in this account.

B. This account shall also be debited or credited, as appropriate, with amounts of accumulated other comprehensive income that have been included in the determination of net income during the period and in accumulated other comprehensive income in prior periods. Separate records for each category of items shall be maintained to identify the amount of the reclassification adjustments from accumulated other comprehensive income to earnings made during the period.

* * * * *

224 Other Long-Term Debt

* * * * *

B. * * *

224.18 Other Long-Term Debt—Grant Funds

* * * * *

224.18 Other Long-Term Debt—Grant Funds

This account shall include the total amount of Rural Development grant funds awarded for rural economic development purposes, which are subject to repayment at the conclusion of the project. (See § 1767.41, Interpretation 626, Rural Economic Development Loan and Grant Program)

* * * * *

230 Asset Retirement Obligations

A. This account shall include the amount of liabilities for the recognition of asset retirement obligations related to electric utility plant and nonutility plant that gives rise to the obligations. This account shall be credited for the amount of the liabilities for asset retirement obligations with amounts charged to the appropriate electric utility plant accounts or nonutility plant accounts to record the related asset retirement costs.

B. The utility shall charge the accretion expense to Account 411.10, Accretion Expense, for electric utility plant, Account 413, Expenses for Electric Plant Leased to Others, for electric plant leased to others, or Account 421, Miscellaneous Nonoperating Income, for nonutility plant, as appropriate, and credit Account 230, Asset Retirement Obligations.

C. This account shall be debited with amounts paid to settle the asset retirement obligations recorded herein.

D. The utility shall clear from this account any gains or losses resulting from the settlement of asset retirement obligations in accordance with the instruction prescribed in § 1767.15(y).

* * * * *

244 Derivative Instrument Liabilities

This account shall include the change in the fair value of all derivative instrument liabilities not designated as cash flow or fair value hedges. Account 426, Other Deductions, shall be debited or credited as appropriate with the corresponding amount of the change in the fair value of the derivative instrument.

245 Derivative Instrument Liabilities—Hedges

A. This account shall include the change in the fair value of derivative instrument liabilities designated by the utility as cash flow or fair value hedges.

B. A utility shall record the changed in the fair value of a derivative instrument liability related to a cash flow hedge in this account, with a concurrent charge to Account 209, Accumulated Other Comprehensive Income, with the effective portion of the derivative's gain or loss. The ineffective portion of the cash flow hedge shall be charged to the same income or expense account that will be used when the hedged item enters into the determination of net income.

C. A utility shall record the change in the fair value of a derivative instrument liability related to a fair value hedge in this account, with a concurrent charge to a subaccount of the asset or liability that carries the item being hedged. The ineffective portion or the fair value hedge shall be charged to the same income or expense account that will be used when the hedged item enters into the determination of net income.

* * * * *

254 Other Regulatory Liabilities

* * * * *

B. The amounts included in this account are to be established by those credits which would have been included in net income, or accumulated other comprehensive income, determinations in the current period under the general requirements of the Uniform System of Accounts but for it being probable that: (1) Such items will be included in a different period(s) for purposes of developing the rates that the utility is authorized to charge for its utility services; or (2) refunds to customers, not provided for in other accounts, will be required. When specific identification of the particular source of the regulatory liability cannot be made or when the liability arises from revenues collected pursuant to tariffs on file at a regulatory agency, Account 407.3, Regulatory Debits, shall be debited. The amounts recorded in this account generally are to be credited to the same account that would have been credited if included in income when earned except: (1) All regulatory liabilities established through the use of Account 407.3 shall be credited to Account 407.4, Regulatory Credits; and (2) in the case of refunds, a cash account or other appropriate account should be credited when the obligation is satisfied.

* * * * *

10. Amend 1767.20 as follows:

a. Revise the introductory text;

b. In the table of contents, under *Steam Production,* add an entry for 317;

c. In the table of contents, under *Nuclear Production,* add an entry for 326;

d. In the table of contents, under *Hydraulic Production,* add an entry for 337;

e. In the table of contents, under *Other Production,* add an entry for 347;

f. In the table of contents, under *Transmission Plant,* add an entry for 359.1;

g. In the table of contents, under *Distribution Plant,* add an entry for 374;

h. In the table of contents, add new title *Regional Transmission Market Operation Plant,* and entries for 380, 381, 382, 383, 384, 385, and 386;

i. In the table of contents, under *General Plant,* add an entry for 399.1;

j. Add a new entry for 317 Asset Retirement costs for Steam Production Plant;

k. Add a new entry for 326 Retirement Costs for Nuclear Production Plant;

l. Add a new entry for 337 Asset Retirement costs for Hydraulic Production Plant;

m. Add a new entry for 347 Asset Retirement Costs for Other Production Plant;

n. Add a new entry for subaccount 359.1 Asset Retirement Costs for Transmission Plant;

o. Add a new entry for 374 Asset Retirement Costs for Distribution Plant;

p. Under new account title *Regional Transmission Market Operation Plant,* add new entries for 380, 381, 382, 383, 384, 385, and 386;

q. Add a new entry for subaccount 399.1 Asset Retirement Costs for General Plant.

The revisions and additions read as follows:

§ 1767.20 Plant accounts.

The plant accounts identified in this section shall be used by all Rural Development borrowers.

* * * * *

Production Plant

Steam Production

* * * * *

317 Asset Retirement Costs for Steam Production Plant

Nuclear production

* * * * *

326 Asset Retirement Costs for Nuclear Production Plant

Hydraulic Production

* * * * *

337 Asset Retirement Costs for Hydraulic Production Plant

Other Production

* * * * *

347 Asset Retirement Costs for Other Production Plant

Transmission Plant

* * * * *

359.1 Asset Retirement Costs for Transmission Plant

Distribution Plant

* * * * *

374 Asset Retirement Costs for Distribution Plant

Regional Transmission Market Operation Plant

380 Land and Land Rights

381 Structures and Improvements

382 Computer Hardware

383 Computer Software

384 Communication Equipment

385 Miscellaneous Regional Transmission and Market Operation Plant

386 Asset Retirement Costs for Regional Transmission and Market Operation Plant

General Plant

* * * * *

399.1 Asset Retirement Costs for General Plant

* * * * *

Production Plant

Steam Production

* * * * *

317 Asset Retirement Costs for Steam Production Plant

This account shall include asset retirement costs on plant included in the steam production function.

* * * * *

Nuclear Production

* * * * *

326 Asset Retirement Costs for Nuclear Production Plant

This account shall include asset retirement costs on plant included in the nuclear production function.

* * * * *

Hydraulic Production

* * * * *

337 Asset Retirement Costs for Hydraulic Production Plant

This account shall include asset retirement costs on plant included in the hydraulic production function.

* * * * *

Other Production

* * * * *

347 Asset Retirement Costs for Other Production Plant

This account shall include asset retirement costs on plant included in the other production function.

* * * * *

Transmission Plant

* * * * *

359.1 Asset Retirement Costs for Transmission Plant

This account shall include asset retirement costs on plant included in the transmission plant function.

* * * * *

Distribution Plant

374 Asset Retirement Costs for Distribution Plant

This account shall include asset retirement costs on plant included in the distribution plant function.

Regional Transmission and Market Operation Plant

380 Land and Land Rights

This account shall include the cost of land and land rights used in connection with regional transmission and market operations.

381 Structures and Improvements

This account shall include the cost in place of structures and improvement used for regional transmission and market operations.

382 Computer Hardware

This account shall include the cost of computer hardware and miscellaneous information technology equipment to provide scheduling, system control and dispatching, system planning, standards development, market monitoring, and market administration activities. Records shall be maintained identifying to the maximum extent practicable computer hardware owned and used for:

(1) Scheduling, system control and dispatching;

(2) System planning and standards development; and

(3) Market monitoring and market administration activities.

Items

1. Personal computers
2. Servers
3. Workstations
4. Energy Management System (EMS) hardware
5. Supervisory Control and Data Acquisition (SCADA) system hardware
6. Peripheral equipment
7. Networking components

383 Computer Software

This account shall include the cost of off-the-shelf and in-house developed software purchased and used to provide scheduling, system control and dispatching, system planning, standards development, market monitoring, and market administration activities. Records shall be maintained identifying to the maximum extent practicable the cost of software used for:

(1) Scheduling, system control and dispatching,

(2) System planning and standards development, and

(3) Market monitoring and market administration activities.

Items

1. Software licenses
2. User interface software
3. Modeling software
4. Database software
5. Tracking and monitoring software
6. Energy Management System (EMS) software
7. Supervisory Control and Data Acquisition (SCADA) system software
8. Evaluation and assessment system software
9. Operating, planning and transaction scheduling software
10. Reliability applications
11. Market application software

384 Communication Equipment

This account shall include the cost of communication equipment owned and used to acquire or share data and information used to control and dispatch the system.

Items

1. Fiber optic cable
2. Remote terminal units
3. Microwave towers
4. Global Positioning System (GPS) equipment
5. Servers
6. Workstations
7. Telephones

385 Miscellaneous Regional Transmission and Market Operation Plant

This account shall include the cost of regional transmission and market operation plant and equipment not provided for elsewhere.

386 Asset Retirement Costs for Regional Transmission and Market Operation Plant

This account shall include asset retirement costs on regional transmission and market operations plant and equipment.

* * * * *

General Plant

* * * * *

399.1 Asset Retirement Costs for General Plant

This account shall include asset retirement costs on plant included in the general plant function.

* * * * *

11. Section 1767.21 is amended as follows:

a. Add account titles for 403.8, 403.9 and 411.10;

b. Add entries for 403.8 and 403.9 under 403 Depreciation Expense;

c. Amend 411.6 by designating the current text as paragraph A. and adding paragraph B.;

d. Amend 411.7 by designating the current text as paragraph A. and adding paragraph B.; and

e. Add an entry for 411.10.

The additions read as follows:

§ 1767.21 Operating Income.

* * * * *

Utility Operating Income

* * * * *

403.8 Depreciation Expense—Asset Retirement Costs

403.9 Depreciation Expense—Regional Transmission and Market Operation Plant

* * * * *

411.10 Accretion Expense

* * * * *

Utility Operating Income

* * * * *

403 Depreciation Expense

* * * * *

C. * * *

403.8 Depreciation Expense—Asset Retirement Costs

403.9 Depreciation Expense—Regional Transmission and Market Operation Plant

* * * * *

411.6 Gains From Disposition of Utility Plants

* * * * *

B. The utility shall record in this account gains resulting from the settlement of asset retirement obligations related to utility plant in accordance with the accounting prescribed in § 1767.15(y).

411.7 Losses From Disposition of Utility Plant

* * * * *

B. The utility shall record in this account losses resulting from the settlement of asset retirement obligations related to utility plant in accordance with the accounting prescribed in § 1767.15(y).

411.10 Accretion Expense

This account shall be charged for accretion expense on the liabilities associated with asset retirement obligations included in Account 230, Asset Retirement Obligations, relating to electric utility plant.

12. Section 1767.22 is amended as follows:

a. Amend Account 421, Miscellaneous Nonoperating Income, by adding items 4. through 6.; and

b. Amend Account 426.5, Other Deductions, by adding item 6. to read as set forth below.

The additions read as follows:

§ 1767.22 Other income and deductions.

* * * * *

421 Miscellaneous Nonoperating Income

* * * * *

4. This account shall include the accretion expense on the liability for an asset retirement obligation included in Account 230, Asset Retirement Obligations, related to nonutility plant.

5. This account shall include the depreciation expense for asset retirement costs related to nonutility plant.

6. The utility shall record in this account gains resulting from the settlement of asset retirement obligations related to nonutility plant in accordance with the accounting prescribed in § 1767.15(y).

* * * * *

426.5 Other deductions.

* * * * *

6. The utility shall record in this account losses resulting from the settlement of asset retirement obligations related to nonutility plant in accordance with the accounting prescribed in § 1767.15(y).

13. Amend § 1767.23 by revising Account 432 to read as follows:

§ 1767.23 Interest charges.

* * * * *

432 Allowance for Borrowed Funds Used During Construction—Credit.

This account shall include concurrent credits for allowance for borrowed funds used during construction, not to exceed amounts computed in accordance with the formula prescribed in § 1767.16 (c) (17).

Note: This account shall not be recorded in Account 427.3, Interest Charged to Construction—Credit.

14. Amend § 1767.26 as follows:

a. Add entries for 456.1, 457.1, and 457.2 to the subject table;

b. Amend 456 Other Electric revenues by removing paragraph 5. and redesignating paragraph 6 as 5; and

c. Add entries for 456.1, 457.1 and 457.2.

The additions read as follows:

§ 1767.26 Operating revenue.

* * * * *

Operating Revenue

Sales of Electricity

* * * * *

456.1 Revenues from Transmission of Electricity of Others

457.1 Regional Transmission Service Revenues

457.2 Miscellaneous Revenue

* * * * *

456.1. Revenues from Transmission of Electricity of Others

This account shall include revenues from transmission of electricity of others over transmission facilities of the utility.

457.1 Regional Transmission Service Revenues

This account shall include revenues derived from providing scheduling, system control and dispatching services. Include also in this account reimbursements for system planning, standards development, and market monitoring and market compliance activities. Records shall be maintained so as to show:

(1) The services supplied and revenues received from each customer; and

(2) The amounts billed by tariff or specified rates.

457.2 Miscellaneous Revenues

This account shall include revenues and reimbursements for costs incurred by regional transmission service providers not provided for elsewhere. Records shall be maintained so as to show: (1) The services supplied and revenues received from each customer, and (2) the amounts billed by tariff or specified rates.

15. Amend § 1767.27 as follows:

a. Add new accounts to the subject index;

b. Amend 555 Purchased Power by adding a note following paragraph B.;

c. Amend 556 System Control Load Dispatching by revising the introductory text;

d. Remove Account 561 Load Dispatching;

e. Add new accounts and descriptions for 561.1 through 561.8;

f. Add new accounts and descriptions for 569.1 through 569.4;

g. Add new accounts and descriptions for 575.1 through 575.8; and

h. Add new accounts and descriptions for 576.1 through 576.5.

The additions and revisions read as follows:

§ 1767.27 Operation and maintenance expenses.

* * * * *

Transmission Expenses

(Operations)

* * * * *

561.1 Load Dispatch—Reliability

561.2 Load Dispatch—Monitor and Operate Transmission System

561.3 Load Dispatch—Transmission Service and Scheduling

561.4 Scheduling, System Control and Dispatching Services

561.5 Reliability, Planning and Standards Development

561.6 Transmission Service Studies

561.7 Generation Interconnection Studies

561.8 Reliability Planning and Standards Development Services

* * * * *

(Maintenance)

* * * * *

569.1 Maintenance of Computer Hardware

569.2 Maintenance of Computer Software

569.3 Maintenance of Communication Equipment

569.4 Maintenance of Miscellaneous Regional Transmission Plant

* * * * *

Regional Market Expenses

(Operation)

575.1 Operation Supervision

575.2 Day-ahead and Real-time Market Facilitation

575.3 Transmission Rights Market Facilitation

575.4 Capacity Market Facilitation

575.5 Ancillary Services Market Facilitation

575.6 Market Monitoring and Compliance

575.7 Market Facilitation

575.8 Rents

(Maintenance)

576.1 Maintenance of Structures and Improvements

576.2 Maintenance of Computer Hardware

576.3 Maintenance of Computer Software

576.4 Maintenance of Communication Equipment

576.5 Maintenance of Miscellaneous Market Operation Plant

* * * * *

555 Purchased Power

* * * * *

Note: The records supporting this account shall provide information pertaining to the purchase of power from renewable energy sources.

556 System Control and Load Dispatching

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, and expenses incurred in load dispatching activities for system control. Utilities having an interconnected electric system or operating under a central authority which controls the production and dispatching of electricity may apportion these costs to this account and transmission expense Account 561.1 through 561.4, and Account 581, Load Dispatching—Distribution.

* * * * *

561.1 Load Dispatch—Reliability

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred by a regional transmission service provider or other transmission provider to

manage the reliability coordination function as specified by the North American Electric Reliability Council (NERC) and individual reliability organizations. These activities shall include performing current and next day reliability analysis. This account shall include the costs incurred to calculate load forecasts, and performing contingency analysis.

561.2 Load Dispatch—Monitor and Operate Transmission System

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred by a regional transmission service provider or other transmission provider to monitor, assess and operate the power system and individual transmission facilities in real-time to maintain safe and reliable operation of the transmission system. This account shall also include the expense incurred to manage transmission facilities to maintain system reliability and to monitor real-time flows and direct actions according to regional plans and tariffs if necessary.

Items

1. Receive and analyze outage requests.
2. Reschedule outage plans.
3. Monitor solution quality field data values, providing model updates to NERC and coordinating network model changes across all systems.
4. Conduct operating training related to NERC Certification.
5. Monitor generation resources and communicate expected dispatch actions.
6. Ensure ancillary service requirements are met.
7. Directing switching.
8. Controlling system voltages.
9. Obtaining reports on the weather and special events.
10. Preparing operating reports and data for billing and budget purposes.

561.3 Load Dispatch-Transmission Service and Scheduling

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred by a regional transmission service provider or other transmission provider to process hourly, daily, weekly and monthly transmission service requests using an automated system such as an Open Access Same-Time Information System (OASIS). It shall include the expenses incurred to operate the automated transmission service request system and to monitor the status of all scheduled energy transactions.

561.4 Scheduling, System Control and Dispatching Services

This account shall include the costs billed to the transmission owner, load serving entity or generator for scheduling, system control and dispatching service. Include in this account service billings for system control to maintain the reliability of the transmission area in accordance with reliability standards, maintaining defined voltage profiles, and monitoring operations of the transmission facilities.

561.5 Reliability, Planning and Standards Development

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred for the system planning of the interconnected bulk electric transmission system within a planning authority area.

Items

1. Developing and maintaining transmission system models to evaluate transmission system performance.
2. Maintaining and applying methodologies and tools for the analysis and simulation of the transmission systems for the assessment and development of transmission expansion plans.
3. Assessing, developing and documenting transmission expansion plans.
4. Maintaining transmission system models (steady-state, dynamics, and short circuit).
5. Collecting transmission information and transmission facility characteristics and ratings.
6. Notifying participants of any planned transmission changes that may impact their facilities.
7. Developing and reporting on transmission expansion plans for assessment and compliance with reliability standards.
8. Developing reliability standards for the planning and operation of the interconnected bulk electric transmission systems that serve the United States, Canada and Mexico.
9. Developing criteria and certification procedures for reliability authorities, transmission operators and others.
10. Outside services employed.

Note: The cost of supervision, customer records and collection expenses, administrative and general salaries, regulatory commission expenses, general advertising, and rents shall be charged to the customer accounts, service, administrative and general expense accounts contained in the Uniform System of Accounts.

561.6 Transmission Service Studies

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred to conduct generation interconnection studies for proposed interconnections with the transmission system. Detailed records shall be maintained for each study undertaken and all reimbursements received for conducting such a study.

561.7 Generation Interconnection Studies.

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, property insurance, property taxes, materials used, and expenses incurred to conduct generation interconnection studies for proposed interconnections with the transmission system. Detailed records shall be maintained for each study undertaken and all reimbursements received for conducting such a study.

561.8 Reliability Planning and Standards Development Services

This account shall include the costs billed to the transmission owner, load serving entity, or generator for system planning of the interconnected bulk electric transmission service provider for system reliability and resource planning to develop long-term strategies to meet customer demand and energy requirements. This account shall also include fees and expenses for outside services incurred by the regional transmission service provider and billed to the load serving entity, transmission owner or generator.

* * * * *

569.1 Maintenance of Computer Hardware

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, materials used and expenses incurred in the maintenance of computer hardware serving the transmission function.

569.2 Maintenance of Computer Software

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes,

injuries and damages, materials used and expenses incurred for annual computer software license renewals, annual software update services and the cost of ongoing support for software products serving the transmission function.

Items

1. Telephone support
2. Onsite support
3. Software updates and minor revisions

569.3 Maintenance of Communication Equipment

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, materials used and expenses incurred in the maintenance of communication equipment serving the transmission function.

569.4 Maintenance of Miscellaneous Regional Transmission Plant

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, materials used and expenses incurred in the maintenance of miscellaneous regional transmission plant serving the transmission function.

* * * * *

Regional Market Expenses

(Operational)

575.1 Operation Supervision

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the general supervision and direction of the regional energy markets.

575.2 Day-ahead and Real-time Market Administration

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred to facilitate the Day-Ahead and Real-Time markets. This account shall also include the costs incurred to manage the real-time deployment of resources to meet generation needs and to provide capacity adequacy verification. Include in this account the costs incurred to maintain related sections of the tariff, market rules, operating procedures, and standards and coordinating with neighboring areas.

Items

1. Consultant fees and expenses
2. System record and report forms
3. Meals, traveling and incidental expenses

Note: The cost of supervision, customer records and collection expenses, administrative and general salaries, regulatory commission expenses, general advertising, and rents shall be charged to the customer accounts, service, administrative and general expense accounts contained in the Uniform System of Accounts.

575.3 Transmission Rights Market Administration

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred to manage the allocation and auction of transmission rights.

575.4 Capacity Market Administration

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred to manage the allocation of capacity rights.

575.5 Ancillary Services Market Administration

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred to manage all other ancillary services market functions.

575.6 Market Monitoring and Compliance

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred to review market data and operational decisions for compliance with market rules. It shall also include the costs incurred to interface with external market monitors.

575.7 Market Administration, Monitoring and Compliance Services

This account shall include the cost billed to the transmission owner, load serving entity or generator for market administration, monitoring and compliance services.

575.8 Rents

This account shall include all rents of property of others used, occupied, or operated in connection with market administration and monitoring. (See § 1767.17(c).) (Maintenance)

576.1 Maintenance of Structures and Improvements

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the maintenance of structures used in market administration and monitoring. (See § 1767.17(b).)

576.2 Maintenance of Computer Hardware

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the maintenance of computer hardware used in market administration and monitoring.

576.3 Maintenance of Computer Software

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred for annual computer software license renewals, annual software update services and the cost of ongoing support for software products used in market administration and monitoring.

Items

1. Telephone support
2. Onsite support
3. Software updates and minor revisions

576.4 Maintenance of Communication Equipment

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the maintenance of communication equipment used in market administration and monitoring.

576.5 Maintenance of Miscellaneous Market Operation Plant

This account shall include the cost of labor, employee pensions and benefits, social security and other payroll taxes, injuries and damages, and expenses incurred in the maintenance of miscellaneous market operation plant used in market administration and monitoring.

* * * * *

16. Amend § 1767.41 as follows:

a. In the numerical index, add the entries for 633, and 634 in numerical order;

b. In the subject matter index, add items in alphabetical order;

c. Revise 119 Special Equipment;

d. Amend 136 Storm Damage by removing paragraph d. and revising paragraphs b. and c. and the undesignated paragraph before the table;

e. Amend 404 Consolidate Financial Statement by revising the undesignated concluding paragraph;

f. Revise 626 Rural Economic Development Loan and Grant Program; and

g. Add new sections for 633 and 634.

The additions and revisions read as follows:

§ 1767.41 Accounting methods and procedure required of all RUS borrowers.

* * * * *

NUMERICAL INDEX

Number	Title
*	* * * *
633	Cushion of Credit.
634	Renewable Energy Credits.

SUBJECT MATTER INDEX

	Number
*	* * * *
Credits, Renewable Energy	634
Cushion of Credit	633
*	* * * *
Energy Credits Renewable	634
*	* * * *
Renewable Energy Credits	634
*	* * * *

* * * * *

119 Special Equipment

Special Equipment items are classified as such because they are continually being moved from one location to another due to load changes and maintenance practices. The USoA provides accounting that differs from that used for other types of materials. The cost, new, of special equipment items shall be capitalized at the time of purchase; it shall not be charged to Account 154 as is the case with other materials. The first installation cost, as well as all incidental costs necessary to prepare the equipment for use, shall be capitalized with the material upon purchase. All subsequent costs of removing, resetting, changing, renewing oil, and repairing constitute operations and maintenance expenses. The capitalized cost of special equipment items, including the first installation, shall be removed from the electric plant accounts only when the items are abandoned or retired from the system.

Meters, line-type transformers, oil circuit reclosers, sectionalizers, current and potential transformers, meter sockets, and other metering equipment listed in Account 370, Meters, as well as pole-type and underground voltage regulators in Account 368, Line Transformers, are considered to be special equipment items. Similarly, load control receivers (load control switches) recorded in Account 371, Installations on Customers' Premises, are considered to be items of special equipment. (See Interpretation No. 118.) Transformers, voltage regulators, metering equipment, and current and potential transformers for substations are not.

Special equipment items which are classified as nonusable shall be segregated in the warehouse and retired from service. The Summary of Special Equipment Costs shall be retitled Summary of Special Equipment Costs Retired and used for this purpose. A journal entry reflecting this information shall be prepared and posted to the books. Since loan funds for special equipment, including first installation costs, are approved for advance by RUS upon receipt of the borrower's written estimate of funds required, and not on the basis of an Inventory of Work Orders, it is improper to take a credit for any salvage involved in the retirement of special equipment on the Inventory of Work Orders.

Electric borrowers that wish to receive such a waiver from the special equipment accounting requirements should submit a letter request to RUS. In order to expedite these requests the letter to RUS should state that the borrower will adhere to the following requirements to account for special equipment using the work order procedure rather than the special equipment accounting procedures prescribed by RUS:

1. New purchases of special equipment items are to be charged to Account 154, Materials and Supplies, upon purchase.

2. Labor, material and overhead costs associated with the initial installation and all subsequent installations of special equipment are recorded on construction work orders and charged to the appropriate plant accounts upon closeout of the construction work order.

3. Labor and overhead costs associated with the removal of special equipment items, whether the items removed are placed in inventory or permanently retired and disposed of, are recorded on retirement work orders and charged or credited to the depreciation reserve account upon closeout of the retirement work order.

4. The special equipment items retired and salvaged for reuse are returned to the materials and supplies account at the average material cost in the materials and supplies account and credited to the depreciation reserve upon closeout of the retirement work order.

In addition to recognition of the requirements noted above, the borrower should indicate how it plans to account for the items of special equipment that have been charged to the plant accounts but not installed (in inventory). Two acceptable methods to account for this equipment are: (1) Leave the equipment in the plant accounts until the inventory is depleted and charge only new purchases to materials and supplies, or (2) credit the plant accounts for the installed cost of the equipment in inventory, charge the equipment cost to materials and supplies, and charge the installation cost to the appropriate operations expense account. Also, under the second method, the borrower must submit a ''negative'' special equipment summary to RUS to return to the balance in reserve for the current loan the installed cost of special equipment in inventory on the date of transition.

* * * * *

136 Storm Damage

* * * * *

b. The accounting journal entries being used by the cooperative to record the expense deferral and amortization of deferred costs; and

c. A copy of the state Commission order authorizing recovery of the deferred costs through future rates, or in the absence of commission jurisdiction, a resolution from the cooperative's board of directors authorizing such recovery.

To assist in the restoration of the damaged facilities, the Federal government often provides assistance through Federal Emergency Management Agency (FEMA). Under current FEMA procedures, FEMA provides funds for the restoration of facilities based upon the cost estimates submitted by the entity requesting assistance. If the FEMA grant is for less than 100 percent of the cost estimates, and does not specify offset expenses, thereby providing the borrower with the maximum opportunity to utilize Rural Development Utilities Program loan funds to finance capitalizable costs. When the funds are received, they should be accounted for by first applying the funds received as a credit to maintenance expense and administrative and general costs. Any remaining funds should then be applied as a credit to construction and retirement costs.

* * * * *

404 Consolidated Financial Statements

* * * * *

Although Statement No. 94 requires the consolidation of majority-owned

subsidiaries, Forms 7 and 12 must be prepared on a basis consistent with the equity method of accounting for investments. For distribution borrowers, this requires that the investment be shown on Form 7 in Part C, Balance Sheet, on line 7, Investments in Subsidiary Companies, or line 9, Investments in Associated Organizations—Other—General Funds, as appropriate. The result of operation is shown in Part A, Statement of Operations, on line 23, Income (Loss) from Equity Investments. For generation and transmission borrowers, the investments should be shown on Form 12, in Section C, Balance Sheet, on Line 7, Investments in Subsidiary Companies, or Line 9, Investments in Associated Organizations—Other—General Funds, as appropriate. The result of operations should be shown in Section A, Statement of Operations, on line 30, Income (Loss) from Equity Investments.

* * * * *

626 Rural Economic Development Loan and Grant Program

* * * * *

On December 21, 1987, Section 313, Cushion of Credits Payments Program, was added to the Rural Electrification Act. Section 313 establishes a Rural Economic Development Subaccount and authorizes the Administrator of the Rural Utilities Service to provide zero interest loans or grants to RE Act borrowers for the purpose of promoting rural economic development and job creation projects.

Subpart B, Rural Economic Development Loan and Grant Program, 7 CFR Part 1703, sets forth the policies and procedures relating to the zero interest loan program and for approving and administering grants.

The accounting journal entries required to record the transactions associated with a rural economic development loan are as follows:

Dr. 224.17, RUS Notes Executed—Economic Development—Debit
Cr. 224.16, Long-Term Debt—RUS Economic Development Notes Executed

To record the contractual obligation to RUS for the Economic Development Notes.

Dr. 131.12, Cash—General—Economic Development Funds
Cr. 224.17, RUS Notes Executed—Economic Development—Debit

To record the receipt of the economic development loan funds.

Dr. 123, Investment in Associated Organizations or
Dr. 124, Other Investments
Cr. 131.12, Cash—General—Economic Development Funds

To record the disbursement of Economic development loan funds to the project.

Dr. 131.1, Cash—General Funds
Cr. 421, Miscellaneous Nonoperating Income

To record payment received from the project for loan servicing charges.

Dr. 171, Interest and Dividends Receivable
Cr. 419, Interest and Dividend Income

To record the interest earned on the investment of rural economic development loan funds.

Dr. 426.1, Donations or
Dr. 426.5, Other Deductions
Cr. 131.1, Cash—General Funds

To record the payment of interest earned in excess of $500.00 on the investment of rural economic development loan funds.

Note: Interest earned in excess of $500.00 must be used for the rural economic development project for which the loan funds were received or returned to RUS.

Dr. 131.12, Cash—General—Economic Development Funds
Cr. 123, Investment in Associated Organizations or
Cr. 124, Other Investments

To record receipt of the repayment, by the project, of economic development loan funds.

Dr. 426.5, Other Deductions
Cr. 123, Investment in Associated Organizations or
Cr. 124, Other Investments

To record the default, by a project, of economic development loan funds.

Dr. 224.16, Long-Term Debt—RUS Economic Development Notes Executed
Cr. 131.12, Cash—General—Economic Development Funds

To record the repayment, to RUS, of the economic development loan funds.

The accounting journal entries required to record the transactions associated with a rural economic development grant are as follows:

Dr. 131.13, Cash—General—Economic Development Grant Funds
Cr. 224.18, Other Long-Term Debt—Grant Funds;
Cr. 208, Donated Capital; or
Cr. 421, Miscellaneous Nonoperating Income

To record grant funds disbursed by RUS. If the grant agreement requires repayment of the funds upon termination of the revolving loan program, Account 224.18 should be credited. If the grant agreement states that there is absolutely no obligation for repayment upon termination of the revolving loan program, the funds should be accounted for as a permanent infusion of capital by crediting Account 208. If, however, the grant agreement is silent as to the final disposition of the grant funds, Account 421 should be credited.

Dr. 123.3, Investment in Associated Organizations—Federal Economic Development Loans
Cr. 131.13, Cash—General—Economic Development Grant Funds

To record advances of Federal funds to associated organizations for authorized rural economic development projects.

Dr. 124.1, Other Investments—Federal Economic Development Loans
Cr. 131.13, Cash—General—Economic Development Grant Funds

To record advances of Federal funds to nonassociated organizations for authorized rural economic development projects.

Dr. 171, Interest and Dividends Receivable
Cr. 419, Interest and Dividend Income

To record the accrual of interest on loans made to associated and nonassociated organizations with Federal funds for authorized rural economic development projects.

Dr. 131.14, Cash—General—Economic Development Non-Federal Revolving Funds
Cr. 123.3, Investment in Associated Organizations—Federal Economic Development Loans or
Cr. 124.1, Other Investments—Federal Economic Development Loans

To record repayment of loans made with Federal funds.

Dr. 123.4, Investment in Associated Organizations—Non-Federal Economic Development Loans
Cr. 131.14, Cash—General—Economic Development Non-Federal Revolving Funds

To record advances of non-Federal funds to associated organizations for authorized rural economic development projects.

Dr. 124.2, Other Investments—Non-Federal Economic Development Loans
Cr. 131.14, Cash—General—Economic Development Non-Federal Revolving Funds

To record advances of non-Federal funds to nonassociated organizations for authorized rural economic development projects.

Dr. 171, Interest and Dividends Receivable

Cr. 419, Interest and Dividend Income

To record the accrual of interest on loans made to associated and nonassociated organizations with non-Federal funds for authorized rural economic development projects.

Dr. 131.14, Cash—General—Economic Development Non-Federal Revolving Funds

Cr. 123.4, Investment in Associated Organizations—Non-Federal Economic Development Loans or

Cr. 124.2, Other Investments—Non-Federal Economic Development Loans

To record repayment of loans made with non-Federal funds.

* * * * *

633 Cushion of Credit

On December 21, 1987, Section 313, Cushion of Credits Payments Program, was added to the Rural Electrification Act. Cushion of credit regulations are located in 7 CFR part 1785. A cushion of credit payment is a voluntary unscheduled payment by a borrower in excess of amounts due and payable. A cushion of credit account is automatically established by Rural Development for each borrower who makes a payment after October 1, 1987, in excess of amounts then due on a Rural Development note. Payments received in the month in which an installment is due will be applied to the installment due. However, if the regular installment payment is received at a later date in the month, the first payment received will be applied retroactively to the cushion of credit account and the second will be applied to the installment due. By law, cushion of credit accounts earn five per cent interest annually, accrued daily and posted quarterly. Although the interest earned will appear as a reduction in the interest billed on the borrower's Rural Development notes and will be separately shown on Form 694, Statement of Interest and Principal Due, interest billed must be adjusted by adding back the interest earned while principal is reduced by the amount of the interest earned before recording the debt payment. Below is an example of the adjustment required:

	As billed	Adjustment	Adjusted
Payment Billed	$1,000		$1,000
Principal	800	−$50	750
Interest	*200	50	250

*Includes reduction of $50 for interest earned on cushion of credit account.

Cushion of credit is intended to enable the borrower to deposit funds and have those funds available to make scheduled payments (or installments) only. A borrower may not have more cushion of credit funds, including accrued interest, than their entire Rural Development debt which includes loans made in Rural Electric and Telephone (RET) and Federal Financing Bank (FFB). If a borrower makes less than or no payment when their billing invoice is due, cushion of credit will automatically add to or make their payment systematically for them.

Cushion of credit is not available to use for prepayment of loan accounts before maturity except for the following situations:

1. The total amount of cushion of credit principal with accrued interest equals the borrower's total debt.

2. The borrower intends to prepay all remaining debt using a combination of payment with all cushion of credit funds available.

Accounting Requirements

All payments made to a cushion of credit account should be recorded as follows:

Dr. 224.6, Advance Payments Unapplied—Long-Term Debt—Debit

Cr. 131.1, Cash—General

All interest earned on the balance of funds in the account should be recorded as follows:

Dr. 224.6, Advance Payments Unapplied—Long-Term Debt—Debit

Cr. 419, Interest and Dividend Income

Reporting Requirements

Previously, Rural Development required that the balance in the cushion of credit account be reported, on the Form 7, Financial and Statistical Report, as a reduction of the Rural Development long-term debt balance. On January 15, 2003, Rural Development issued letter guidance permitting a proportionate share of the cushion of credit balance be reported as a reduction in Current Maturities Long-Term Debt. Additionally, beginning with calendar year 2006 submissions, Form 7 has been revised to include a separate line for cushion of credit balances within the long-term debt section of Part C.

634 Renewable Energy Credits

Renewable Energy Credits (REC) are created when renewable energy facilities, such as wind farms, biomass generators, and solar facilities, generate electricity. These RECs represent the environmental benefits of renewable energy. When a purchaser acquires RECs, the price represents the benefit of displacing non-renewable sources of generation, such as coal, oil or gas. Energy is generated and injected into the grid from a number of sources. Because electricity is a fungible commodity, energy being purchased from the grid cannot be specifically identified as to its source. To facilitate the sale of renewable energy nationally, a system has been created that separates energy generated from renewable resources into two parts; the energy itself and the benefits derived from displacing energy generated from non-renewable sources. These RECs overcome the issues of providing renewable energy to purchasers who are often geographically remote from the renewable generation facility. The REC can be sold in combination with the purchase of electricity or may be sold independently of the sale of energy.

Accounting Requirements—Generation Entities

When electricity is generated using a renewable energy fuel source, Renewable Energy Credit Certificates are created. The value of these certificates shall be recorded as a debit to a subaccount of Account 303, Intangible Assets, and a credit to the appropriate power generation expense account. The value of the certificate shall be determined on the basis of the market value posted and/or offered through the RTO/ISO operating in the area of generation on the date the power associated with the REC was created. The unit of measure shall be stated in terms of mega-watt-hours (mWh).

When RECs are sold, the sale is recorded with a credit to the appropriate operating revenue account, and the RECs are removed from inventory by crediting Intangible Assets and debiting the power generation expense.

Accounting Journal Entries

Dr. 303.XXX Intangible Assets—RECs Held for Sale XXX
Cr. 5XX Power Generation Expense XXX

To record the value of renewable energy credits created during the month of XXX through the generation of energy from renewable fuel.

Note: Each transaction shall be identified by Month and Year and the number of Certificates created.

Dr. 143 Accounts Receivable XXX
Cr. 456 Other Electric Revenues XXX

To record the sale of RECs during the month of XXX.

Dr. 5XX Power Generation Expense XXX
Cr. 303.XXX Intangible Assets—RECs Held for Sale XXX

To record the cost of RECs sold during the month of XXX.

Note: Each sales transaction shall include the vintage associated with the credits sold.

Accounting Requirements—Distribution Entities

Dr. 303.XXX Intangible Assets—RECs Held for Sale XXX
Cr. 231/232 Accounts/Notes Payable XXX

To record the purchase of renewable energy credits.

Note: This entry is also appropriate for Generators purchasing renewable energy credits for resale.

Dr. 142 Customer Accounts Receivable XXX
Cr. 303.XXX Intangible Assets—RECs Held for Sale XXX

To record the sale of renewable energy credits to consumers.

17. Add Subpart D to read as follows:

Subpart D—Preservation of Records

Sec.
1767.66 Purpose.
1767.67 General.
1767.68 Designation of a supervisory official.
1767.69 Index of records.
1767.70 Record storage media.
1767.71 Periods of retention.
1767.72–1767.85 [Reserved]

Subpart D—Preservation of Records

§ 1767.66 Purpose.

This subpart establishes policies and procedures for the effective preservation and efficient maintenance of financial records of Electric borrowers.

§ 1767.67 General.

(a) Rural Development endorses the guidelines as described by the Federal Energy Regulatory Commission's (FERC) ''Regulations to Govern the Preservation of Records of Public Utilities and Licensees.'' The FERC guidelines can be found in 18 CFR part 125.

(b) The regulations prescribed in this part apply to all books of account, contracts, records, memoranda, documents, papers, and correspondence prepared by or on behalf of the borrower as well as those which come into its possession in connection with the acquisition of property by purchase, consolidation, merger, etc.

(c) The regulations prescribed in this part shall not be construed as excusing compliance with any other lawful requirements for the preservation of records.

§ 1767.68 Designation of a supervisory official.

Each borrower shall designate one or more officials to supervise the preservation of its records.

§ 1767.69 Index of records.

(a) Each borrower shall maintain a master index of records. The master index shall identify the records retained, the related retention period, and the locations where the records are maintained. The master index shall be subject to review by Rural Development and Rural Development shall reserve the right to add records, or lengthen retention periods upon finding that retention periods may be insufficient for its purposes.

(b) At each office where records are kept or stored the borrower shall arrange, file, and index the records currently at that site so that they may be readily identified and made available to representatives of Rural Development.

§ 1767.70 Record storage media.

The media used to capture and store the data will play an important part of each Rural Development borrower. Each borrower has the flexibility to select its own storage media. The following are required:

(a) The storage media shall have a life expectancy at least equal to the applicable retention period provided for in the master index of records, unless there is quality transfer from one media to another with no loss of data. Each transfer of data from one media to another shall be verified for accuracy and documented.

(b) Each borrower shall implement internal control procedures that assure the reliability of, and ready access to, data stored on machine-readable media. The borrower's internal control procedures shall be documented by a responsible supervisory official.

(c) Records shall be indexed and retained in such a manner that they are easily accessible.

(d) The borrower shall have the hardware and software available to locate, identify, and reproduce the records in readable form without loss of clarity.

(e) At the expiration of the retention period, the borrower may use any appropriate method to destroy records.

(f) When any records are lost or destroyed before the expiration of the retention period set forth in the master index, a certified statement shall be added to the master index listing, as far as may be determined, the records lost or destroyed and describing the circumstances of the premature loss or destruction.

§ 1767.71 Periods of retention.

(a) Records of Rural Development borrowers of a kind not listed in the FERC regulations should be governed by those applicable to the closest similar records. Financial requirement and expenditure statements, which are not specifically covered by FERC regulations are recommended to be kept for one year after the ''as of date'' of Rural Development's loan fund and accounting review.

(b) Consumer accounts' records should be kept for those years for which patronage capital has not been allocated.

(c) Records supporting construction financed by Rural Development shall be retained until audited and approved by Rural Development.

(d) Records related to plant in service must be retained until the facilities are permanently removed from utility service, all removal and restoration activities are completed, and all costs are retired from the accounting records unless accounting adjustments resulting from reclassification and original costs studies have been approved by Rural Development or other regulatory body having jurisdiction.

(e) Life and mortality study data for depreciation purposes must be retained for 25 years or for 10 years after plant is retired whichever is longer.

§ 1767.72–1767.85 [Reserved]

Dated: July 3, 2007.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. E7–13389 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28690; Directorate Identifier 2006–SW–21–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Limited Model 206A and 206B Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Bell Helicopter Textron Canada Limited (BHTC) Model 206A and 206B helicopters, serial numbers (S/N) 0004 through 3906, with two-piece vertical stabilizer (fin) supports (fin supports) installed. This proposal would require inserting a revision into the applicable maintenance manual, verifying the torque on the fin support attachment hardware, inspecting the fin support bracket and vertical fin for paint or gaps, and inspecting the fin support bracket for cracking, and if a crack is found, replacing the two-piece vertical fin support with a one-piece casting support. This proposal is prompted by an accident in which the fin supports failed. The actions specified by this proposed AD are intended to detect improper torque of the fin support attachment hardware, gaps between the fin support bracket and the doubler, painted mating surfaces of the fin supports, vertical fin, and vertical fin inserts (fin inserts), and cracking in the fin supports, to prevent the vertical fin from rotating into the tail rotor, separation of the tail rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 11, 2007.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically;
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically;
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590;
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- *Fax:* 202–493–2251.

You may get the service information identified in this proposed AD from Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272.

You may examine the comments to this proposed AD in the AD docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number ''FAA–2007–28690, Directorate Identifier 2006–SW–21–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is located in Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

This document proposes adopting a new AD for BHTC Model 206A and 206B helicopters, S/N 0004 through 3906, with fin supports, part numbers (P/N) 206–031–417–003 or –007, or 206–031–418–001 or –005, installed. This proposal would require inserting a revision into the Scheduled Inspection section, chapter 5, of the applicable maintenance manual, implementing a recurring inspection at intervals not to exceed 100 hours time-in-service (TIS) or at each annual inspection, whichever occurs first, of the torque on the fin supports' attachment hardware, and inspecting the fin support for damage. Inspecting for paint on the mating surfaces of the fin support bracket and vertical fin; inspecting the vertical fin attaching hardware for proper torque and the amount of gap between the vertical fin support bracket and the vertical fin doubler; inspecting the fin support bracket for cracking using a 10× or higher power magnifying glass; and if either the torque or gap is out of limits or paint is present, fluorescent penetrant inspecting the vertical fin support for cracking would also be required. If a crack is found, replacing the vertical fin support with a one-piece casting support, P/N 206–033–426–003, would be required. This proposal is prompted by an accident in which the fin supports failed, allowing the lower part of the fin to contact the tail rotor blades, which resulted in subsequent separation of the gearbox and tail rotor from the helicopter. The actions specified by this proposed AD are intended to detect improper torque of the fin support attachment hardware, gaps between the fin support bracket and the doubler, painted mating surfaces of the fin supports, vertical fin, and fin inserts, and cracking in the fin supports, to prevent the vertical fin from rotating into the tail rotor, separation of the tail rotor, and subsequent loss of control of the helicopter.

Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHTC Model 206A and 206B helicopters, S/N 004 through 3906, with fin supports, P/N 206–031–417–003 or –007, or 206–031–418–001 or –005, installed. Transport Canada advises that a one-time inspection of the vertical fin mating surfaces is required to ensure an appropriate surface finish. In addition, they advise that a recurring torque

check of the vertical fin attaching hardware is required to maintain the structural integrity of the joint. They also advise that the initial inspection be performed at the next scheduled 100 hour TIS or annual inspection, but within three (3) months in accordance with BHTC Alert Service Bulletin No. 206–06–107, dated April 26, 2006, or later revisions approved by Transport Canada.

BHTC has issued Alert Service Bulletin No. 206–06–107, Revision A, dated June 15, 2006, which specifies a series of inspections of the two-piece fin supports, and also introduces revisions to Chapters 5 and 53 of the BHT–206A/B Series Maintenance Manual. The revision to Chapter 5 introduces a recurring vertical fin attaching hardware torque check and inspecting the fin supports for damage, which are to be accomplished at the next scheduled 100 hour TIS or annual inspection. The revision to Chapter 53 updates the procedures for removal, installation, and inspection of the vertical fin. Transport Canada classified this alert service bulletin as mandatory and issued AD No. CF–2006–12, dated June 5, 2006, to ensure the continued airworthiness of these helicopters in Canada.

These helicopter models are manufactured in Canada and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, Transport Canada has kept us informed of the situation described above. We have examined the findings of the Transport Canada, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type designs registered in the United States. Therefore, the proposed AD would require, at the next scheduled 100 hour TIS inspection, but no later than 90 days from the effective date of this AD, unless accomplished previously, and thereafter at intervals not to exceed 100 hours TIS or at each annual inspection, whichever occurs first, verifying the torque on the fin support attachment hardware. Inspecting the fin support bracket and vertical fin for paint or gaps, inspecting the fin support bracket for cracking using a 10x or higher power magnifying glass, and if needed, fluorescent penetrant inspecting for cracking would also be required, as well as replacing any two-piece fin support on which a crack is found with a one-piece casting support. Inserting a revision into the applicable maintenance manual would also be required. The actions would be required to be accomplished by following the specified portions of the alert service bulletin described previously.

We estimate that this proposed AD would affect 1,466 helicopters of U.S. registry and the proposed inspections would take approximately 4 work hours per helicopter at an average labor rate of $80 per work hour. If needed, replacing a fin support would take approximately 30 work hours. Required parts would cost approximately $3,260 for each fin support. Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators to be $3,300,820 for the fleet during the first year, assuming 7 inspections per helicopter are conducted, and assuming that replacing the fin support is required on 3 helicopters.

Regulatory Findings

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

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

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

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

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

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron Canada Limited: Docket No. FAA–2007–28690; Directorate Identifier 2006–SW–21–AD.

Applicability: Model 206A and 206B helicopters, serial numbers 0004 through 3906, with two-piece vertical stabilizer (fin) supports (fin supports), part number (P/N) 206–031–417–003 or –007, or P/N 206–031–418–001 or –005, installed, certificated in any category.

Compliance: Required at the next scheduled 100 hour time-in-service (TIS) inspection or annual inspection, but no later than 90 days after the effective date of this AD, unless accomplished previously, and thereafter at intervals not to exceed 100 hours TIS or at each annual inspection, whichever occurs first.

To detect improper torque of the fin support attachment hardware, gaps between the fin support bracket and the doubler, painted mating surfaces of the fin supports, vertical fin, and vertical fin inserts (fin inserts), and cracks in the fin supports, to prevent the vertical fin from rotating into the tail rotor, separation of the tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Insert Revision 4 of BHT–206A/B–SERIES–MM into the appropriate section of the maintenance manual.

(b) Determine the type and part number of the installed vertical fin by referring to the listing in step 2., Table 1, of the Accomplishment Instructions of Bell Helicopter Textron Alert Service Bulletin No. 206–06–107, Revision A, dated June 15, 2006 (ASB).

(c) For Type 1 and Type 3 vertical fins, inspect the vertical fin and fin support bracket for paint, and the vertical fin attaching hardware for proper torque, in accordance with steps 5. and 6. of the Accomplishment Instructions of the ASB.

(d) For Type 2 vertical fins, inspect the vertical fin and fin support bracket for paint, the vertical fin attaching hardware for proper torque, and the amount of gap between the vertical fin support bracket and the vertical fin doubler in accordance with steps 5., 6., and 7. of the Accomplishment Instructions of the ASB.

(e) If the inspections required by paragraphs (c) and (d) of this AD indicate that the torque and gap are within limits, and there is no paint present, visually inspect the vertical fin support bracket in the area of the vertical fin attaching hardware for a crack using a 10x or higher power magnifying glass.

(1) If no crack is found, re-torque the vertical fin attaching hardware to between 75 and 95 in. lbs. (8.47 to 10.75 Nm).

(2) If a crack is found, replace the two-piece vertical fin support bracket with a one-piece vertical fin casting support, P/N 206–033–426–003.

(f) Based on your finding in paragraphs (c) and (d) of this AD, if either the torque or gap is out of limits, or paint is present:

(1) Remove the vertical fin.

(2) Remove all the primer and paint coatings in the areas indicated in Figure I of the ASB.

(3) Fluorescent penetrant inspect (FPI) the vertical fin support.

(4) If a crack is found, replace the two-piece vertical fin support with a one-piece vertical fin casting support, P/N 206–033–426–003.

(5) If no crack is found, apply two coats of Polyamide Epoxy Primer on bare metal surfaces.

(g) For Type 2 vertical fins only:

(1) If incorrect washers (spacers) or no washers are installed, visually inspect the 4 vertical fin potted inserts as depicted in the vertical fin detail in Figure I of the ASB for any damage using a 10x or higher power magnifying glass.

(2) If any of the 4 vertical fin potted inserts is damaged with no other damage to the surrounding areas, remove and replace the damaged potted insert with an airworthy potted insert.

(3) After assuring that all 4 installed vertical fin potted inserts are undamaged, install the correct washers in accordance with step 9.d. of the Accomplishment Instructions of the ASB.

(h) This AD revises the helicopter maintenance manual by adding an inspection of the torque on the vertical fin attaching hardware, and inspections of the vertical fin and vertical fin support, to the 100-hour TIS and annual scheduled inspections.

(i) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Regulations and Policy Group, FAA, ATTN: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

Note: The subject of this AD is addressed in Transport Canada (Canada) AD No. CF–2006–12, dated June 5, 2006.

Issued in Fort Worth, Texas, on July 3, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–13607 Filed 7–12–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28691; Directorate Identifier 2006–SW–22–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS355E, F, F1, F2, and N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for the specified Eurocopter France (ECF) helicopters. That AD currently requires certain checks of the magnetic chip detector plug (chip detector) and the main gearbox (MGB) oil-sight glass, certain inspections of the lubrication pump (pump), and replacing the MGB and the pump with an airworthy MGB and pump, if necessary. Also, the AD requires that before an MGB or pump with any hours time-in-service (TIS) can be installed, it must meet the AD requirements. This action would retain those requirements but would add all serial-numbered pumps to the applicability. This proposal is prompted by additional cases of MGB lubrication pump deterioration and a further investigation that determined that all serial-numbered pumps might be affected. The actions specified by the proposed AD are intended to detect sludge on the chip detector and dark oil in the MGB, to prevent failure of the MGB pump, seizure of the MGB, loss of drive to an engine and main rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 11, 2007.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically;
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically;
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590;
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- *Fax:* 202–493–2251.
- You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

You may examine the comments to this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number ''FAA–2007–28691, Directorate Identifier 2006–SW–22–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. You may review the DOT's complete Privacy Act Statement in the

Federal Register published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Operations office (telephone (800) 647–5527) is located in Room W12–140 on the ground floor of the West Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On May 24, 2006, we issued AD 2003–21–09 R1, Amendment 39–14621 (71 FR 31070, June 1, 2006), to revise AD 2003–21–09. The revised AD required the same actions as AD 2003–21–09 but limited the applicability to ECF helicopters with a pump, part number (P/N) 355A32–0700–01, with a serial number (S/N) 5731 or higher or with a S/N below 5731 if the pump has been overhauled or repaired after June 1, 1995. AD 2003–21–09 R1 was prompted by an investigation that revealed a malfunction occurred after modifying the pump case on certain pumps and after major overhaul and repairs. The requirements of that AD limited the applicability to certain pumps and were intended to detect sludge on the chip detector and dark oil in the MGB, to prevent failure of the MGB pump, seizure of the MGB, loss of drive to an engine and main rotor, and subsequent loss of control of the helicopter.

Since issuing that AD, ECF has issued Revision 1 to Alert Service Bulletin (ASB) No. 05.00.40, dated January 5, 2006, which adds pumps, P/N 355A32–0700–01, with a S/N SAR 1, SAR 2, or SAR 5 to its effectivity. Also, Eurocopter has issued Emergency ASB No. 05.00.40, Revision 2, dated December 20, 2006, which supersedes the instructions in Revision 1 and extends the effectivity of these instructions to all serial-numbered pumps, P/N 355A32–0700–01, 355A32–0700–02, and 355A32–0701–00. Revision 2 states that a further incident of MGB pump malfunction has been reported since the original four cases and shows that the machining modification of the earlier pumps is not the only reason for early deterioration of the oil pumps. The DGAC classified these ASBs as mandatory and issued AD No. F–2006–027, Revision A, dated February 1, 2006, and Emergency AD No. 2006–0378–E, effective December 27, 2006, which supersedes and cancels AD No. F–2006–027.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type designs. Therefore, the proposed AD would supersede AD 2003–21–09 R1 and retain the requirements in that AD but would also require adding pumps, P/N 355A32–0700–01, 355A32–0700–02, and 355A32–0701–00, any S/N, to the applicability.

The FAA estimates that this proposed AD would affect 84 helicopters of U.S. registry, assuming they all have MGB pumps with applicable S/Ns. It would take about:

- 10 minutes to check the chip detector and the MGB oil sight glass,
- 4 work hours to remove the MGB and pump,
- 1 work hour to inspect the pump,
- 4 work hours to install a serviceable MGB and pump at an average labor rate of $80 per work hour, and
- $4,000 for an overhauled pump and up to $60,000 for an overhauled MGB per helicopter.

Based on these figures, we estimate the revised total cost impact of the AD on U.S. operators to be $355,920 per year, assuming replacement of one overhauled MGB and pump on one helicopter per year and a daily check on all helicopters for 260 days per year.

Regulatory Findings

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

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

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

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

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

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–14621 (71 FR 31070, June 1, 2006), and by adding a new airworthiness directive (AD), to read as follows:

Eurocopter France: Docket No. FAA–2007–28691; Directorate Identifier 2006–SW–22–AD. Supersedes AD 2003–21–09 R1, Amendment 39–14621, Docket No. 2003–SW–10–AD.

Applicability: Model AS355E, F, F1, F2, and N helicopters, with a main gear box (MGB) lubrication pump (pump), part number (P/N) 355A32–0700–01, 355A32–0700–02, or 355A32–0701–00, any serial number (S/N), certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect sludge on the chip detector and dark oil in the MGB, to prevent failure of the MGB pump, seizure of the MGB, loss of drive to an engine and main rotor, and subsequent loss of control of the helicopter, do the following:

(a) Before the first flight of each day and at intervals not to exceed 10 hours time-in-service (TIS), check the MGB magnetic chip detector plug (chip detector) for any sludge. Also, check for dark oil in the MGB oil-sight glass. An owner/operator (pilot) holding at least a private pilot certificate may perform this visual check and must enter compliance into the aircraft maintenance records in accordance with 14 CFR 43.11 and 91.417(a)(2)(v). ''Sludge'' is a deposit on the chip detector that is typically dark in color and in the form of a film or paste, as compared to metal chips or particles normally found on a chip detector. Sludge may have both metallic or nonmetallic properties, may consist of copper (pinion bearing), magnesium (pump case), and steel (pinion) from the oil pump, and a nonmetallic substance from the chemical breakdown of the oil as it interacts with the metal.

(b) Before further flight, if any sludge is found on the chip detector, remove, open, and inspect the pump.

(c) Before further flight, if the oil appears dark in color when it is observed through the MGB oil-sight glass, take an oil sample. If the oil taken in the sample is dark or dark purple, before further flight, remove, open, and inspect the pump.

Note 1: Eurocopter France Alert Service Bulletin (ASB) No. 05.00.40, Revision 1, dated January 5, 2006, and Emergency ASB No. 05.00.40, Revision 2, dated December 20, 2006, pertain to the subject of this AD.

(d) While inspecting the pump, if you find any of the following, replace the MGB and the pump with an airworthy MGB and pump before further flight:

(1) Crank pin play,

(2) Out of round bronze bushing in area ''A'' of Figure 1 of this AD,

(3) Offset of the driven gear pinion,

(4) Metal chips, or

(5) Wear in area ''C'' of Figure 1 of this AD.

BILLING CODE 4910–13–P

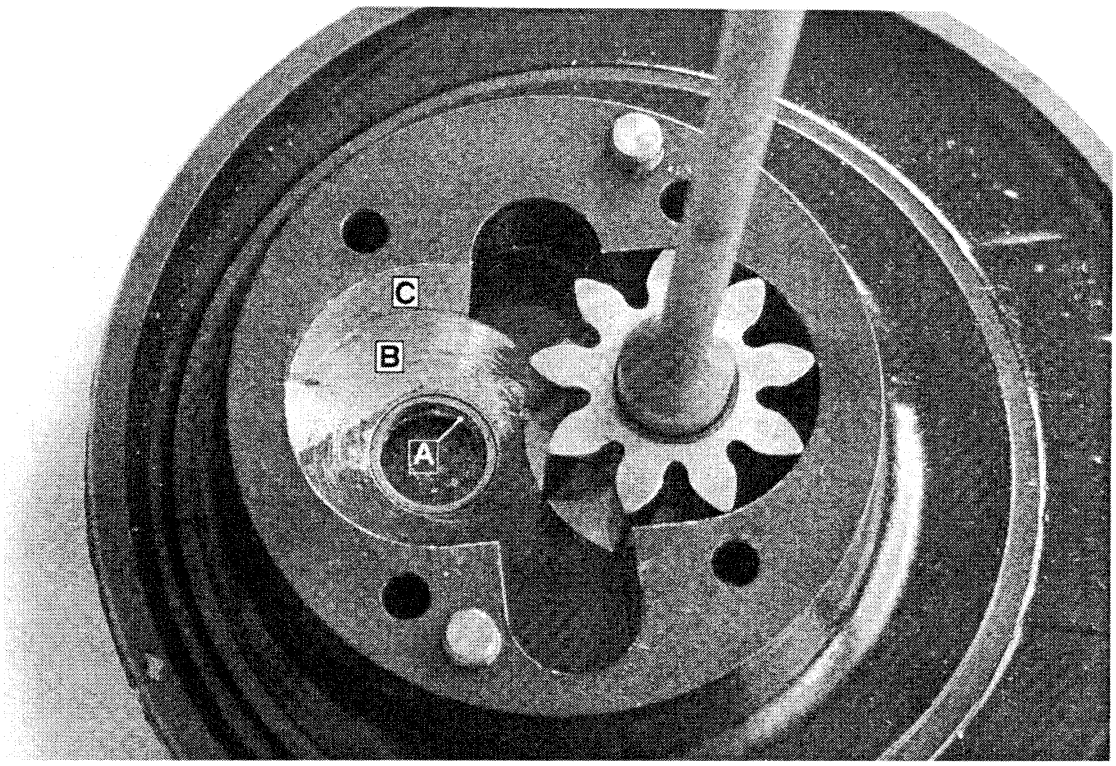

Figure 1

Note 2: If wear is present in the B area only, as depicted in Figure 1, replacing the MGB and the pump is not required.

(e) Before replacing an MGB with a pump to which this AD applies, accomplish the requirements of paragraphs (a), (b), and (c) of this AD.

(f) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Safety Management Group, Rotorcraft Directorate, FAA, ATTN: Ed Cuevas, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961, for information about previously approved alternative methods of compliance.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No. F–2006–027, dated February 1, 2006, and Emergency AD No. 2006–0378–E, dated December 21, 2006.

Issued in Fort Worth, Texas, on July 2, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–13624 Filed 7–12–07; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28689; Directorate Identifier 2006–SW–17–AD]

RIN 2120–AA64

Airworthiness Directives; Trimble or FreeFlight Systems 2101 I/O Approach Plus Global Positioning System (GPS) Navigation Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for the Trimble or FreeFlight Systems 2101 I/O Approach Plus global positioning system (GPS) navigation system (2101 I/O Approach Plus system). The AD would require a software upgrade for this system. This proposal is prompted by an incident that led to the discovery of several annunciation errors with the 2101 I/O Approach Plus system. The actions specified by the proposed AD are intended to prevent a pilot from making an unsafe decision based on erroneous information provided by the 2101 I/O Approach Plus system, which could result in loss of control of the aircraft.

DATES: Comments must be received on or before September 11, 2007.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically;
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically;
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590;
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- *Fax:* (202) 493–2251.

You may get the service information identified in this proposed AD from FreeFlight Systems, 3700 IH 35, Waco, Texas, USA, 76706, or by calling (254) 662–0000.

You may examine the comments to this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Sung-Hui Cavazos, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Special Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5142, fax (817) 222–5785.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number ''FAA–2007–28689, Directorate Identifier 2006–SW–17–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is located in Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

This document proposes adopting a new AD for the 2101 I/O Approach Plus system that would require a software upgrade. This proposal is prompted by an incident involving a Federal Republic of Germany military helicopter that led to the discovery of the following system malfunctions:

- Under certain conditions, when the system enters Dead Reckoning (DR) mode, the navigation and Super flags are removed from the display; however, the DR message and associated message light annunciation may fail to illuminate;
- The navigation and Super flags may not be removed from the display as required during approach mode after loss of a Receiver Autonomous Integrity Monitor (RAIM) condition; and
- When a RAIM error occurs (detects a satellite failure) and the system is unable to exclude the affected satellite, the unit may fail to enter DR mode and may fail to remove the navigation and Super flags from the display.

These malfunctions could result in the following unsafe conditions:

- System could fail when interfaced with Terrain Awareness Warning System (TAWS) and the TAWS can fail to annunciate terrain alerts;
- System could provide misleading heading information; or
- System may provide erroneous navigation fault annunciations.

The actions specified by the proposed AD are intended to prevent a pilot from making an unsafe decision based on erroneous information provided by the 2101 I/O Approach Plus system, which could result in loss of control of the aircraft.

These unsafe conditions are likely to exist or develop on any aircraft with a 2101 I/O Approach Plus system installed. Therefore, the proposed AD would require, within 180 days after the effective date of the AD for aircraft

approved for instrument flight rule (IFR) flight, or 270 days after the effective date of the AD for aircraft approved for visual flight rule (VFR) flight, upgrading the 2101 I/O Approach Plus system software. This AD is applicable to the units that currently have software revision, part number (P/N) 81440–xx–241E, –241F, or –241G installed. The ''xx'' in the P/N is a place-holder for either 02, 03, 12, or 13. FreeFlight Systems Service Information Letter SIL 81440–xx–00–17, dated November 7, 2005, was issued when the manufacturer believed that revision, P/N 81440–xx–241H, would correct the erroneous information displays. However, since the Service Information Letter was issued, it was determined that software revision, P/N 81440–xx–241H, did not correct all the 2101 I/O Approach Plus system malfunctions. An additional software problem which can cause the system to enter Dead Reckoning (DR) mode unintentionally was subsequently discovered. System software revision, P/N 81440–xx–241J, has been approved to correct all the known malfunctions. Updating the system software with software revision, P/N 81440–xx–241J, would be required by the proposed AD.

We estimate that this proposed AD would affect 259 2101 I/O Approach Plus systems installed on aircraft of U.S. registry, and the software upgrade would take approximately 2 work hours per aircraft to accomplish at an average labor rate of $80 per work hour. FreeFlight Systems has stated that they would absorb some of the cost of the upgrade, including cost of the software upgrade and work hours for upgrading the existing software. Required parts would cost approximately $300 per aircraft. Based on these figures, the total cost impact of the proposed AD on U.S. operators would be $72,520, assuming one 2101 I/O Approach Plus system is installed on each aircraft, the manufacturer would provide all $300 in parts at no cost, and the only costs for these parts would be $120 for shipping costs for each unit.

Regulatory Findings

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

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

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

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

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

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

Authority for This Rulemaking

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Trimble or Freeflight Systems: Docket No. FAA–2007–28689; Directorate Identifier 2006–SW–17–AD.

Applicability: All aircraft with a Trimble or FreeFlight Systems 2101 I/O Approach Plus global positioning system (GPS) navigation system (2101 I/O Approach Plus system), part number 81440–xx–241E, 81440–xx–241F, or 81440–xx–241G (xx indicates either the numbers 02, 03, 12, or 13), with software revision –241E, –241F, or 241G, installed, certificated in any category.

Compliance: Required within 180 days after the effective date of this AD for aircraft approved for instrument flight rule (IFR) flight, or 270 days after the effective date of this AD for aircraft approved for visual flight rule (VFR) flight, unless accomplished previously.

To prevent a pilot from making an unsafe decision based on erroneous information provided by the 2101 I/O Approach Plus system, which could result in loss of control of the aircraft, accomplish the following:

(a) Upgrade the system software of any Trimble or FreeFlight Systems 2101 I/O Approach Plus GPS navigation system, part number (P/N) 81440–xx–241E, 81440–xx–241F, or 81440–xx–241G (xx indicates the numbers 02, 03, 12, or 13), that currently has software revision –241E, –241F, or –241G, to system software revision, P/N 81440–xx–241J.

Note: FreeFlight Systems Service Information Letter SIL 81440–XX–00–17, dated November 7, 2005, pertains to the subject of this AD. However, that service information letter was issued as a temporary fix to the issue. Since the Service Information Letter was issued, system software revision, P/N 81440–xx–241J, has been approved, and upgrading to that software revision is required by this AD.

(b) Upgrading the Trimble or FreeFlight Systems 2101 I/O Approach Plus GPS Navigation System's software, system software revision, P/N 81440–xx–241J, is considered a terminating action for the requirements of this AD.

(c) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Special Certification Office, FAA, ATTN: Sung-Hui Cavazos, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Special Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5142, fax (817) 222–5785, for information about previously approved alternative methods of compliance.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the aircraft to a location where the requirements of this AD can be accomplished provided that the aircraft is operated under VFR only.

Issued in Fort Worth, Texas, on July 2, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. E7–13606 Filed 7–12–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 301

[REG–163195–05]

RIN 1545–BG53

Information Reporting and Backup Withholding for Payment Card Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the information reporting requirements, information reporting penalties, and backup withholding requirements for payment card transactions. The proposed regulations in this document affect payors (and their authorized agents) and payees of certain reportable payments and provide guidance necessary to comply with the law. The proposed regulations are necessary to address implementation and notice furnishing issues that arose after publication of final regulations under section 3406(g) that were published in the **Federal Register** on July 13, 2004 in Treasury decision 9136 (69 FR 41928). This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by October 9, 2007. Outlines of topics to be discussed at the public hearing scheduled for November 7, 2007, must be received by October 9, 2007.

Applicability Dates: See the Proposed Effective Dates section of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG–163195–05), Room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–163195–05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS–REG–163195–05).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Michael Hara (202) 622–4910; concerning submission of comments, Kelly Banks (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these proposed regulations has been previously reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1819. Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by September 11, 2007. Comments are specifically requested concerning the accuracy of the estimated burden associated with the collection of information and suggestions on how the burden may be minimized.

The collection of information is in § 31.3406(g)–1(f)(3). This information is necessary to notify a cardholder/payor that a merchant/payee is not a qualified payee for purposes of the regulations, and for cardholders/payors and merchant/payees to consent to receive notices electronically. This information will alert a cardholder/payor that backup withholding under section 3406 may apply for future reportable payments. The collection of information is voluntary to obtain a benefit. The likely respondents are business or other for-profit institutions.

Estimated Total Annual Reporting Burden: 37,239,570 hours.

Estimated Average Annual Burden Per Respondent: 1.19 hours.

Estimated Number of Respondents: 31,256,000.

Estimated Frequency of Responses: Monthly.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Background

This document contains proposed amendments to 26 CFR part 31 relating to backup withholding under section 3406 of the Internal Revenue Code (Code) and proposed amendments to 26 CFR part 301 relating to waivers under Code section 6724 of information reporting penalties under Code sections 6721 and 6722.

Section 6041(a) of the Code requires persons engaged in a trade or business and making payment in the course of such trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income of $600 or more in any one taxable year to file information returns with the IRS. Section 6041(d) requires the payor to furnish information statements to payees. Among other items, the payor must include the payee's name and taxpayer identification number (TIN) on the information return and the information statement. Section 6041A of the Code imposes similar requirements with respect to payments of remuneration for services and direct sales.

In general, section 6721(a)(1) imposes a $50 penalty for each failure to file an information return on or before the required filing date, for any failure to include all of the information required to be shown on the return, or for the inclusion of incorrect information. Section 6722(a)(1) imposes similar penalties with respect to the information statements required to be furnished to payees. Section 6724(a) provides that no penalty will be imposed under section 6721 or section 6722 if it is shown that the failure is due to reasonable cause and not to willful neglect.

Section 3406(a)(1) requires a payor to withhold on any reportable payment (as defined in section 3406(b)(1)) if (1) the payee fails to furnish the payee's TIN to the payor as required or (2) the Secretary notifies the payor that the TIN furnished by the payee is incorrect. Section 3406(a)(1) also requires withholding in certain other situations that are not addressed in these regulations. Section 3406(i) provides that the Secretary shall prescribe the regulations necessary or appropriate to carry out the purposes of section 3406.

A payment card transaction is a transaction in which a cardholder/payor uses a payment card to purchase goods or services and a merchant agrees to accept a payment card as a means of obtaining payment. A payment card is a card (or an account) that (1) is issued by a payment card organization or one of its members, affiliates, or licensees to a cardholder/payor and (2) represents, upon presentation to a merchant/payee, an agreement of the cardholder to pay the merchant through the payment card organization. A payment card organization is an entity that sets the standards and provides the mechanism, acting directly or indirectly through its members, affiliates, or licensees, for

effectuating payment between a purchaser and a merchant in a payment card transaction.

Information reporting compliance is difficult in payment card transactions because an invoice may not be issued, and the employee representing the cardholder/payor in the transaction might not request and obtain the name/TIN combination of the merchant/payee at the time of the transaction. In addition, backup withholding may be difficult because a merchant receives payment from the payment card organization within a few days after the transaction, but the cardholder does not pay the payment card organization until after it receives a payment card monthly billing statement.

2004 Regulations

On July 13, 2004, final regulations relating to the information reporting requirements, information reporting penalties, and backup withholding requirements for payment card transactions effectuated through a Qualified Payment Card Agent (QPCA) were published in the **Federal Register** (TD 9136; 69 FR 41938). These regulations (the 2004 QPCA regulations) provide limited exceptions to the backup withholding requirements for payment card transactions. The principal exception in § 31.3406(g)–1(f)(1)(i) of the regulations applies if the payment is made through a QPCA and the payee is a qualified payee.

Section 31.3406(g)–1(f)(2)(vi) of the regulations provides that a payee is a qualified payee if, at the time of the payment, the QPCA has validated the payee's TIN through the IRS TIN Matching Program or if the payment is made during the six-month period following the date on which the QPCA first makes a payment to the payee (six-month grace period). Under the regulations, a QPCA must notify a cardholder/payor of any merchant/payees that are not qualified payees.

Section 31.3406(g)–1(f)(1)(ii) of the regulations provides a second exception for payments to persons other than qualified payees. Under this exception, reportable payments made through a QPCA are exempt from backup withholding if the purchase to which the payment relates is made no later than two months after the date by which the QPCA is required to provide notification to the payor that the payee is not a qualified payee.

In addition, the regulations provide in § 301.6724–1(e) and (f) that cardholder/payors may establish, based on good faith reliance on a QPCA, that a failure subject to penalty under section 6721 or 6722 is due to reasonable cause.

Other Guidance

On July 14, 2004, the IRS issued Rev. Proc. 2004–42 (2004–2 CB 121) which establishes procedures to implement the rules contained in the 2004 QPCA regulations. The revenue procedure provides that a QPCA may act on behalf of a cardholder/payor for purposes of soliciting, collecting, and validating the names/TINs of the merchant/payees and on behalf of a merchant/payee for purposes of furnishing the payee's name and TIN to the cardholder/payor. The revenue procedure also sets forth the requirements that a payment card organization must satisfy to obtain an IRS determination that it is a QPCA. These requirements include requirements that the payment card organization provide certain notifications to cardholder/payors and merchant/payees and obtain the authorization of cardholder/payors and merchant/payees to act on their behalf for certain purposes. See § 601.601.(d)(2)(ii)(b).

Requests for Changes

Some taxpayers subject to the 2004 QPCA regulations and related procedures have requested that the regulations in § 31.3406(g)–1(f) be amended, and the procedures in Rev. Proc. 2004–42 be modified, to allow a merchant to accept a QPCA's payment card even if the merchant opts out of the QPCA program. Taxpayers subject to the 2004 QPCA regulations and related procedures have also requested that the regulations be amended, and the procedures in Rev. Proc. 2004–42 be modified, to reflect the current electronic business operations of the payment card industry. Specifically, payment card organizations have asked that they be permitted to furnish required notifications electronically, including by posting on a secure website.

Explanation of Provisions

The IRS and the Treasury Department agree that a merchant/payee should be allowed to accept a QPCA's payment card even if the merchant/payee opts out of the QPCA program. The IRS is issuing a proposed revenue procedure providing that a merchant/payee may opt out of the QPCA program by completing and returning a written statement to the payment card organization and that a nonparticipating merchant/payee may continue to accept the organization's payment card. If a merchant/payee opts out of the QPCA program, payments to the merchant/payee made after the six-month grace period are treated under § 31.3406(g)–1(f)(2)(vi) of the proposed regulations as payments to a person other than a qualified payee. In addition, the proposed regulations modify the rule permitting cardholders to rely on a QPCA to solicit, validate, and furnish a payee's TIN. Under proposed § 301.6724–1(e)(1)(vi)(H), such reliance generally would not be permitted after the cardholder is notified that the merchant is not a participating payee.

These proposed regulations also modify the notification requirements in § 31.3406(g)–1(f)(3) by adding notification requirements relating to payments to nonparticipating merchant/payees. Although QPCAs do not act on behalf of nonparticipating payees in furnishing payee data to cardholders, the proposed regulations provide that a QPCA is required to furnish certain information to cardholders that use the QPCA's card to make reportable payments to nonparticipating payees. Specifically, the QPCA would be required to inform the cardholder that the payee is not a participant in the QPCA program and is not a qualified payee. In addition, the QPCA must advise the cardholder/payor of the cardholder/payor's obligation to solicit the TIN of a nonparticipating merchant/payee to which it makes a reportable payment.

In the preamble to the 2004 QPCA regulations, the IRS and the Treasury Department indicated they were considering whether a QPCA should be allowed to furnish information regarding payee status electronically on a secure website. The IRS and the Treasury Department have concluded that it is appropriate to propose modifications to the QPCA regulations and related procedures to reflect the current electronic business operations of the payment card industry.

This is consistent with the precedent set in the electronic statement regulations issued under Code sections 6041, 6050S, and 6051 on February 18, 2004 (TD 9114; 2004–1 CB 589). In the electronic statement regulations, the IRS and Treasury Department allowed electronic furnishing of statements on Form W–2, ''Wage and Tax Statement,'' Form 1098-T, ''Tuition Payments Statement,'' and Form 1098-E, ''Student Loan Interest Statement,'' to individuals who consent to receive the statements electronically. The preamble to the electronic statement regulations explains that the regulations are consistent with the general goals of (1) Section 2001 of the Internal Revenue Service Restructuring and Reform Act of 1998 (Pub. L.105–206) to eliminate barriers, provide incentives, and use competitive forces to increase electronic

filings and (2) the Electronic Signatures in Global and National Commerce Act (Pub. L. 106–229) to facilitate voluntary use of electronic records. The electronic statement regulations aimed at striking a balance between furnishers' desires to reduce costs and modernize business processes by furnishing statements electronically and the tax administration concern that individuals have secure access to the information they need to fulfill their Federal tax obligations.

The IRS and the Treasury Department have concluded that a similar balance is appropriate in this context and that payment card organizations should be allowed to furnish notifications of payee status and participation electronically, including by posting on a secure website, if certain requirements are met to assure consistency with the Electronic Signatures in Global and National Commerce Act. These proposed regulations provide that the notifications of payee status and participation may be furnished electronically if, among other things, the payment card organization (1) Obtains certain consents from cardholder/payors and merchant/payees and (2) provides certain disclosures to cardholder/payors and merchant/payees.

Proposed Effective Date

Section 31.3406(g)–1(f)(3)(ii) (relating to electronic furnishing of notifications) is proposed to be effective on the date it is published as a final regulation, and the other amendments to § 31.3406(g)–1 are proposed to be applicable to payments made after December 31, 2007. The amendments to § 301.6724–1 are proposed to be applicable to information returns and information statements relating to payments made after December 31, 2007.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

When an Agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6) requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' which will ''describe the impact of the proposed rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the RFA provides an exception to this requirement if the agency certifies that the proposed rulemaking will not have a significant economic impact on a substantial number of small entities.

The proposed rule affects merchant/payees and cardholder/payors. The IRS estimates there are 5,200,000 merchant/payees and 26,054,000 cardholders/payors that qualify as small entities. Therefore, the IRS has determined that this proposed rule will have an impact on a substantial number of small entities.

The IRS has determined, however, that the impact on entities affected by the proposed rule will not be significant. The burden on a merchant/payee that opts out of the QPCA program by completing and returning a written statement to the payment card organization is minimal. The burden on cardholders/payees and merchant/payors that consent to electronic furnishing of notices by returning a consent form and confirming the consent electronically is also insignificant.

Although QPCAs have a reporting burden under the proposed rule to furnish certain notices to cardholder/payors, QPCAs are large businesses and do not fall under the definition of small entities.

Based on these facts, the IRS hereby certifies that the collection of information contained in these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required.

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses. The IRS invites comments from members of the public who believe there will be a significant impact either on cardholder/payors or merchant/payees.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for November 7, 2007 at 10:00 a.m. in the auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by October 9, 2007. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Michael Hara, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division.

List of Subjects

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Income taxes, Gift taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 301 are proposed to be amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT THE SOURCE

Paragraph 1. The authority citation for part 31 continues to read, in part, as follows:

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

Par. 2. Section 31.3406(g)–1(f) is amended by:

1. Revising paragraphs (f)(2)(vi)(A) and (f)(3).

2. Adding paragraph (f)(2)(vii).

The revisions and addition read as follows:

§ 31.3406(g)–1 Exceptions for payments to certain payees and certain other payments.

* * * * *

(f) * * *

(2) * * *

(vi) * * *

(A) The payee is a participating payee with respect to the payment and, at the time the QPCA makes the payment, the QPCA has obtained the payee's TIN and the payee's TIN has been validated through the IRS TIN Matching Program; or

* * * * *

(vii) *Participating payee.* For purposes of this section, a payee is a *participating payee* with respect to a reportable payment if—

(A) At the time the QPCA makes the payment, the payee has authorized the payment card organization to act on its behalf in furnishing its name, taxpayer identification number, and corporate status to cardholder/payors under applicable procedures issued under § 601.601 of this chapter; or

(B) The payment is made before January 1, 2008.

(3) *Notifications of payee status and participation*—(i) *In general*—(A) *Nonqualified payees.* In the case of a payment to a payee other than a qualified payee (as defined in paragraph (f)(2)(vi) of this section) with respect to the payment, the QPCA acting directly or indirectly through its members, affiliates, or licensees must notify the payor that the payee is not a qualified payee. If the notification relates to a payment made after December 31, 2007, the notification must also inform the payor that IRS rules and regulations may require the payor to backup withhold on reportable payments that relate to purchases the payor makes from the payee after a specified date. The specified date to be provided in the notification is the last day of the two-month period described in paragraph (f)(1)(ii) of this section. A notification by the QPCA that a payee is not a qualified payee does not constitute notice by the IRS that the payee's TIN is incorrect for purposes of section 3406(a)(1)(B) and § 31.3406(d)–5.

(B) *Nonparticipating payees.* In the case of a payment made after December 31, 2007, to a payee other than a participating payee (as defined in paragraph (f)(2)(vii) of this section), the QPCA acting directly or indirectly through its members, affiliates, or licensees must notify the payor that the payee is not a participating payee. A notification that the payee of a payment is not a participating payee must also inform the payor that IRS rules and regulations require the payor to solicit the payee's TIN if the payor has made a reportable payment to the payee.

(C) *Due date and format.* The notifications must be furnished during the four-month period beginning on the date on which the QPCA makes the payment. Notifications may be provided in a quarterly or other regular report of payee data to the cardholder/payor and may consist of an asterisk, footnote, or other mark next to the payee's name, with the text of the notifications at the bottom of the page or at the end of the list of payee data.

(ii) *Electronic furnishing of notifications of payee status and participation*—(A) *In general.* The notifications required under paragraph (f)(3)(i) of this section may be furnished in an electronic format if the requirements of this paragraph (f)(3)(ii) are satisfied.

(B) *Consents—(1) Cardholder/Payor—(i) In general.* The cardholder/payor consent requirement must be satisfied. The cardholder/payor consent requirement is satisfied only if the QPCA has provided the disclosure statement required under paragraph (f)(3)(ii)(C) of this section to the cardholder/payor and, after receiving the disclosure statement, the cardholder/payor has affirmatively consented to receive the notifications in an electronic format. The consent may be provided electronically in any manner that reasonably demonstrates that the cardholder/payor can access the notifications in the electronic format in which they will be furnished. Alternatively, the consent may be provided in a paper document if it is confirmed electronically in a manner that reasonably demonstrates that the cardholder/payor can access the notifications in the electronic format in which they will be furnished.

(ii) Withdrawal of consent. The cardholder/payor consent requirement is not satisfied with respect to a notification if the cardholder/payor withdraws the consent and the withdrawal takes effect before the notification is furnished. Only paper notifications may be furnished to the cardholder/payor after the withdrawal takes effect. The QPCA may provide that a withdrawal of consent takes effect at any time up to 30 days after receipt by the QPCA. The QPCA may also provide that a request for paper notifications will be treated as a withdrawal of consent.

(iii) Change in hardware or software requirements. If a change in the hardware or software required to access the notifications creates a material risk that the cardholder/payor will not be able to access the notifications, the cardholder/payor consent requirement is not satisfied with respect to notifications furnished after the change unless the cardholder/payor has provided a new consent to receive the notifications in an electronic format. The new consent, whether electronic or by paper document, must be provided or confirmed in a manner that reasonably demonstrates that the cardholder/payor can access the notifications in the revised electronic format in which they will be furnished.

(2) Merchant/payee—(i) In general. The merchant/payee consent requirement must be satisfied. The merchant/payee consent requirement is satisfied with respect to notifications regarding a merchant/payee only if the merchant/payee has affirmatively consented to the electronic furnishing of the notifications.

(ii) Withdrawal of consent. The merchant/payee consent requirement is not satisfied with respect to a notification regarding a merchant/payee if the merchant/payee withdraws its consent and the withdrawal takes effect before the notification is furnished. The QPCA may provide that a withdrawal of consent takes effect at any time up to 30 days after receipt by the QPCA.

(C) *Required disclosures—(1) In general.* A QPCA requesting a cardholder/payor's consent to receive notifications in electronic format must provide to the cardholder/payor a clear and conspicuous disclosure statement containing each of the disclosures described in this paragraph (f)(3)(ii)(C).

(*2) Paper statement.* The cardholder/payor must be informed that the notifications will be furnished on paper if the cardholder/payor does not consent to receive them electronically.

(3) Scope and duration of consent. The cardholder/payor must be informed of the scope and duration of the consent. For example, the cardholder/payor must be informed whether the consent is for a specified term or will remain in effect until it is withdrawn in the manner described in paragraph (f)(3)(ii)(B)(*1*)(*ii*) of this section.

(*4*) *Post-consent request for paper notifications.* The cardholder/payor must be informed of any procedure for obtaining a paper copy of the notifications after giving the consent described in paragraph (f)(3)(ii)(B)(*1*)(*i*) of this section and whether a request for paper notifications will be treated as a withdrawal of consent.

(5) Withdrawal of consent. The cardholder/payor must be informed that—

(*i*) The cardholder/payor may withdraw a consent by writing (electronically or on paper) to the person or department whose name, mailing address, telephone number, and e-mail address is provided in the disclosure statement;

(*ii*) The QPCA will confirm the withdrawal and the date on which it takes effect in writing (either electronically or on paper); and

(*iii*) A withdrawal of consent will not apply to a notification that was furnished electronically before the date on which the withdrawal of consent takes effect.

(6) Notice of termination. The cardholder/payor must be informed of the conditions under which the QPCA will cease furnishing notifications electronically.

(7) Updating information. The cardholder/payor must be informed of the procedures for updating the information needed by the QPCA to contact the cardholder/payor. The QPCA must inform the cardholder/payor of any change in the QPCA's contact information.

(8) Hardware and software requirements. The cardholder/payor must be provided with a description of the hardware and software required to access, print, and retain the notifications.

(D) *Notice of availability—(1) In general.* If the notifications to a cardholder/payor are furnished on a website, the QPCA must also furnish a notice of availability to the cardholder/payor within 30 days after posting the notifications. The notice of availability must inform the cardholder/payor that the notifications are available on the website and must specify the date on which the notifications will no longer be available on the Web site. The notice of availability may be delivered by mail, electronic mail, or in person. The notice of availability must provide instructions on how to access and print the notifications and must include the following statement in capital letters, ''IMPORTANT TAX DOCUMENT AVAILABLE.'' If the notice of availability is provided by electronic mail, the foregoing statement must be on the subject line of the electronic mail.

(2) Undeliverable electronic address. If an electronic notice of availability is returned as undeliverable, and the correct electronic address cannot be obtained from the furnisher's records or from the cardholder/payor, then the furnisher must furnish the notice by mail within 30 days after the electronic notice is returned.

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read, in part, as follows:

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

Par. 4. Section 301.6724–1 is amended by revising paragraph (e)(1)(vi)(H) to read as follows:

§ 301.6724–1 Reasonable cause.

* * * * *

(e) * * *

(1) * * *

(vi) * * *

(H) In the case of information returns required to be filed, and information returns required to be furnished, after December 31, 2005, the filer—

(1) Satisfies the solicitation requirement of paragraph (e)(1)(i) of this section with respect to a payment made through a QPCA if the filer relies in good faith on the QPCA to solicit, record, validate, and furnish the payee's TIN;

(2) Satisfies the solicitation requirement of paragraph (e)(1)(ii) of this section with respect to a payment made through a QPCA if the filer relies in good faith on the QPCA to solicit, record, validate, and furnish the payee's TIN and does not receive notification that the payee is not a participating payee more than 30 days before the last day of the annual solicitation period; and

(3) Satisfies the solicitation requirement of paragraph (e)(1)(iii) of this section with respect to a payment made through a QPCA if, on or before December 31 of the year immediately succeeding the year in which the payment is made, the filer undertakes a solicitation of the payee's TIN or receives from the QPCA a TIN that the filer believes in good faith to be the payee's correct TIN.

* * * * *

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E7–13493 Filed 7–12–07; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 78 and 97

[EPA–HQ–OAR–2004–0439, FRL–8339–1]

RIN 2060–AN12

Petition for Reconsideration and Proposal for Withdrawal of Findings of Significant Contribution and Rulemaking for Georgia for Purposes of Reducing Ozone Interstate Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of comment period.

SUMMARY: The EPA is announcing an extension of the public comment period on our proposed response to a Petition for Reconsideration regarding a final rule we issued under Section 110 of the Clean Air Act related to the interstate transport of nitrogen oxides (NO_X). On June 8, 2007, EPA proposed to rescind the applicability of the requirements of the Phase II NO_X State Implementation Plan (SIP) Call Rule to the State of Georgia, only. The EPA is reopening the comment period that originally ends on July 23, 2007. The extended comment period will close on August 24, 2007. The EPA is extending the comment period because of a request we received in a timely manner.

DATES: *Comments.* Comments must be received on or before August 24, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2004–0439, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epamail.epa.gov.*
- *Fax:* 202–566–1741.
- *Mail:* Attention ID No. EPA–HQ–OAR–2004–0439, U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Avenue, Northwest, Mailcode: 6102T, Washington, DC 20460. Please include a total of 2 copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St. NW., Washington DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–

HQ–OAR–2004–0439. Such deliveries are only accepted during the Docket(s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0439. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the U.S. Environmental Protection Agency, Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Tim Smith, Air Quality Policy Division, U.S. EPA, Office of Air Quality Planning and Standards (C504–03), Research Triangle Park, North Carolina 27711, telephone number (919) 541–4718, facsimile number (919) 541–0824, e-mail address: *smith.tim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2004–0439.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Dated: July 5, 2007.

Stephen D. Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. E7–13622 Filed 7–12–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA-B–7725]

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	
Franklin County, Ohio, and Incorporated Areas				
Whims Ditch	950 feet upstream of Little Avenue	None	+704	City of Columbus Franklin County (Unincorporated Areas).
	At Frank Road	None	+704	

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

ADDRESSES

City of Bexley

Maps are available for inspection at 2242 East Main Street, Bexley, OH 43215.
Send comments to Ms. Dorothy Pritchard, Service Director, City of Bexley, 2242 East Main Street, Bexley, OH 43209.

City of Columbus

Maps are available for inspection at 757 Carolyn Avenue, Columbus, OH 43224.
Send comments to Mr. Paul Freedman, Development/Regulation Administration, City of Columbus, 757 Carolyn Avenue, Columbus, OH 43224.

City of Dublin

Maps are available for inspection at 5800 Shier-Rings Road, Dublin, OH 43016.
Send comments to Mr. Jay Herskowitz, Assistant City Engineer, City of Dublin, 5800 Shier-Rings Road, Dublin, OH 43016.

City of Gahanna

Maps are available for inspection at 200 Hamilton Road, Gahanna, OH 43230.
Send comments to Ms. Bonnie Gard, Planning/Zoning Administrator, City of Gahanna, 200 Hamilton Road, Gahanna, OH 43230.

City of Grandview Heights

Maps are available for inspection at 1016 Grandview Avenue, Grandview Heights, OH 43212.
Send comments to Mr. John Kuss, Building/Zoning Official, City of Grandview Heights, 1016 Grandview Avenue, Grandview Heights, OH 43212.

City of Grove City

Maps are available for inspection at 4035 Broadway, Grove City, OH 43123.
Send comments to Mr. Michael Boso, Chief Building Official, City of Grove City, 4035 Broadway, Grove City, OH 43123.

City of Hilliard

Maps are available for inspection at 3800 Municipal Way, Hilliard, OH 43026.
Send comments to Mr. Ron Fletch, Chief Building Inspector, City of Hilliard, 3800 Municipal Way, Hilliard, OH 43026.

City of Reynoldsburg

Maps are available for inspection at 7232 East Main Street, Reynoldsburg, OH 43068.
Send comments to Mr. Chet Hopper, Building Official, City of Reynoldsburg, 7232 East Main Street, Reynoldsburg, OH 43068.

City of Upper Arlington

Maps are available for inspection at 3600 Tremont Road, Upper Arlington, OH 43220.

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

Send comments to Mr. Matt Davis, Floodplain Administrator, City of Upper Arlington, 3600 Tremont Road, Upper Arlington, OH 43220.

City of Westerville

Maps are available for inspection at 64 East Walnut Street, Westerville, OH 43081.
Send comments to Mr. Richard Kight, Planning Administrator, Planning & Development, City of Westerville, 64 East Walnut Street, Westerville, OH 43081.

City of Whitehall

Maps are available for inspection at 360 S. Yearling Road, Whitehall, OH 43213.
Send comments to Mr. Ray Ogden, Public Service Director, City of Whitehall, 360 S. Yearling Road, Whitehall, OH 43213.

City of Worthington

Maps are available for inspection at 374 Highland Avenue, Worthington, OH 43085.
Send comments to Mr. William Watterson, City Engineer, City of Worthington, 374 Highland Avenue, Worthington, OH 43085.

Franklin County (Unincorporated Areas)

Maps are available for inspection at 280 East Broad Street, Room 202, Columbus, OH 43215.
Send comments to Mr. Matt Brown, Franklin County Floodplain Coordinator, 280 East Broad Street, Room 202, Columbus, OH 43215.

Village of Brice

Maps are available for inspection at 5990 Columbus Street, Brice, OH 43109.
Send comments to The Honorable David Welling, Mayor, Village of Brice, PO Box 65, Brice, OH 43109.

Village of Canal Winchester

Maps are available for inspection at 36 South High Street, Canal Winchester, OH 43110.
Send comments to Mr. Alan Neimayer, Planning/Zoning Administrator, Village of Canal Winchester, 36 High Street, Canal Winchester, OH 43110.

Village of Groveport

Maps are available for inspection at 655 Blacklick Street, Groveport, OH 43125.
Send comments to Mr. Stephen Moore, Building Official, Village of Groveport, 655 Blacklick Street, Groveport, OH 43125.

Village of Harrisburg

Maps are available for inspection at 1100 High Street, Harrisburg, OH 43126.
Send comments to The Honorable Alvin Cox, Mayor, Village of Harrisburg, 1100 High Street, PO Box 17, Harrisburg, OH 43126.

Village of Lithopolis

Maps are available for inspection at 33 N Market Street, Lithopolis, OH 43136.
Send comments to The Honorable Eric Sandine, Mayor, Village of Lithopolis, 33 N Market Street, PO Box 278, Lithopolis, OH 43136.

Village of Lockbourne

Maps are available for inspection at 99 Williams Street, Lockbourne, OH 43137.
Send comments to Mr. George Hammond, Administrator, Village of Lockbourne, 99 Williams Street, Lockbourne, OH 43137.

Village of Marble Cliff

Maps are available for inspection at 1600 Fernwood Avenue, Marble Cliff, OH 43212.
Send comments to Mr. Donald Mares, City Engineer, Village of Marble Cliff, 1600 Fernwood Avenue, Marble Cliff, OH 43212.

Village of New Albany

Maps are available for inspection at 99 W. Main Street, New Albany, OH 43054.
Send comments to Ms. Jennifer Crysler, Development Director, Village of New Albany, 99 W. Main Street, New Albany, OH 43054.

Village of Obetz

Maps are available for inspection at 4175 Alum Creek Drive, Obetz, OH 43207–5140.
Send comments to Mr. Douglas Browell, Administrator, Village of Obetz, 4175 Alum Creek Drive, Obetz, OH 43207–5140.

Village of Riverlea

Maps are available for inspection at 229 W. Southington Avenue, Worthington, OH 43085.
Send comments to The Honorable Mary Jo Cusack, Mayor, Village of Riverlea, 229 W. Southington Avenue, Worthington, OH 43085.

Village of Urbancrest

Maps are available for inspection at 3492 First Avenue, Urbancrest, OH 43123.
Send comments to The Honorable Marlin West, Mayor, Village of Urbancrest, 3492 First Avenue, Urbancrest, OH 43123.

Village of Valleyview

Maps are available for inspection at 432 N. Richardson Avenue, Valleyview, OH 43204.
Send comments to The Honorable Thomas Watkins, Mayor, Village of Valleyview, 432 N. Richardson Avenue, Valleyview, OH 43204.

Clackamas County, Oregon, and Incorporated Areas

Lake Oswego	Lake Oswego	*101	+107	City of Lake Oswego.
Oswego Canal	At the confluence with Oswego	*101	+107	Clackamas County (Unincorporated Areas).
	Approximately 1500 feet upstream of Childs Road	*117	+125	City of Lake Oswego.
Richardson Creek Anderson RD Tributary.	At the confluence with Richardson Creek	None	+302	City of Damascus.
	50 feet upstream of SE Sunnyside Road	None	+533	
Richardson Creek Royer Road Tributary.	At the confluence with Richardson Creek	None	+402	City of Damascus.

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 2200 feet upstream of confluence with Richardson Creek.	None	+448	
Richardson Creek-Keller Road Tributary.	At the Confluence with Richardson Creek	None	+164	Clackamas County (Unincorporated Areas).
	Approximately 200 feet upstream of SE Keller Road	None	+378	City of Damascus.
Richardson Creek	At the confluence with Clackamas River	None	+116	Clackamas County (Unincorporated Areas).
	Just upstream of State Highway 212	None	+590	City of Damascus.
Rock Creek	At the confluence with Clackamas River	None	+94	Clackamas County (Unincorporated Areas).
	Approximately 100 feet upstream of SE Bohna Park Road.	None	+453	City of Damascus, City of Happy Valley.
172nd Avenue Tributary	At the Confluence with Rock Creek	None	+231	Clackamas County (Unincorporated Areas).
	Approximately 150 feet upstream of SE Big Timber Lane.	None	+328	City of Happy Valley.
Hemrick Road Tributary	At the confluence with Rock Creek	None	+315	Clackamas County (Unincorporated Areas).
	Approximately 200 feet upstream of SE Tillstrom Road.	None	+407	City of Damascus, City of Happy Valley.
Highway 224 Tributary	At confluence with Rock Creek	None	+94	City of Happy Valley, City of Damascus.
	Approximately 150 feet upstream of Goosehollow Drive.	None	+213	
N Golf Course Tributary	At the confluence with Rock Creek	None	+302	Clackamas County (Unincorporated Areas).
	Approximately 50 feet upstream of SE 162nd Avenue	None	+381	City of Happy Valley.
S Golf Course Tributary	At confluence with Rock Creek	None	+293	City of Happy Valley.
	Approximately 50 feet upstream of SE 162nd Avenue	None	+383	
Tualatin River	At the confluence with Willamette River	*72	+75	Clackamas County (Unincorporated Areas).
	Just downstream of R. H. Baldock Freeway	*122	+127	City of Lake Oswego, City of Rivergrove, City of West Linn.
Overflow to Rivergrove	Approximately 1,000 feet downstream of Childs Road	*114	+121	Clackamas County (Unincorporated Areas).
	At the intersection of Marlin Avenue and Southeast Dogwood Drive.	*121	+125	City of Rivergrove.

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

ADDRESSES

City of Damascus

Maps are available for inspection at Damascus City Hall, 19920 Highway 212, Damascus, OR 97089.
Send comments to The Honorable Dee Wescott, Mayor, City of Damascus, 19920 Southeast Highway 212, Damascus, OR 97089.

City of Happy Valley

Maps are available for inspection at Michael Walter Planning Services Manager, 12915 SE King Road, Happy Valley, OR 97086.
Send comments to The Honorable Rob Wheeler, Mayor, City of Happy Valley, 12915 SE King Road, Happy Valley, OR 97086.

City of Lake Oswego

Maps are available for inspection at Rob D. Amsberry Surface Water Management, 380 A Avenue, Lake Oswego, OR 97034.
Send comments to The Honorable Judie Hammerstad, Mayor, City of Lake Oswego, 380 A Avenue, Lake Oswego, OR 97034.

City of Rivergrove

Maps are available for inspection at Larry Barrett City Manager, 5311 Childs Road, Lake Oswego, OR 97035.
Send comments to The Honorable Hafez Daraee, Mayor, City of Rivergrove, 5311 Childs Road, Lake Oswego, OR 97035.

City of West Linn

Maps are available for inspection at City Hall, 22500 Salamo Road, West Linn, OR 97068.
Send comments to The Honorable Norm King, Mayor, City of West Linn, 22500 Salamo Road, West Linn, OR 97068.

Clackamas County (Unincorporated Areas)

Maps are available for inspection at Steve F. Hanschka Floodplain Administrator Sunnybrook Service Center, 9101 SE Sannybrook Boulevard, Clackamas, OR 97015.
Send comments to The Honorable Martha Sharader, Chairwoman, County of Clackamas, 2051 Kean Road, Oregon City, OR 97045.

Potter County, Texas, and Incorporated Areas

Dry Creek	Approximately 500 feet upstream from the intersection with Cliffside Road.	None	+3400	Potter County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
	Approximately 500 feet upstream from the intersection with W 335 North LP.	None	+3468	
Overflow	Approximately 500 feet downstream from confluence with Dry Creek.	None	+3416	City of Amarillo.
	Approximately 120 feet north of W 335 North Loop intersection.	None	+3468	
Playa Lake 21	Approximately 570 feet east of Willow Street and SE 15th Avenue.	*3612	+3614	City of Amarillo.
Playa Lake 22	Approximately 3500 feet north of SE 3rd Avenue and S Whitaker Road intersection.	*3587	+3589	City of Amarillo.
Playa Lake 23	Approximately 1500 feet northwest of S. Adams Street and SW 1st Avenue Intersection.	*3617	+3619	City of Amarillo.
Playa Lake 34	Approximately 4600 feet southwest of Highway 287 and S. Parsley Road intersection.	None	+3553	City of Amarillo.
Playa Lake 6	Approximately 1000 feet south of Pecos Street and IH 40 intersection.	*3627	+3624	City of Amarillo.
Playa Lake 60	Approximately 2000 feet east of Spur 228	None	+3558	Potter County (Unincorporated Areas).
Playa Lake 61	Approximately 1100 feet northeast from intersection of Parsley Road and railroad.	None	+3596	City of Amarillo.
Tributary B	Confluence with Dry Creek	None	+3468	City of Amarillo.
	Approximately 100 feet from the intersection with N Western Street.	None	+3530	
Tributary C	Confluence with Dry Creek	None	+3468	City of Amarillo.
	Approximately 100 feet upstream from Fairway Drive	None	+3506	
Tributary D	Confluence with Tributary B	None	+3505	City of Amarillo.
	Approximately 500 feet upstream from West Amarillo Boulevard.	None	+3582	
Tributary	Approximately 50 feet downstream from confluence with Tributary D.	None	+3532	City of Amarillo.
	Approximately 1000 feet upstream from NW 10th Avenue.	None	+3579	
West Amarillo Creek	Approximately 1000 feet west of the intersection of Helium Road and W. 9th Avenue.	None	+3616	Potter County (Unincorporated Areas).
	Approximately 100 feet upstream from the intersection with Indian Hill Road.	None	+3708	

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

ADDRESSES

City of Amarillo

Maps are available for inspection at 509 E. 7th Ave., Amarillo, TX 79105.
Send comments to The Honorable Debrah McCartt, Mayor, City of Amarillo, P.O. Box 1971, Amarillo, TX 79105.

Potter County (Unincorporated Areas)

Maps are available for inspection at 2419 E. Willow Creek, Amarillo, TX 79108.
Send comments to The Honorable Arthur Ward, Judge, Potter County, 500 S. Fillmore, Amarillo, TX 79101.

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

Dated: July 3, 2007.

David I. Maurstad,

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

[FR Doc. E7–13609 Filed 7–12–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7724]

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	
Baker County, Florida, and Incorporated Areas				
Barber Bay Tributary	At confluence with South Prong Saint Marys River	None	+85	City of Macclenny.
	At confluence with South Prong Saint Marys River	None	+85	
	1100 feet upstream of County Road 228	None	+124	
	3000 feet upstream of County Road 228	None	+128	
South Prong Saint Marys River.	6459 feet downstream from the confluence with Barber Bay Tributary.	+80	+79	Baker County (Unincorporated Areas).
	8800 feet upstream from the confluence with South Prong St. Mary's River Tributary 8.	None	+100	
Tributary 8	At confluence with South Prong Saint Marys River	None	+97	Baker County (Unincorporated Areas).
Turkey Creek	At confluence with South Prong Saint Marys River	None	+94	Baker County (Unincorporated Areas).
	1680 feet upstream of the confluence with Turkey Creek Tributary 2.	None	+111	
	1250 feet upstream of Barber Road	None	+116	
	810 feet downstream of Barber Road	None	+117	
Tributary 1	At confluence with Turkey Creek	None	+95	Baker County (Unincorporated Areas).
	8960 feet upstream of State Highway 121	None	+138	
Tributary 1.1	At confluence with Turkey Creek Tributary 1.1	None	+98	Baker County (Unincorporated Areas).
	1190 feet upstream of Woodlawn Road	None	+117	
	1280 feet upstream of Woodlawn Road	None	+118	
	1940 feet upstream of Woodlawn Road	None	+119	
Tributary 2	At confluence with Turkey Creek	None	+109	City of Macclenny.
	3080 feet upstream of the confluence with Turkey Creek Tributary 2.1.	None	+125	
	3080 feet upstream of the confluence with Turkey Creek Tributary 2.1.	None	+125	
	145 feet upstream of U.S. Highway 90	None	+129	
	At Interstate 10	None	+129	
Tributary 2.1	At confluence with Turkey Creek Tribuatry 2	None	+115	City of Macclenny.
	At Powerline Road	None	+122	

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 Powerline Road	None	+122	
	3040 feet upstream of Canal Road	None	+132	

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

ADDRESSES

City of Macclenny

Maps are available for inspection at 32 South 5th Street, Macclenny, FL 32063.
Send comments to The Honorable Gary Dopson, Mayor, City of Macclenny, 55 North 3rd Street, Macclenny, FL 32063.

Baker County (Unincorporated Areas)

Maps are available for inspection at 55 North 3rd Street, Macclenny, FL 32063.
Send comments to Mr. Joe Cone, County Manager, 55 North 3rd Street, Macclenny, FL 32063.

Jackson County, Illinois, and Incorporated Areas

Big Muddy River	Approximately 4,050 ft above South 20th Street	None	+372	Jackson County (Unincorporated Areas).
	Approximately 4,810 ft above North Cleveland Street	None	+375	
Crab Orchard Creek	Approximately 100 feet downstream of Helm Road	None	+380	Jackson County (Unincorporated Areas).
	Approximately 1500 feet south of Dillinger Road	None	+383	
Drury Creek	Approximately 1,500 feet north of the termination of Church Street.	None	+434	Jackson County (Unincorporated Areas).
	Approximately 700 feet south of the intersection of Giant City Road and Springer Ridge Road.	None	+437	
Mississippi River	Approximately 900 feet downstream of Grand Tower Road extended.	+372	+370	City of Grand Tower.
	Approximately 720 feet above 25th Street extended	+375	+371	
Mississippi River	Approximately at Muntz Road Alignment (Mouth of Big Muddy River) Union/Jackson County Boundary.	None	+368	Village of Gorham, Jackson County (Unincorporated Areas).
	Approximately at Levee Road (Mouth of Degognia Creek) Randolph/Jackson County Boundary.	None	+383	
North Fork	280 feet east of 8th Street	None	+387	Jackson County (Unincorporated Areas).
	200 feet east of 8th Street	None	+388	
North Tributary	Approximately at the railroad	None	+402	Jackson County (Unincorporated Areas).
	Approximately at Town Road (West Road)	None	+402	
Pond Creek	Approximately at the railroad crossing at the North boundary of Murphysboro.	None	+399	Jackson County (Unincorporated Areas).
	Approximately at Cochran Road	None	+401	
South Tributary	East of Roosevelt Street (US 51)	None	+394	Jackson County (Unincorporated Areas).
	At Town Road (West Road)	None	+403	

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

ADDRESSES

City of Grand Tower

Maps are available for inspection at 201 Market Street, Grand Tower City Hall, Grand Tower, IL 62942.
Send comments to The Honorable Randy Ellet, Mayor, City of Grand Tower, P.O. Box 273, Grand Tower, IL 62942.

Jackson County (Unincorporated Areas)

Maps are available for inspection at 20 South 10th Street, County Assessment Office, Murphysboro, IL 62966.
Send comments to The Honorable John Evans, County Board Chairman, Jackson County, Illinois, 1001 Walnut Street, Jackson County Courthouse, Murphysboro, IL 62966.

Village of Gorham

Maps are available for inspection at 306 Washington Street, Gorham City Hall, Gorham, IL 62940.
Send comments to The Honorable Ralph Stone, Village President, Village of Gorham, 306 Washington Street, Gorham, IL 62940.

Union County, Illinois, and Incorporated Areas

Mississippi River	Alexander/Union County Boundary, approximately 3,000 feet upstream of the Mouth of Picayune Chute in Alexander County.	+359	+354	Union County (Unincorporated Areas).

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) +Elevation in feet (NAVD) # Depth in feet above ground.		Communities affected
		Effective	Modified	
	Approximately 5,480 feet above Muddy Levee Road ..	+371	+369	

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

ADDRESSES

Union County (Unincorporated Areas)

Maps are available for inspection at 311 West Market Street, Union County Clerk, Jonesboro, IL 62952.
Send comments to The Honorable Bill Jackson, County Board Chairman, Union County, Illinois, 309 West Market Street, Room 100, Jonesboro, IL 62952.

Tunica County, Mississippi, and Incorporated Areas

Buck Island Bayou	At Fields Road	None	+189	Tunica County (Unincorporated Areas).
	At Highway 3	None	+189	
Jack Lake Bayou	At Jack Lake Crossing	None	+189	Tunica County (Unincorporated Areas).
	At Verner Road	None	+191	
Minton Bayou	At confluence with Jack Lake Bayou	None	+189	Tunica County (Unincorporated Areas).
	At Fields Road	None	+190	
White Oak Bayou	At Highway 4	None	+181	Tunica County (Unincorporated Areas).
	At Highway 61	None	+186	
Tributary	At Academy Road	+189	+190	Town of Tunica.
	At Fox Island Road	+191	+192	Tunica County (Unincorporated Areas).

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

ADDRESSES

Town of Tunica

Maps are available for inspection at Town Hall, 909 River Road, Tybuca, MS 38676.
Send comments to The Honorable Lynn Sturgill, Mayor, Town of Tunica, P.O. Box 395, Tunica, MS 38676.

Tunica County (Unincorporated Areas)

Maps are available for inspection at Office of Planning and Development, 1061 South Court Street, Tunica, MS 38676.
Send comments to Mr. Cedric Burnett, President, Tunica County Board of Supervisors, P.O. Box 639, Tunica, MS 38676.

Waller County, Texas, and Incorporated Areas

Cane Island Branch	Intersection with U.S. 190	+142	+137	City of Katy.
	Approximately 535 feet upstream of Clay Road intersection.	None	+158	
Cypress Creek	Intersection with private road contiguous with county line.	+171	+170	Waller County (Unincorporated Areas).
	Confluence with Mound Creek	+186	+185	
East Fork Mound Creek	Confluence with Mound Creek	+223	+221	City of Waller.
	200 feet upstream of Taylor intersection	+248	+249	Waller County (Unincorporated Areas).
Mound Creek	Approximately 1800 feet downstream from confluence with Tributary 7.62 of Mound Creek.	+216	+217	City of Waller.
	Approximately 1000 feet upstream of confluence with Tributary 7.62 of Mound Creek.	+216	+219	
Spring Creek	3800 feet downstream of intersection with Nichols Rd	None	+202	City of Waller.
	850 feet upstream of 1736 intersection	None	+291	
Tributary 7.62 of Mound Creek.	Confluence with Mound Creek	+217	+218	Waller County (Unincorporated Areas).
	Approximately 4000 feet upstream of confluence with Mound Creek.	+221	+224	

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

ADDRESSES

City of Katy

Maps are available for inspection at 910 Avenue C, Katy, TX 77493.

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

Send comments to The Honorable Doyle Callender, Mayor, P.O. Box 617, Katy, TX 77492.

City of Waller

Maps are available for inspection at P.O. Box 239, Waller, TX 77484.
Send comments to The Honorable Dwayne Hajek, Mayor, P.O. Box 239, Waller, TX 77484.

Waller County (Unincorporated Areas)

Maps are available for inspection at 775 Business 290 East, Hempstead, TX 77445.
Send comments to The Honorable Owen Ralston, County Judge, 836 Austin St., Ste. 203, Hempstead, TX 77445.

Fond Du Lac County, Wisconsin, and Incorporated Areas

McDermott Creek	Approximately 0.4 mile downstream of County Highway T.	None	+777	City of Fond Du Lac.
	Approximately 0.4 mile upstream of County Highway T.	None	+808	Fond Du Lac County (Unincorporated Areas).
Mosher Creek	Approximately 300 feet upstream of U.S. Highway 45 (Lakeshore Drive).	+750	+749	Village of North Fond Du Lac
	Approximately 200 feet upstream of McKinley Street ..	+768	+767	Fond Du Lac County (Unincorporated Areas).
Rush Lake	Approximately 0.6 mile Northwest of the intersection of Island Road and Elbow Road.	None	+823	Fond Du Lac County (Unincorporated Areas).
	Approximately 0.5 mile Northeast of the intersection of Rich Road and County Highway E.	None	+823	
South Branch Rock River	Just downstream of Northbound U.S. Highway 151	None	+871	Fond Du Lac County (Unincorporated Areas).
	Just upstream of Southbound U.S. Highway 151	None	+871	
Taycheedah Creek	Approximately 0.5 mile downstream of DuCharme Parkway.	+753	+754	City of Fond Du Lac.
	Just downstream of state Highway 23	+767	+768	Fond Du Lac County (Unincorporated Areas).

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

ADDRESSES

City of Fond Du Lac

Maps are available for inspection at City Hall, 160 South Macy Street, Fond Du Lac, WI 54935–0150.
Send comments to Tom Herre, City Manager, City of Fond Du Lac, Post Office Box 150, Fond du Lac, WI 54936.

Unincorporated Areas of Fond Du Lac County

Maps are available for inspection at Fond Du Lac County Courthouse, 160 South Macy Street, Fond Du Lac, WI 54935.
Send comments to Allen Buechel, County Executive, Fond Du Lac County, 160 South Macy Street, Fond Du Lac, WI 54935.

Village of North Fond Du Lac

Maps are available for inspection at Village Hall, Village of North Fond Du Lac, 16 Garfield Street, North Fond Du Lac, WI 54937–1399.
Send comments to Charles Hornung, Village President, Village of North Fond Du Lac, 16 Garfield Street, North Fond Du Lac, WI 54937.

Jefferson County, Wisconsin, and Incorporated Areas

Koshkonong Creek	Just upstream of Rockdale Road	+796	+795	Jefferson County (Unincorporated Areas).
	Approximately 1,200 feet upstream of Bridge Street ...	+844	+843	
Maunesha River	Approximately 1,500 feet downstream of Highway 19	None	+830	City of Waterloo.
	Approximately 1,000 feet downstream of Highway 19	None	+830	
Unnamed Stream	Approximately 1,500 feet downstream of County Highway C.	None	+804	Jefferson County (Unincorporated Areas).
	Just downstream of County Highway C	None	+804	

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

ADDRESSES

City of Waterloo

Maps are available for inspection at City Hall, 136 North Monroe Street, Waterloo, WI 53594.
Send comments to The Honorable Robert Thompson, Mayor, City of Waterloo, City Hall, 136 North Monroe Street, Waterloo, WI 53594.

Jefferson County (Unincorporated Areas)

Maps are available for inspection at Jefferson County Courthouse, 320 South Main Street, Room 201, Jefferson, WI 53549.
Send comments to Ms. Sharon L. Schmeling, Chairperson, Jefferson County Board, Jefferson County Courthouse, 320 South Main Street, Room 201, Jefferson, WI 53549.

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

Dated: July 3, 2007.

David I. Maurstad,

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

[FR Doc. E7–13616 Filed 7–12–07; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

48 CFR Part 3036

[Docket No. DHS–2007–0024]

RIN 1601–AA44

Department of Homeland Security Acquisition Regulation; One-Step Turnkey Design-Build Contracts for United States Coast Guard (HSAR Case 2007–002)

AGENCY: Department of Homeland Security.

ACTION: Proposed rule with requests for comments.

SUMMARY: The Department of Homeland Security (DHS) is proposing to amend the Department of Homeland Security Acquisition Regulation (HSAR) to incorporate the delegation of turnkey design-build authority from the Secretary of Homeland Security to the United States Coast Guard. The rule is necessary to implement changes resulting from section 205 of Public Law 109–241.

DATES: Submit comments by August 13, 2007.

ADDRESSES: You may submit comments, identified by Docket Number DHS–2007–0024, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: Kathy.Strouss@dhs.gov.* Include the docket number in the subject line of the message.
- *Mail:* Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, ATTN: Kathy Strouss, 245 Murray Drive, Bldg. 410 (RDS), Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: Kathy Strouss, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy, (202) 447–5300.

SUPPLEMENTARY INFORMATION:

I. Public Participation
II. Background and Purpose
III. Discussion of Proposed Rule
IV. Regulatory Analyses
A. Executive Order 12866 Assessment
B. Regulatory Flexibility Act
C. Unfunded Mandates Reform Act
D. Paperwork Reduction Act
E. Executive Order 13132: Federalism
F. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights
G. Executive Order 12988: Civil Justice Reform
H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
J. Executive Order 13211: Energy Effects
K. National Environmental Policy Act

I. Public Participation

DHS invites interested persons to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. DHS also invites comments that relate to the economic, environmental, or federalism affects that might result from this proposed rule. Comments that will provide the most assistance to DHS in developing these procedures will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

You may submit your comments and material by one of the methods specified in the **ADDRESSES** section. Please submit your comments and material by only one means. If you submit them by mail, submit them in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing. If you want DHS to acknowledge receipt of comments by mail, include with your comments a self-addressed, stamped postcard that includes the docket number for this rulemaking. We will stamp the date on the postcard and mail it to you.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

II. Background and Purpose

Currently, the Federal Acquisition Regulation (FAR) provides for Two-Phase Design-Build Selection Procedures. These procedures are used when the Government determines it is appropriate to combine design and construction in a single contract with one contractor. *See* 48 CFR 36.3, ''Two-Phase Design-Build Selection Procedures.'' Since the FAR does not allow for consideration of cost or price related factors until the second phase, the Two-Phase procedures require proposal evaluation at two separate points. *See* 48 CFR 36.303–2(b)). The existing two-phase selection procedures, whether one solicitation for both phases or two solicitations issued sequentially, require evaluation of technical approach and technical qualifications in phase one and evaluation of technical factors (such as design concepts or proposed solutions and price) in phase two. These procedures result in substantial completion time for both interested firms and the Government.

The proposed rule amends the HSAR to allow for one-step turnkey design-build contracting for United States Coast Guard facilities. This one-step design-build contracting method results in a single contractor for both design and construction services. The one-step turnkey selection procedures for design-build consist of a single price and technical evaluation for a single, firm fixed-price contract with one contractor. This approach, which works well for less complex facilities' construction projects requiring little design, provides for shortened procurement and execution stages when compared to the existing two-phase selection procedures.

III. Discussion of Proposed Rule

The proposed rule adds a new section and subpart to the HSAR at 48 CFR 3036.104–90. DHS is amending the HSAR to implement changes resulting from section 205 of Public Law 109–241 (regarding one-step turnkey selection procedures for design-build contracts of the United States Coast Guard) and to incorporate the delegation of turnkey design-build authority from the Secretary of Homeland Security to the United States Coast Guard.

IV. Regulatory Analyses

A. Executive Order 12866 Assessment

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The proposed rule reduces proposal submittal requirements for Design-Build contracts through a one-step turnkey

selection process and, therefore, will not result in any additional cost to the government or private sector.

B. Regulatory Flexibility Act

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

The less complex one-step turnkey selection procedures under this proposed rule would encourage small businesses to participate in the source selection process being implemented for United States Coast Guard Design-Build contracts. Therefore, the Department of Homeland Security certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a written comment to the contact information previously identified in this proposed rule. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

C. Unfunded Mandates Reform Act

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

D. Paperwork Reduction Act

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

E. Executive Order 13132: Federalism

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

F. Executive Order 12630: Governmental Actions and Interference with Constitutionally Protected Property Rights

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

G. Executive Order 12988: Civil Justice Reform

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

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

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

I. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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

J. Executive Order 13211: Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

K. National Environmental Policy Act

The Department of Homeland Security considered the proposed rule under Management Directive 5100.1, Environmental Planning Program, that provides DHS the implementing policy for complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f). DHS has determined that this rulemaking would not individually or cumulatively have a significant effect on the human environment and, therefore, neither an environmental assessment nor an environmental impact statement is required. This rulemaking is among the category of actions included in Categorical Exclusion A3 for promulgation of rules of an administrative or procedural nature.

List of Subjects in 48 CFR Part 3036

Government procurement.

Dated: July 10, 2007.

Elaine C. Duke,

Chief Procurement Officer.

Accordingly, DHS proposes to amend 48 CFR part 3036 as follows:

1. The authority citation for 48 CFR part 3036 continues to read as follows:

Authority: 41 U.S.C. 418b(a) and (b).

PART 3036—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

2. Add subpart 3036.1 to read as follows:

Subpart 3036.1 General

3036.104 Policy.

3036.104–90 Authority for one-step turn-key design-build contracting for the United States Coast Guard (USCG).

The Head of the Contracting Activity (HCA) of the U.S. Coast Guard may use one-step turnkey selection procedures to enter into fixed-price design-build contracts in accordance with 14 U.S.C. 677.

[FR Doc. E7–13646 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–10–P

Notices

Federal Register
Vol. 72, No. 134
Friday, July 13, 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

July 9, 2007.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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

Forest Service

Title: National Survey on Recreation and the Environment 2007.

OMB Control Number: 0596–0127.

Summary of Collection: Authorizing legislation for this collection is the Forest and Rangeland Renewable Resources Planning Act, P.L. 93–378–88 Stat. 475. This collection is a multi-agency partnership. Participating Federal Agencies include the Forest Service (FS) (U.S. Department of Agriculture), National Oceanic and Atmospheric Administration (U.S. Department of Commerce) Bureau of Land Management (Department of the Interior), U.S. Coast Guard and the Environmental Protection Agency. Federal land managing agencies are responsible for the management of over 650 million acres of public lands. These lands are managed according to the legislation and overall mission pertaining to each agency. To manage well and wisely, knowledge of recreation demands, opinions, preferences and attitudes regarding the management of these lands is imperative. The survey will be administered using a statistically valid sampling methodology through computer-assisted telephone interviewing techniques.

Need and Use of the Information: FS will collect information nationally from the public to assess trends in recreation participation over the years since the survey was last conducted and to estimate demand for outdoor recreation among the U.S. population. In addition, the survey will collect information from the public on people's attitudes and values toward natural resources and their management. FS will use the information as well as other federal agencies to develop long-range strategic plans, adjust programs and activities to meet customer needs and expectations, and better manage federally owned lands.

Description of Respondents: Individuals or households.

Number of Respondents: 56,830.

Frequency of Responses: Reporting: Other (one time).

Total Burden Hours: 3,326.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E7–13688 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Office of the Under Secretary, Research, Education, and Economics; Notice of the Advisory Committee on Biotechnology and 21st Century Agriculture Meeting.

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the United States Department of Agriculture announces a meeting of the Advisory Committee on Biotechnology and 21st Century Agriculture (AC21).

DATES: The meeting dates are August 1, 2007, 8 a.m. to 5 p.m., and August 2, 2007, 8 a.m. to 4 p.m.

ADDRESSES: Room 107A, USDA Jamie L. Whitten Building, 12th Street and Jefferson Drive, SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Michael Schechtman, Telephone (202) 720–3817.

SUPPLEMENTARY INFORMATION: The sixteenth meeting of the AC21 has been scheduled for August 1–2, 2007. The AC21 consists of 22 members representing the biotechnology industry, farmers, food manufacturers, commodity processors and shippers, animal handlers, environmental and consumer groups, and academic researchers. In addition, representatives from the Departments of Commerce, Health and Human Services, and State, and the Environmental Protection Agency, the Council on Environmental Quality, the Office of the United States Trade Representative, and the National Association of State Departments of Agriculture serve as ''ex officio'' members. At this meeting, there will be several objectives: To introduce new Committee members; to complete substantive work on a paper addressing the question, ''What issues should

USDA consider regarding coexistence among diverse agricultural systems in a dynamic, evolving, and complex marketplace?''; and to develop a plan for finalizing the paper and presenting it to the Office of the Secretary, USDA. Background information regarding the work of the AC21 will be available on the USDA Web site at: *http://www.usda.gov/wps/portal/!ut/p/_s.7_0_A/7_0_1OB?navid=BIOTECH&parentnav=AGRICULTURE&navtype=RT .*

Members of the public should enter the building through the Jefferson Drive entrance. Requests to make oral presentations at the meeting may be sent to Michael Schechtman, Designated Federal Official, Office of the Deputy Secretary, USDA, 202 B Jamie L. Whitten Federal Building, 12th Street and Jefferson Drive, SW., Washington, DC 20250, Telephone (202) 720–3817; Fax (202) 690–4265; E-mail *Michael.schechtman@ars.usda.gov.* On August 1, 2007, if time permits, reasonable provision will be made for oral presentations of no more than five minutes each in duration. Written requests to make oral presentations at the meeting must be received by the contact person identified herein at least three business days before the meeting. The meeting will be open to the public, but space is limited. If you would like to attend the meetings, you must register by contacting Ms. Dianne Harmon at (202) 720–4074, by fax at (202) 720–3191 or by e-mail at *Dianne.harmon@ars.usda.gov* at least five business days prior to the meeting. Please provide your name, title, business affiliation, address, and telephone and fax numbers when you register. If you require a sign language interpreter or other special accommodation due to disability, please indicate those needs at the time of registration.

Dated: July 9, 2007.

Jeremy Stump,

Senior Advisor for International and Homeland Security Affairs and Biotechnology.

[FR Doc. E7–13680 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0081]

Notice of Request for Reinstatement of an Information Collection; Beef 2007–08 Study

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an information collection to support the National Animal Health Monitoring System national Beef 2007–08 Study.

DATES: We will consider all comments that we receive on or before September 11, 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–2007–0081 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–2007–0081, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0081.

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: For information on the Beef 2007–08 Study, contact Ms. Sandra Warnken, Management and Program Analyst, Centers for Epidemiology and Animal Health, VS, APHIS, 2150 Centre Avenue, Building B MS 2E6, Fort Collins, CO 80526; (970) 494–7193. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: National Animal Health Monitoring System; Beef 2007–08 Study.

OMB Number: 0579–0079.

Type of Request: Reinstatement of an information collection.

Abstract: The United States Department of Agriculture is responsible for protecting the health of our Nation's livestock and poultry populations by preventing the introduction and interstate spread of serious diseases and pests of livestock and for eradicating such diseases from the United States when feasible. In connection with this mission, the Animal and Plant Health Inspection Service (APHIS) operates the National Animal Health Monitoring System (NAHMS), which collects, on a national basis, statistically valid and scientifically sound data on the prevalence and economic importance of livestock and poultry disease risk factors.

NAHMS national studies have evolved into a collaborative industry and government initiative to help determine the most effective means of preventing and controlling diseases of livestock. APHIS is the only agency responsible for collecting national data on livestock health. Participation in any NAHMS study is voluntary, and all data are confidential.

APHIS plans to conduct the Beef 2007–08 Study as part of an ongoing series of NAHMS studies on the U.S. livestock population. The purpose of this third beef study is to collect information, through questionnaires and biologic sampling, to:

Describe trends in beef cow-calf health and management practices.

Evaluate management factors related to beef quality assurance.

Describe recordkeeping practices on cow-calf operations.

Determine producer awareness of bovine viral diarrhea (BVD) and management practices used for BVD control.

Describe current biosecurity practices and producer motivation for implementing or not implementing biosecurity practices.

Determine the prevalence and antimicrobial resistance patterns of potential food-safety pathogens.

This information will help the United States detect trends in the management, production, and health status of the Nation's beef industry over time.

The study will consist of a series of on-farm questionnaires, with biologic sampling, which will be administered by APHIS-designated data collectors. The information collected through the Beef 2007–08 Study will be analyzed and organized into descriptive reports. Information sheets will be derived from these reports, and the data will be disseminated to and used by a variety of constituents, including producers, veterinarians, stakeholders, academia, and others. The data will help APHIS address emerging issues and examine the economic impact of selected health management practices.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our 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 are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1.645403 hours per response.

Respondents: Beef producers in 24 States.

Estimated annual number of respondents: 4,000.

Estimated annual number of responses per respondent: 1.936.

Estimated annual number of responses: 7,744.

Estimated total annual burden on respondents: 12,742 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 29th day of June 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–13652 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0087]

Notice of Request for Extension of Approval of an Information Collection; Certificate for Poultry and Hatching Eggs for Export

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with the export of poultry and poultry hatching eggs from the United States.

DATES: We will consider all comments that we receive on or before September 11, 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–2007–0087 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–2007–0087, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0087.

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: For information on an information collection associated with the export of poultry and poultry hatching eggs from the United States, contact Dr. Jack Taniewski, Assistant Director, Technical Trade Services Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737; (301) 734–8364. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Certificate for Poultry and Hatching Eggs for Export.

OMB Number: 0579–0048.

Type of Request: Extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA), among other things, collects information and conducts inspections to ensure that poultry and hatching eggs exported from the United States are free of communicable diseases. The export of agricultural commodities, including poultry and hatching eggs, is a major business in the United States and contributes to a favorable balance of trade. Receiving countries have specific health requirements for poultry and hatching eggs exported from the United States. Most countries require a certification that our poultry and hatching eggs are free of diseases of concern to the receiving country. This certification generally must carry the USDA seal and be endorsed by an authorized APHIS veterinarian.

Veterinary Services Form 17–6, Certificate for Poultry and Hatching

Eggs for Export, is used to meet these requirements.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our 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 are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Owners of poultry and hatching egg operations, exporters of poultry products, and accredited veterinarians.

Estimated annual number of respondents: 300.

Estimated annual number of responses per respondent: 32.

Estimated annual number of responses: 9,600.

Estimated total annual burden on respondents: 4,800 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 6th day of July 2007.

Kevin Shea,

Acting Administrator,Animal and Plant Health Inspection Service.

[FR Doc. E7–13683 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0082]

Notice of Request for Revision and Extension of Approval of an Information Collection; Pseudorabies

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision and extension of approval of an information collection associated with regulations for the Pseudorabies Eradication Program.

DATES: We will consider all comments that we receive on or before September 11, 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–2007–0082 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–2007–0082, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0082.

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: For information regarding an information collection associated with regulations for the Pseudorabies Eradication Program, contact Dr. John Korslund, Senior Staff Veterinarian, Aquaculture, Swine, Equine, and Poultry Programs, NCAHP, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737; (301) 734–6188. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Pseudorabies.

OMB Number: 0579–0070.

Type of Request: Revision and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the United States Department of Agriculture (USDA) has authority for, among other things, preventing the interstate spread of pests and diseases of livestock within the United States and for conducting eradication programs. In connection with this mission, the Animal and Plant Health Inspection Service, USDA, regulates the interstate movement of swine in order to carefully control the movement of swine that are infected with or exposed to pseudorabies. The most common method of pseudorabies transmission is through the movement of infected swine from one herd to another.

The regulations in 9 CFR part 85 govern the interstate movement of swine and other livestock (cattle, sheep, and goats) in order to help prevent the spread of pseudorabies. Regulating the interstate movement of these animals requires the use of certain information collection activities, including the completion of documents attesting to the health status of the swine being moved, the number of swine being moved in a particular shipment, the shipment's point of origin, and the shipment's destination.

With this information, we are able to carefully monitor the location of infected or exposed animals and prevent them from coming into contact with healthy animals.

These documents also provide useful ''traceback'' information in the event an infected animal is discovered and an investigation must be launched to determine where the animal originated, as well as the number and location of other animals with which it may have had contact during its interstate movement.

The information provided by these documents is critical to our ability to prevent the interstate spread of pseudorabies, and therefore plays a vital role in our Pseudorabies Eradication Program.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.232342 hours per response.

Respondents: U.S. producers and shippers, State animal health protection authorities, and accredited veterinarians.

Estimated annual number of respondents: 100.

Estimated annual number of responses per respondent: 134.5.

Estimated annual number of responses: 13,450.

Estimated total annual burden on respondents: 3,125 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 5th day of July 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–13686 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0080]

Notice of Request for Extension of Approval of an Information Collection; Importation of Horses, Ruminants, Swine, and Dogs; Inspection and Treatment for Screwworm

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of horses, ruminants, swine, and dogs from regions of the world where screwworm is considered to exist.

DATES: We will consider all comments that we receive on or before September 11, 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–2007–0080 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–2007–0080, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2007–0080.

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: For information regarding an information collection associated with regulations for the importation of horses, ruminants, swine, and dogs from regions of the world where screwworm is considered to exist, contact Dr. Freeda Isaac, Assistant Director, Technical Trade Services Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737; (301) 734–6479. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Horses, Ruminants, Swine, and Dogs; Inspection and Treatment for Screwworm.

OMB Number: 0579–0165.

Type of Request: Extension of approval of an information collection

Abstract: The Animal and Plant Health Inspection Service (APHIS) regulates the importation and interstate movement of animals and animal products and conducts various other activities to protect the health of our Nation's livestock and poultry.

The regulations in 9 CFR part 93 prohibit or restrict the importation of certain animals into the United States to prevent the introduction of communicable diseases of livestock and poultry. Subparts C, D, E, and F of the regulations govern the importation of horses, ruminants, swine, and dogs, respectively, and include provisions for the inspection and treatment of these animals if imported from any region of the world where screwworm is considered to exist. Screwworm is a pest native to tropical areas of South America, the Indian subcontinent, Southeast Asia, tropical and sub-Saharan Africa, and the Arabian peninsula. Screwworm causes extensive damage to livestock and other warmblooded animals.

The horses, ruminants, swine, and dogs must be accompanied to the United States by a certificate signed by a full-time salaried veterinary official of the exporting region stating that the animal has been inspected, under certain conditions, and found free of screwworm and, as appropriate, that the animal was treated for screwworm.

We are asking the Office of Management (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(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 our estimate of the burden of the information collection, 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 information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.25 hours response.

Respondents: Full-time salaried veterinary officials of exporting regions.

Estimated annual number of respondents : 40.

Estimated annual number of responses per respondent: 4.

Estimated annual number of responses: 160.

Estimated total annual burden on respondents: 40 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 5th day of July 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–13687 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0038]

Availability of an Environmental Assessment and Finding of No Significant Impact for a Field Release to Produce Antibodies in Genetically Engineered Tobacco

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have prepared an environmental assessment for a field release involving a transgenic tobacco line that has been genetically engineered to produce an antimicrobial antibody that binds to a bacterium (*Streptococcus mutans*) associated with tooth decay in humans. The purpose of this field release is to generate plant biomass from which the antibody will be extracted after harvest. The environmental assessment provides a basis for our conclusion that this field release will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its finding of no significant impact, we have determined that an environmental impact statement need not be prepared for this field release.

EFFECTIVE DATE: July 13, 2007.

ADDRESSES: You may read the final environmental assessment (EA), the finding of no significant impact (FONSI), and the comments we received on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming. The EA, FONSI and decision notice, and responses to comments are available on the Internet at: *http://www.aphis.usda.gov/brs/aphisdocs/05_35401r_ea.pdf.*

FOR FURTHER INFORMATION CONTACT: Dr. Margaret Jones, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–4880. To obtain copies of the environmental assessment, contact Ms. Cynthia Eck at (301) 734–0667; e-mail: *cynthia.a.eck@aphis.usda.gov.*

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.'' A permit must be obtained or a notification acknowledged before a regulated article may be introduced. The regulations set forth the permit application requirements and the notification procedures for the importation, interstate movement, or release in the environment of a regulated article.

On December 21, 2005, the Animal and Plant Health Inspection Service (APHIS) received a permit application (APHIS No. 05–354–01r) from Planet Biotechnology, Inc. of Hayward, CA, for a field release using a line of transgenic tobacco. Permit application 05–354–01r describes a transgenic tobacco line (*Nicotiana tabacum* L.), designated as H8–105, that produces a chimeric antimicrobial antibody (trade name CaroRx(™) that binds to the bacterium (*Streptococcus mutans*) associated with tooth decay in humans. Expression of the gene sequence is controlled by the cauliflower mosaic virus (CaMV) promoter and terminated by NOS from *Agrobacterium tumefaciens* and utilizes the selectable marker NPTII from *Escherichia coli*. Constructs were inserted into the recipient organisms via a disarmed *Agrobacterium tumefaciens* vector system. The antibodies generated from this planting will be extracted after harvest.

The subject tobacco is considered a regulated article under the regulations in 7 CFR part 340 because it has been genetically engineered using the recombinant DNA technique using a vector derived from *Agrobacterium tumefaciens*.

On March 27, 2007, APHIS published a notice [1] in the **Federal Register** (72 FR 14259, Docket No. APHIS–2006–0038) announcing the availability of an environmental assessment (EA) for the proposed release of the transgenic tobacco line. During the 30-day

[1] To view the notice, EA, and the comments we received, go to *http://www.regulations.gov,* click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0038, then click on ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in thedocket.

comment period, which ended on April 26, 2007, APHIS received two comments. Both comments were opposed to APHIS' issuance of this permit and genetically engineered crops in general, but did not raise any specific issues regarding the EA. APHIS has provided responses to these comments as an appendix to the final EA.

Pursuant to the regulations in 7 CFR part 340 promulgated under the Plant Protection Act, APHIS has determined that this field release will not pose a risk of the introduction or dissemination of a plant pest. Additionally, based upon analysis described in the final EA, APHIS has determined that the action proposed in Alternative C of the EA, issue the permit with supplemental permit conditions, will not have a significant impact on the quality of the human environment. You may read the finding of no significant impact (FONSI) and decision notice on the Internet or in the APHIS reading room (see **ADDRESSES** above). Copies may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

The final EA and FONSI were prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 5th day of July 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–13660 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0084]

U.S. Department of Agriculture, Agricultural Research Service; Determination of Nonregulated Status for Plum Genetically Engineered for Resistance to Plum Pox Virus

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that a plum line developed by the U.S. Department of Agriculture's Agricultural Research Service, designated as transformation event C5, which has been genetically engineered for resistance to infection by plum pox virus, is no longer considered a regulated article under agency regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by the Agricultural Research Service in their petition for a determination of nonregulated status, an analysis of other scientific data, and comments received from the public in response to a previous notice announcing the availability of the petition and an environmental assessment. This notice also announces the availability of our written determination and our finding of no significant impact.

EFFECTIVE DATE: June 27, 2007.

ADDRESSES: You may read the petition, environmental assessment, determination, finding of no significant impact, the comments we received on our previous notice, and our responses to those comments in our reading room or on the Internet. 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. To view those documents on the Internet, go to *http://www.regulations.gov*, click on the ''Advanced Search'' tab, and select ''Docket Search.'' In the Docket ID field, enter APHIS–2006–0084, then click ''Submit.'' Clicking on the Docket ID link in the search results page will produce a list of all documents in the docket.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Watson, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–0486, *michael.t.watson@aphis.usda.gov.* To obtain copies of the determination, petition, final environmental assessment (EA), or the finding of no significant impact (FONSI), contact Ms. Cynthia Eck at (301) 734–0667; *cynthia.a.eck@aphis.usda.gov.* The determination, petition, final EA, response to comments, and FONSI are also available on the Internet at *http://www.aphis.usda.gov/brs/aphisdocs/04_26401p.pdf* and *http://www.aphis.usda.gov/brs/aphisdocs/04_26401p_ea.pdf.*

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered ''regulated articles.''

The regulations in 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of 340.6 describe the form that a petition for a determination of nonregulated status must take and the information that must be included in the petition.

Background

On September 9, 2004, APHIS received a petition (APHIS Petition Number 04–264–01p) from the U.S. Department of Agriculture (USDA), Agricultural Research Service (ARS), Appalachian Fruit Research Station in Kearneysville, WV, requesting a determination of nonregulated status under 7 CFR part 340 for plum (*Prunus domestica* L.) designated as transformation event ARS–PLMC5–6 (C5), which has been genetically engineered to resist infection by plum pox virus (PPV). The ARS petition states that the subject plum should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, the C5 plum has been genetically engineered with a sequence from PPV. This sequence was derived from the viral coat protein gene. The resistance to plum pox infection appears to be conferred through post transcriptional gene silencing. As a result of this mechanism, no detectable viral coat protein is found in the subject plum.

On May 16, 2006, APHIS published a notice in the **Federal Register** (71 FR 28296–28298, Docket No. APHIS–2006–0084) announcing the availability of the ARS petition and an environmental assessment (EA). APHIS solicited comments on whether the subject plum would present a plant pest risk and on the EA. APHIS received 1,725

comments by the close of the 60-day comment period, which ended on July 17, 2006. There were 1,708 comments that were opposed to a determination of nonregulated status for the C5 plum and 17 comments that supported it. The majority of comments in opposition to deregulation were the same or similar and came from organic grower or consumer groups, individual organic growers, individuals who favor organic agriculture, or individuals who oppose genetic engineering in general. The majority of those comments supporting the determination of nonregulated status were from academic researchers and State farm bureaus. APHIS has addressed the issues raised during the comment period and has provided responses to these comments as attachments to the finding of no significant impact.

Determination

Based on APHIS' analysis of the field, greenhouse, and laboratory data submitted by ARS, references provided in the petition, other relevant information described in the EA, and comments provided by the public, APHIS has determined that the C5 plum will not pose a plant pest risk for the following reasons: (1) The potential for gene flow and introgression are insignificant, therefore, the potential impacts from these are also insignificant; (2) the C5 plum is unlikely to thrive in unmanaged ecosystems, therefore, it is unlikely that there would be any weed impact from deregulation; (3) it does not produce any novel proteins or have any toxic properties that are likely to impact non-target organisms, including beneficial organisms and threatened or endangered species; (4) there is no apparent potential for significant impact on biodiversity; (5) the likelihood that the C5 plum would increase the development of new viruses or viruses with novel or altered properties is very low; and (6) if C5 plums were to be grown commercially, the impact on the environment would likely be no different than from cultivation of other domesticated plums.

APHIS has concluded that the subject plum and any progeny derived from hybrid crosses with other non-transformed plum varieties will be no more of a plant pest than plum varieties in traditional breeding programs that are not subject to regulation under 7 CFR part 340. The effect of this determination is that ARS C5 plum is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of C5 plum or its progeny.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the determination of nonregulated status for ARS C5 plum, an EA was prepared. The EA was prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact with regard to the determination that ARS plum line C5 and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and finding of no significant impact are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 29th day of June 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–13649 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Site; Federal Lands Recreation Enhancement Act, (Title VII, Pub. L. 108–447)

AGENCY: Coconino National Forest, USDA Forest Service, Arizona.

ACTION: Notice of new fee site.

SUMMARY: The Coconino National Forest proposes to begin charging a new $75.00 per day fee for rental of the Apache Maid Cabin located 24 miles northeast of Rimrock, Arizona. Rental of the Cabin includes overnight use. Rental of the cabin and other facilities within the Arizona National Forests has shown that the public appreciates and enjoys the availability of historic rental facilities. Funds from the rentals will be used for the continued operation and maintenance of the Apache Maid Cabin.

DATES: Apache Maid Cabin will become available for rent January, 2008.

ADDRESSES: Red Rock Ranger District, Coconino National Forest, P.O. Box 20429, Sedona, AZ 86341.

FOR FURTHER INFORMATION CONTACT: Bill Stafford, District Recreation Staff, Red Rock Ranger District, 928–203–7529.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to public a six month advance notice in the **Federal Register** whenever new recreation fee areas are established. The Coconino National Forest currently has three other rental facilities. These facilities are booked regularly throughout the rental season. A business analysis for the rental of the Apache Maid Cabin shows that people desire having this sort of recreation experience on the Coconino National Forest. A market analysis indicates that the $75 daily fee is both reasonable and acceptable for this sort of unique recreation experience. People wanting to rent the Apache Maid Cabin will need to do so through the National Recreation Reservation Service, at *http://www.recreation.gov* or by calling 1–877–444–6777. The National Recreation Reservation Service charges a $9 fee per reservation.

Dated: July 5, 2007.

Mark R. Sensibaugh,

Forest Supervisor, Coconino National Forest.

[FR Doc. 07–3429 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Site; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Coronado National Forest, USDA Forest Service, Arizona.

ACTION: Notice of new fee site.

SUMMARY: The Coronado National Forest proposes to begin charging a new $200.00 fee for the daily rental of the Headquarters Building adjacent to an existing small rental cabin at Kentucky Camp near Sonoita, Arizona. Rental of the Headquarters Building may eventually expand to include overnight use, but will initially be managed for day-use events. The existing small rental cabin currently rents for an overnight fee of $75.00 a night and can be rented independently of the Headquarters Building. Rental of the cabin and other facilities within the Arizona National Forests has shown that

the public appreciates and enjoys the availability of historic rental facilities. Funds from the rentals will be used for the continued operation and maintenance of Kentucky Camp.

DATES: Kentucky Camp Headquarters will become available for rent January 2008.

ADDRESSES: Forest Supervisor, Coronado National Forest, 300 West Congress, Tucson, Arizona, 85701.

FOR FURTHER INFORMATION CONTACT: Kathy Makansi, Archaeologist, Coronado National Forest, 520–760–2502.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance in the **Federal Register** whenever new recreation fee areas are established. The Coronado National Forest currently has one other rental facility. This rental is booked regularly throughout the rental season. A business analysis for the rental of Kentucky Camp shows that people desire having this sort of recreation experience on the Coronado National Forest. A market analysis indicates that the $200 daily fee is both reasonable and acceptable for this sort of unique recreation experience.

People wanting to rent Kentucky Camp will need to do so through the National Recreation Reservation Service, at *http://www.recreation.gov* or by calling 1–877–444–6777. The National Recreation Reservation Service charges a $9 fee per reservation.

Dated: June 28, 2007.

Jeanine A. Derby,

Forest Supervisor, Coronado National Forest.

[FR Doc. 07–3428 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Inventory and Analysis RPA Assessment Review Tables

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the draft tables for the 2007 RPA Forest Resources of the United States. These tables will be the basis for analysis of status and trends in the nation's forests and includes data for 1953, 1977, 1987, 1997, and 2007.

DATES: Comments must be received in writing on or before September 11, 2007 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: The draft review tables are available in pdf format at: *http://fia.fs.fed.us.* Comments concerning this notice should be addressed to Dr. Richard Guldin, Director, Quantitative Sciences Staff—Forest Service, Mail Stop 1119, Washington, DC 20090–6090. Comments also may be submitted via facsimile to 703–605–5131 or by e-mail to: *bsmith12@fs.fed.us.*

The public may inspect comments received at 1601 N. Kent Street, Arlington, VA, Suite 4110, between regular business hours of 8:30 a.m. and 4:30 p.m. Monday through Friday. Visitors are encouraged to call ahead to 703–605–4177 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: W. Brad Smith, Quantitative Sciences Staff by phone at 703–605–4177 or by e-mail to: *bsmith12@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: Through its Research organization, the Forest Service conducts continuous Statewide inventories of the Nation's forest resources to ascertain trends in the extent, condition, ownership, quantity, and quality of the forest resources in compliance with Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1600, 1641–1648). This information is collected by the Forest Inventory and Analysis (FIA) program and forest statistics and subsequent analyses are released as State, Regional, and National reports and are based on data collected at sample locations on all land ownerships across the United States. Every 5 years, the FIA program compiles a summary of this data into standard tables as part of the RPA Assessment' Forest Resources of the United States report.

Dated: July 9, 2007.

Ann M. Bartuska,

Deputy Chief for Research & Development.

[FR Doc. E7–13589 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

East Texas to Mississippi Expansion Project; Gulf South Pipeline Company, LP; Federal Energy Regulatory Commission, Docket Nos. CP06–446–000, PF06–17–000, PF–06–23–000, FERC EIS 0206D

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of availability of the record of decision.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, has decided to subordinate its rights, acquired under the Wetland Reserve Program (WRP), to allow the Gulf South Pipeline Company, LP (Gulf South) to cross NRCS held conservations easements associated with the East Texas to Mississippi Expansion Project (Project) in Madison Parish, Red River Parish, Richland Parish and Ouachita Parish, LA.

On September 1, 2006, Gulf South filed, in Docket No. CP04–446–000, an application under section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate its proposed project. The proposed project consists of 241.9 miles of pipeline, and 110,604 horsepower (hp) of compression that will connect Gulf South's existing facilities in DeSoto Parish, Louisiana to Gulf South's pipeline in Simpson County, Mississippi.

The Federal Energy Regulatory Commission (FERC) has prepared a final environmental impact statement (EIS) to fulfill requirements of the National Environmental Policy Act (NEPA). The purpose of this document was to make public the analysis of the environmental impacts that would likely result from the construction and operation of the proposed Project. The NRCS participated as a cooperating agency in the preparation of the EIS.

The project will affect approximately 16 NRCS held Wetlands Reserve Program (WRP) easements by creating a 60 ft. permanent right of way (within a 100 ft. construction right of way) that extends for approximately 241.9 miles of which 12.5 miles is over lands encumbered under WRP easements located in Madison, Red River, Richland and Ouachita Parishes, Louisiana. Of

the 34,584 acres encumbered by WRP easements in Madison Parish, Louisiana 76.43 acres will be affected; Of the 513 acres encumbered by WRP easements in Red River Parish, Louisiana 4.61 acres will be affected; of the 7,285 acres encumbered by WRP easements in Richland Parish, Louisiana 6.36 acres will be affected; of the 3,716 acres encumbered by WRP easements in Ouachita Parish, Louisiana 1.82 acres will be affected.

FOR FURTHER INFORMATION CONTACT: Dorothy S. Harris, Acting State Conservationist, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302; telephone (318) 473–7751.

A limited number of copies of the ROD are available to fill single copy requests at the above address. Basic data evaluated for the ROD are on file and may be reviewed by contacting Dorothy S. Harris.

Dated: July 5, 2007.

Dorothy S. Harris,

Acting State Conservationist.

[FR Doc. E7–13644 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Norborne Baseload Plant: Notice of Availability of Final Environmental Impact Statement

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Availability of Final Environmental Impact Statement.

SUMMARY: The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development, is issuing a Final Environmental Impact Statement (EIS) for the Norborne Baseload Plant (Norborne Plant). The Final EIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*) in accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR 1500–1508) and RUS regulations (7 CFR 1794). The U.S. Army Corps of Engineers is a cooperating agency for this Final EIS. Rural Development invites comments on the Final EIS.

The purpose of the EIS is to evaluate the potential environmental impacts of and alternatives to the Associated Electric Cooperative, Inc. (AECI) application for Rural Development financing to construct the proposed 660 megawatt (MW) net supercritical pulverized coal (SCPC) fired power plant in Carroll County, Missouri, near the town of Norborne. AECI also proposes to construct new and modified substations, approximately 134 miles of new 345-kV transmission lines, a utility waste landfill, new rail access from existing mainline railroads, and a water supply system consisting of groundwater wells and associated pipeline.

DATE: Written comments on this Final EIS will be accepted on or before August 9, 2007.

ADDRESSES: To obtain copies of the Final EIS or for further information, contact: Stephanie A. Strength, USDA, Rural Development Utilities Programs, 1400 Independence Avenue, SW., Mail Stop 1570, Room 2244, Washington, DC 20250–1570, telephone (202) 720–0468, fax (202) 720–0820, or e-mail: *Stephanie.strength@wdc.usda.gov.*

A copy of the Final EIS has been sent to affected federal, state, and local government agencies and to interested parties and can be viewed online at: *http://www.usda.gov/rus/water/ees/eis.htm.*

Copies of the Final EIS will also be available for public review at the following locations (hours vary; contact individual repositories for available times):

Boonslick Regional Library Sedalia Branch, 219 W. 3rd Street, Sedalia, MO 65301, Phone: 660/827–7323.

Boonslick Regional Library, 950 E. Main Street, Warsaw, MO 65355, Phone: 660/438–5211.

Cameron Public Library, 312 N. Chestnut Street, Cameron, MO 64429, Phone: 816/632–2311.

Carnegie Library, 316 Massachusetts Street, St. Joseph, MO 64504, Phone: 816/238–0526.

Carrollton Public Library, 1 N. Folger Street, Carrollton, MO 64633, Phone: 660/542–0183.

Concordia Library, 709 S. Main Street, Concordia, MO 64020, Phone: 660/463–2277.

DeKalb County Public Library, 105 N. Polk Street, Maysville, MO 64469, Phone: 816/449–5695.

Dulany Memorial Library, 501 S. Broadway, Salisbury, MO 65281, Phone: 660/388–5712.

Downtown Library, 927 Felix Street, St. Joseph, MO 64501, Phone: 816/232–7729.

East Hills Library, 502 N. Woodbine Road, Suite A., St. Joseph, MO 64506, Phone: 816/236–2136.

Hale Library & Museum, 321 Main Street, Hale, MO 64643, Phone: 660/565–2617.

Lexington Library, 1008 Main Street, Lexington, MO 64067, Phone: 660/259–3071.

Little Dixie Regional Library, 111 N. 4th Street, Moberly, MO 65270, Phone: 660/263–4426.

Macon Public Library, 210 N. Rutherford Street, Macon, MO 63552, Phone: 660/385–3314.

Marshall Public Library, 214 N. Lafayette, Marshall, MO 65340, Phone: 660/886–3391.

Maryville Public Library, 509 N. Main Street, Maryville, MO 64468, Phone: 660/582–5281.

Mid-Continent Public Library, Excelsior Springs Branch, 1460 Kearney Road, Excelsior Springs, MO 64024–1746, Phone: 816/630–6721.

Mid-Continent Public Library, Kearney Branch, 100 S. Platte-Clay Way, Kearney, MO 64060–7640, Phone: 816/628–5055.

Mound City Public Library, 205 E. 6th Street, Mound City, MO 64470, Phone: 660/442–5700.

Norborne Public Library, 109 E. Second Street, Norborne, MO 64668, Phone: 660–593–3514.

Oregon Public Library, 103 S. Washington Street, Oregon, MO 64473, Phone: 660/446–3586.

Ray County Library, 215 E. Lexington Street, Richmond, MO 64085, Phone: 816/776–5104.

Rolling Hills Consolidated Library: Eastside, 1904 N. Belt Highway, St. Joseph, MO 64506, Phone: 816/232–5479.

Rolling Hills Consolidated Library: Savannah, 514 W. Main Street, Savannah, MO 64485, Phone: 816/324–4569.

Robertson Memorial Library, 19 W. 20th Street, Higginsville, MO 64037, Phone: 660/584–2880.

Sedalia Public Library, 311 W. Third Street, Sedalia, MO 65301, Phone: 660/826–1314.

Sweet Springs Public Library, 217 Turner Street, Sweet Springs, MO 65351, Phone: 660/335–4314.

Washington Park Library, 1821 N. Third Street, St. Joseph, MO 64505, Phone: 816/232–2052.

SUPPLEMENTARY INFORMATION: AECI is contractually obligated to provide all the electric power needs of the cooperative member systems it serves and does not have the capacity to cost effectively meet all of its members' power needs beyond about 2013. More information on the purpose and need for the proposal is in Chapter 1 of the Final EIS.

On August 10, 2005, Rural Development published in the **Federal Register** a Notice of Intent to prepare an

EIS for the Norborne Plant. The EIS focused on potential impacts to the following resources: Soils, topography and geology; water resources, air quality, biological resources, the acoustic environment, recreation, cultural and historic resources, visual resources, transportation, farmland, land use, waste management, human health and safety, the socioeconomic environment, environmental justice, and cumulative effects. On January 11, 2007, Rural Development published its Notice of Availability of the Draft EIS for the proposed project in the **Federal Register**. The 60-day comment period ended on March 12, 2007. Several hundred comments were received on the Draft EIS; a comment/response summary is appended to the Final EIS.

Alternatives evaluated in the Final EIS include: Power purchase agreements; energy conservation and efficiency; renewable non-combustible energy sources (wind energy, solar energy, hydroelectricity, geothermal energy); renewable combustible energy sources (biomass, biogas, municipal solid waste); non-renewable combustible energy sources (natural gas combined cycle, microturbines, fuel cells, SCPC, circulating fluidized bed coal, integrated gasification combined cycle coal, oil), nuclear power, and adding capacity at an existing facility. Site screening and selection was an iterative process that began with identification of avoidance areas, then identifying eight potential sites that met various criteria including proximity to water supply and rail. Several same-site alternatives for railroad spur and transmission line alignments were evaluated.

Alternatives assessed in detail include the: (1) No Action Alternative; (2) Proposed Action (construction/operation of the Norborne Plant); (3) Big Lake Site (construction/operation of a plant similar to the Norborne Plant but in a different location); and (4) integrated gasification combined cycle (IGCC) (a technology alternative). The No Action Alternative avoids most direct adverse environmental effects, but potentially entails a number of indirect and cumulative impacts associated with other generation sources from which AECI would have to purchase power if unable to generate its own. Potential impacts on floodplains, wetlands, public lands, recreation, visual resources, fisheries and wildlife, threatened and endangered species, cultural resources and environmental justice would be expected to be greater with the Big Lake Site than with the Norborne Site. Other impacts would be expected to be similar. Impacts associated with the use of IGCC would be expected to be similar to those of the Proposed Action. AECI's Proposed Action has been identified as Rural Development's Preferred Alternative.

Rural Development has concluded that, with actions that have been incorporated into the Preferred Alternative to reduce or avoid impacts, no impacts of the Preferred Alternative meet the CEQ threshold criteria for significant impacts. Any final action by Rural Development related to the proposed project will be subject to, and contingent upon, compliance with all relevant federal, state and local environmental laws and regulations, and completion of the environmental review requirements as prescribed in the USDA Rural Utilities Services' Environmental Policies and Procedures (7 CFR part 1794).

Dated: June 29, 2007.

James R. Newby,

Assistant Administrator, USDA/Rural Development/Utilities Programs.

[FR Doc. E7–13299 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

KAMO Power: Notice of Intent To Hold Public Scoping Meetings and Prepare an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Intent to Hold Public Scoping Meetings and Prepare an Environmental Assessment (EA).

SUMMARY: The Rural Utilities Service (RUS), an Agency delivering the United States Department of Agriculture (USDA) Rural Development Utilities Programs, hereinafter referred to as Rural Development and/or Agency, intends to hold public scoping meetings and prepare an Environmental Assessment (EA) related to possible financial assistance to KAMO Power (KAMO) of Vinita, Oklahoma, for the proposed construction of approximately 100 miles of 345 kilovolt (kV) transmission line in Cherokee and Crawford Counties, Kansas; portions of Jasper, Newton, and McDonald Counties, Missouri; and Ottawa, Delaware, Craig, and Mayes Counties, Oklahoma. KAMO is requesting USDA Rural Development to provide financial assistance for the proposal.

DATES: Rural Development will hold two scoping meetings in an open house format in order to provide information and solicit comments for the preparation of an EA. The first meeting will be held on July 24, 2007, at Cowboy Junction, 27544 South 4380 Road, Vinita, Oklahoma 74301. The second meeting will be held at the Baxter Springs Community Center, 1101 E Avenue, Baxter Springs, Kansas 66713. Both meetings will be held from 6 to 8 p.m.

ADDRESSES: To obtain copies of the EA, or for further information, contact: Dennis Rankin, Environmental Protection Specialist, USDA, Rural Development, Utilities Programs, Engineering and Environmental Staff, 1571, 1400 Independence Avenue, SW., Stop 1571, Washington, DC 20250–1571, telephone (202) 720–1953, or e-mail: *dennis.rankin@wdc.usda.gov*.

A Macro Corridor Study will be available for public review at USDA Rural Development, Utilities Programs, 1400 Independence Avenue, SW., Washington, DC 20250–1571; at Rural Development's Web site *http://www.usda.gov/rus/water/ees/ea.htm*; and at KAMO's headquarters office, 500 South KAMO Drive, Vinita, Oklahoma 74301. The document will also be available for review in the public libraries in Langley, Pryor, Miami, and Vinita, Oklahoma, and Pittsburg, Galena, and Baxter Springs, Kansas.

SUPPLEMENTARY INFORMATION: KAMO proposes to construct a 345 kV transmission line between its new Blackberry Substation in western Jasper County, Missouri and the new Chouteau 345/161 kV Substation and the existing Grand River Dam Authority's (GRDA) Coal-Fired Complex in Mayes County, Oklahoma. A single-circuit 161 kV transmission line will also be constructed from the Chouteau Substation to the Associated Electric Cooperative, Inc. (AECI), Chouteau Gas Plant. The Blackberry Substation will be located 3.5 miles north of Asbury, Missouri. The transmission line will terminate at the GRDA Coal-Fired Complex located east of the City of Chouteau, Oklahoma. The Chouteau Substation will be located approximately two miles east of the AECI's gas plant. Transmission structures will be steel H-frame for the 345 kV transmission line and wood or steel H-frame for the 161 kV transmission line. The transmission line would require a right-of-way of 150 feet.

Government agencies, private organizations, and the public are invited to participate in the planning and analysis of the proposal. Representatives from Rural Development and KAMO will be available at the scoping meeting to discuss Rural Development's environmental review process, describe the purpose and need of the proposal,

the macro corridors under consideration, and discuss the scope of environmental issues to be considered, answer questions, and accept oral and written comments.

Questions and comments should be received by Rural Development in writing by August 17, 2007, to ensure that they are considered in this environmental impact determination. The comments received will be incorporated into the Environmental Analysis KAMO will submit to Rural Development for review. Rural Development will use the environmental analyses to determine the significance of the impacts of the proposal and may adopt it as its EA of the proposal. Rural Development's EA would be available for review and comment for 30 days.

Should Rural Development determine that the preparation of an Environmental Impact Statement is not necessary, it will prepare a Finding of No Significant Impact. Any final action by Rural Development related to the proposal will be subject to, and contingent upon, compliance with all relevant Federal, State and local environmental laws and regulations and completion of the environmental review procedures as prescribed by RUS's Environmental Policies and Procedures (7 CFR part 1794).

Dated: July 9, 2007.

Mark S. Plank,

Director, Engineering and Environmental Staff, USDA/Rural Development/Utilities Programs.

[FR Doc. E7–13590 Filed 7–12–07; 8:45 am]

BILLING CODE 3410–15–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletion

ACTION: Proposed Addition to and Deletion from the Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a service previously furnished by such agencies.

Comments must be received on or before: August 12, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following service is proposed for addition to Procurement List for production by the nonprofit agencies listed:

Service

Service Type/Location: Custodial Services, U.S. Border Patrol, ADP Branch—Blaine Sector Training,1573 H Street, Blaine, WA

Service Type/Location: Custodial Services, U.S. Border Patrol, Bellingham Station, 2745 McLeod Road,Bellingham, WA

Service Type/Location: Custodial Services, U.S. Border Patrol, Blaine Sector Headquarters, 2410 Nature's Path Way, Blaine, WA

Service Type/Location: Custodial Services, U.S. Border Patrol, Lynden Station, 8334 Guide Meridian,Bellingham, WA

NPA: Lake Whatcom Residential and Treatment Center, Bellingham, WA

Contracting Activity: Department of Homeland Security, Bureau of Immigration and Customs Enforcement, Laguna Niguel, CA

Deletion

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for deletion from the Procurement List.

End of Certification

The following service is proposed for deletion from the Procurement List:

Service

Service Type/Location: Janitorial/Custodial, U.S. Federal Building, 111 West Huron St, Buffalo, NY

NPA: Phoenix Frontier, Inc., Buffalo, NY

Contracting Activity: General Services Administration, Public Building Service, New York, NY

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E7–13613 Filed 7–12–07; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List services previously furnished by such agencies.

EFFECTIVE DATE: August 12, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely

Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On May 11 and May 18, 2007, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (72 F.R.26779; 28024) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product and services are added to the Procurement List:

Product

DVD Label Refill

NSN: 7530–00–NIB–0815
NPA: North Central Sight Services, Inc., Williamsport, PA
Contracting Activity: General Services Administration, Office Supplies & Paper Products Acquisition Ctr, New York, NY
Coverage: A-List—for the total Government requirement as aggregated by the General Services Administration

Services

Service Type/Location: Consolidated Mailroom Services
Department of Homeland Security, (Metro Washington, DC–VA, MD), Washington, DC
NPA: ServiceSource, Inc., Alexandria, VA
Contracting Activity: Department of Homeland Security Headquarters, Washington, DC

Service Type/Location: Custodial Services
U.S. Coast Guard—San Juan Base Exchange,La Puntilla Street, San Juan, PR
U.S. Coast Guard—West Air Field Exchange, Road 107, Gate 1, Aguadilla, PR
NPA: The Corporate Source, Inc., New York, NY
Contracting Activity: U.S. Coast Guard—Norfolk, Norfolk, VA

Deletions

On May 18 and May 25, 2007, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (72 F.R.28024; 29296) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services deleted from the Procurement List.

End of Certification

Accordingly, the following services are deleted from the Procurement List:

Services

Service Type/Location: Janitorial/Custodial U.S. Customs Service, Office of Investigation, East and West Wings, Building 50, JFK Airport, Jamaica, NY
NPA: Goodwill Industries of Greater New York and Northern New Jersey, Inc., Astoria, NY
Contracting Activity: Department of the Treasury, U.S. Customs Service, Indianapolis, IN

Service Type/Location: Laundry Service National Naval Medical Center, Bethesda, MD
NPA: Rappahannock Goodwill Industries, Inc., Fredericksburg, VA
Contracting Activity: North Atlantic Contracting Office, Washington, DC

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E7–13614 Filed 7–12–07; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Docket 38–2006]

Foreign–Trade Zone 214, Lenoir County, North Carolina; Application for Subzone Status; NACCO Materials Handling Group, Inc., Plant (Forklift Trucks); Amendment of Application: Additional Site

Notice is hereby given that the application by the North Carolina Global TransPark Authority, grantee of FTZ 214, requesting special–purpose subzone status for the forklift truck manufacturing facility of NACCO Materials Handling Group, Inc. (NMHG), located in Greenville, North Carolina (71 FR 54612, 9–18–2006), has been amended to include an additional site (2 warehouses/229,944 sq.ft./51.3 acres) comprised of Building 41 and Building 44 located at 1029A Old Creek Road in Greenville.

Public comment is invited from interested parties. The comment period is hereby reopened until August 13, 2007. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below.

A copy of the application and the amendment is available for public inspection at each of the following locations: U.S. Department of Commerce Export Assistance Center, Suite 110, 10900 World Trade Boulevard, Raleigh, North Carolina 27617; and, Office of the Executive Secretary, Foreign–Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, District of Columbia 20230–0002. For further information, contact Pierre Duy, examiner, at: *pierre__duy@ita.doc.gov.*, or (202) 482–1378.

Dated: July 2, 2007.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E7–13657 Filed 7–12–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–875]

Non–Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On April 27, 2007, the Department of Commerce (''the Department'') published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on non–malleable cast iron pipe fittings from the People's Republic of China (''PRC''). This review covers two manufacturers/exporters: Myland Industrial Co., Ltd. (''Myland'') and Buxin Myland (Foundry) Ltd. (''Buxin'').

We provided interested parties with an opportunity to comment on the preliminary results of review. We received no comments from interested parties. Therefore, we have made no changes to the weighted–average dumping margins determined for Myland and Buxin in the final results of this administrative review.

EFFECTIVE DATE: July 13, 2007.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan and Mark Manning, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4081 and (202) 482–5253, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2007, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on non–malleable cast iron pipe fittings from the People's Republic of China. *See Non–Malleable Cast Iron Pipe Fittings from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 20990 (April 27, 2007) (''*Preliminary Results*''). In the *Preliminary Results* we found that Myland and Buxin withheld critical information needed for the Department's separate rate analysis and margin calculation, significantly impeded the review, and provided information that could not be verified, as provided by section 782(i) of the Tariff Act of 1930, as amended (''the Act''). Therefore, pursuant to sections 776(a)(2)(A), (C), and (D) of the Act, the Department preliminarily determined to apply facts available to Myland and Buxin. Because Myland and Buxin do not qualify for a separate rate they became a part of the PRC–wide entity, subject to the PRC–wide rate, in this segment of the proceeding. The Department reviewed the single PRC–wide entity, including Myland and Buxin, and preliminarily determined to apply the total adverse facts available (''AFA'') rate of 75.50 percent to exports of the subject merchandise from the PRC–wide entity, including Myland and Buxin. *See Preliminary Results*. No interested parties filed case briefs in response to the Department's invitation to comment on the *Preliminary Results*.

Scope of the Order

The products subject to this administrative review are finished and unfinished non–malleable cast iron pipe fittings with an inside diameter ranging from 1/4 inch to 6 inches, whether threaded or un–threaded, regardless of industry or proprietary specifications. The subject fittings include elbows, ells, tees, crosses, and reducers as well as flanged fittings. These pipe fittings are also known as ''cast iron pipe fittings'' or ''gray iron pipe fittings.'' These cast iron pipe fittings are normally produced to ASTM A–126 and ASME B.l6.4 specifications and are threaded to ASME B1.20.1 specifications. Most building codes require that these products are Underwriters Laboratories (''UL'') certified. The scope does not include cast iron soil pipe fittings or grooved fittings or grooved couplings.

Fittings that are made out of ductile iron that have the same physical characteristics as the gray or cast iron fittings subject to the scope above or which have the same physical characteristics and are produced to ASME B.16.3, ASME B.16.4, or ASTM A–395 specifications, threaded to ASME B1.20.1 specifications and UL certified, regardless of metallurgical differences between gray and ductile iron, are also included in the scope of the order. These ductile fittings do not include grooved fittings or grooved couplings. Ductile cast iron fittings with mechanical joint ends (''MJ''), or push on ends (''PO''), or flanged ends and produced to the American Water Works Association (''AWWA'') specifications AWWA C110 or AWWA C153 are not included.

Imports of subject merchandise are currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers 7307.11.00.30, 7307.11.00.60, 7307.19.30.60 and 7307.19.30.85. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Review

The period of review is April 1, 2005, through March 31, 2006.

Final Results of Review

We determine that the following weighted–average percentage margin exists for the period April 1, 2005, through March 31, 2006:

Manufacturer/Exporter	Margin (percent)
PRC–Wide Entity (including Myland Industrial Co., Ltd., and Buxin Myland (Foundry) Ltd.)	75.50

Assessment

The Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries. For these final results, the PRC–wide entity, including Myland and Buxin, received a dumping margin based upon total AFA. We will, therefore, instruct CBP to liquidate entries manufactured or exported by the PRC–wide entity, Myland and Buxin, according to the AFA *ad valorem* rate listed above. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of non–malleable cast iron pipe fittings from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Myland and Buxin will be the PRC–wide entity rate shown above; (2) for previously investigated companies not listed above, which received a separate rate in a prior segment of the proceeding, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be the PRC–wide entity rate of 75.50 percent; and (4) the cash deposit rate for all non–PRC exporters, which have not received their own rate, will be the rate applicable to the PRC exporter that supplied that non–PRC exporter. These cash deposit

requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to an administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations 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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

These final results of administrative review are in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: July 6, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–13655 Filed 7–12–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[University of Minnesota, et al.]

Notice of Consolidated Decision on Applications for Duty–Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L.106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5 P.M. in room 2104, U.S. Department of Commerce, 14th and Constitution Ave, NW., Washington, DC.

Comments: None received. Decision: Approved. We know of no instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, was being manufactured in the United States at the time of its order.

Docket Number: 07–013. Applicant: University of Minnesota. Instrument: Carbon Monoxide Monitor and Accessories. Manufacturer: Aerolaser, Germany. Intended Use: See notice at 72 CFR 31287, June 6, 2007. Reasons: The foreign instrument provides quantification of the amount of CO^2 due to biological activity as opposed to fossil fuel consumption. Since it will employ streaming, gigabyte, real–time fiber optic data, an instrument capable of measuring CO concentration fluctuations with the fastest response time is essential to the project.

Docket Number: 07–016. Applicant: The University of Alabama, Tuscaloosa, AL. Instrument: Fast–response NOx Analyzer. Manufacturer: Combustion Ltd., UK. Intended Use: See notice at 72 CFR 31287, June 6, 2007. Reasons: The foreign instrument provides near ms response (3 ms for NO, and < 10 ms for other oxides of N),allowing measurement of changes in concentration of NOx within an internal combustion engine cycle (2 revolutions for a 4–stroke cycle engine) and correlation with other intra–cycle data such as cylinder pressure or temperature in order to identify and determine mitigation methods of NOx formation in internal combustion engines.

Docket Number: 07–017. Applicant: Stanford University, Stanford, CA. Instrument: 1.1 Micron Wavelength Fiber Laser, Model: Boostik 5 W. Manufacturer: Koheras A/S, Denmark. Intended Use: See notice at 72 CFR 31287, June 6, 2007. Reasons: The foreign instrument provides an important accessory tool for building and testing a point–to-point freespace communication link operating in the 3.8 micron waveband to verify the system design, using parametric frequency conversion of telecom–like sources. A high–power, cw, polarized laser source operating at a wavelength of exactly 1.1 micron is essential for making these measurements.

Docket Number: 07–029. Applicant: University of Washington, Seattle, WA 98195. Instrument: Femtosecond Laser. Manufacturer: Femtolasers Produktions, GmbH, Austria. Intended Use: See notice at 72 CFR 31287, June 6, 2007. Reasons: The foreign instrument provides a necessary accessory for conducting ultra–fast nonlinear optical far and near–field microscopic investigations of nanoscale physical phenomena of ferroelectric and semiconducting materials, especially ferroelectric domain ordering of manganites. These multiferroic materials are of great interest due to their potential for nonvolatile storage devices. By using photon echo and pump probe techniques, the electronic and vibrational properties of semiconductor nanocrystals, particularly CdSe and PdSe, will be used to study the effect of quantum confinement on vibronic coupling. A femtosecond laser with with pulse durations of 10 fs and below, with more than 480 mW power will be necessary for this work.

Docket Number: 07–030. Applicant: Lehigh University, Bethlehem, PA 18015. Instrument: Low Voltage Transmission and Scanning Electron Microscope. Manufacturer: Delong Insruments A.s, Czech Republic. Intended Use: See notice at 72 CFR 31287, June 6, 2007. Reasons: The foreign instrument provides detection of proteins of interest (actin, synapsin and Rab3a) in nerve terminals, allowing immunolabeling of these proteins such that the tissue can be processed for transmission electron microscopy and the samples can be examined. This unique TEM operates at a low voltage of 5 kV, which enables obtaining of high–contrast images of non–osmicated samples, which is crucial since osmication cannot be performed together with immunolabeling. The TEM is capable of both fast and gradual changes in magnification which is needed, since nerve terminals are not readily found in the preparations of neuromuscular tissue being examined.

Docket Number: 07–031. Applicant: University of Notre Dame, Notre Dame, IN. Instrument: Surface Roughness Analyzer. Manufacturer: Elionix, Japan. Intended Use: See notice at 72 CFR 31287, June 6, 2007. Reasons: The foreign instrument will be needed to study Al and other metal tunnel junctions, microelectromechanical systems (MEMS) related materials such as Al, silicon dioxide and nitride and silicon. New imaging systems for infrared detectors in the form of both nanoantennas and micro–spectrometers will be fabricated. The instrument will be required to image the devices formed at high magnification and also to accurately determine their surface morphology. Measurement of step–coverage of thin metal films with very high resolution is crucial for determining if the nanometer scale, overlapped metal areas are properly

formed. The Elionix is claimed to be essential for this work since it is the only instrument known that can perform surface roughness analysis using an electron beam.
Docket Number: 07–033. Applicant: Stanford University, Stanford, CA 94305. Instrument: Amplified Ultrafast Laser System. Manufacturer: Thales Laser, France. Intended Use: See 72 FR 36961, July 6 2007. Reasons: The foreign Instrument is an accessory that can optimize for either absorption in proteins or fragmentation for smaller molecules such as CO^2. The laser system will be used to generate light of different colors in a non–collinear optical parametric amplifier. The laser system used must be very reliable, with a clean mode and capability of generating reproducible high powers on a daily basis with very little noise or operator intervention.

Dated: July 10, 2007.

Faye Robinson,

Director, Statutory Import Programs Staff, Import Administration.

[FR Doc. E7–13651 Filed 7–12–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–837]

Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 7, 2007, the Department of Commerce (''the Department'') published the preliminary results of the countervailing duty (''CVD'') administrative review of certain cut–to-length carbon–quality steel plate (''CTL Plate'') from the Republic of Korea (''Korea''). The review covers Donguk Steel Mill Co., Ltd. (''DSM''). The period of review (''POR'') is January 1, 2005, through December 31, 2005. The Department received comments concerning our preliminary results from DSM (''respondent''). The final results are listed in the section ''Final Results of Review'' below.

EFFECTIVE DATE: July 13, 2007.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska or Eric Greynolds, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–8362 or (202) 482–6071, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2007, the Department published the preliminary results of the administrative review of the CVD order on CTL Plate from Korea. *See Notice of Preliminary Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 72 FR 10163 (March 7, 2007) (''*Preliminary Results*.'') We invited interested parties to comment on our *Preliminary Results*. We received comments from respondent. We received no comments from petitioners. No party requested a hearing.

Scope of the Order

The products covered by the CVD order are certain hot–rolled carbon–quality steel: (1) universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut–to-length (not in coils) and without patterns in relief), of iron or non–alloy-quality steel; and (2) flat–rolled products, hot–rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut–to-length (not in coils). Steel products to be included in the scope of the order are of rectangular, square, circular or other shape and of rectangular or non–rectangular cross-section where such non–rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')--for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non–metallic substances are included within this scope. Also, specifically included in the scope of the order are high strength, low alloy (''HSLA'') steels. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (''HTSUS'') definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is two percent or less, by weight; and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of this order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non–metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion–resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to the order is currently classifiable under the HTSUS subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

Comments from Interested Parties

We invited parties to comment on our *Preliminary Results*. On April 6, 2007, respondent filed a case brief. Petitioners did not submit a case brief or a rebuttal brief.

Analysis of Comments Received

All issues raised in the case brief by respondent to this administrative review are addressed in the accompanying *Issues and Decision Memorandum:*

Final Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea, (''Decision Memorandum''), which is hereby adopted by this notice. A listing of the issues which parties raised and to which we have responded, which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of the issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (''CRU''), room B–099 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn*. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we calculated a subsidy rate for DSM for 2005. The final results of this review remain the same as the preliminary results. We determine the total net countervailable subsidy rate for DSM is 0.10 percent *ad valorem* for 2005, which is *de minimis*. *See* 19 CFR 351.106(c)(1).

Manufacturer/exporter	Margin (percent)
Donguk Steel Mill Co., Ltd. (DSM)	0.10 (*de minimis*)

Assessment

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (''CBP'') 15 days after the date of publication of these final results of review to liquidate shipments of subject merchandise by DSM entered, or withdrawn from warehouse, for consumption on or after January 1, 2005, through December 31, 2005, without regard to countervailing duties.

Cash Deposit Requirements

We will instruct CBP not to collect a cash deposit on entries of CTL Plate from DSM and to continue to collect cash deposits for non–reviewed companies at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rate that will be applied to non–reviewed companies covered by this order are those established in the most recently completed administrative proceedings. *See Notice of Amended Final Determination: Certain Cut–to-Length Carbon–Quality Steel Plate from India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut–to-Length Carbon–Quality Steel Plate from France, India, Indonesia, Italy, and the Republic of Korea*, 65 FR 6587 (February 10, 2000). These rates shall apply to all non–reviewed companies until a review of a company assigned this rate is requested.

This notice is also the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. We are issuing and publishing these results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: July 5, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I - Issues and Decision Memorandum

I. Methodology And Background Information

II. Subsidies Valuation Information

A. Average Useful Life

B. Benchmarks for Long–Term Loans Issued through 2005

III. Analysis Of Programs

A. Programs Determined to Confer Subsidies

1. The GOK's Direction of Credit
2. Asset Revaluation under Tax Programs under the Tax Reduction and Exemption Control Act (TERCL) Article 56(2)
3. GOK Infrastructure Investment at Inchon North Harbor
4. Research and Development under Korea Research Association of New Iron and Steelmaking Technology (KANIST) (formerly KNISTRA)

B. Programs Determined to be not Used

1. Special Cases of Tax for Balanced Development Among Areas (TERCL Articles 41, 42, 43, 44, and 45) (Reserve for Investment Program)
2. Electricity Discounts (VRA, VCA, ELR and DLI Programs)
3. Price Discount for DSM Land Purchase at Asan Bay
4. Local Tax Exemption on Land Outside of Metropolitan Area
5. Exemption of VAT on Anthracite Coal

C. Programs Determined to be not Countervailable

1. Special Tax Credit for Boosting Employment

IV. Total *Ad Valorem* Rate

V. Analysis Of Comments

Comment: GOK Infrastructure Investment at Inchon North Harbor

[FR Doc. E7–13653 Filed 7–12–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 070321067–7068–01]

Announcing Draft Federal Information Processing Standard (FIPS) 140–3, Security Requirements for Cryptographic Modules

AGENCY: National Institute of Standards and Technology (NIST), Department of Commerce.

ACTION: Notice; request for comments.

SUMMARY: This notice announces Draft Federal Information Processing Standard 140–3, Security Requirements for Cryptographic Modules, for public review and comment. The draft standard, designated ''Draft FIPS 140–3,'' is proposed to supersede FIPS 140–2.

FIPS 140–1 was first published in 1994. In 2001 FIPS 140–2 superseded FIPS 140–1. FIPS 140–2 specified that it will be reviewed within five years. In 2005, NIST solicited public comments on reaffirming the standard. The comments received by NIST supported maintaining the standard. The comments also supported updating the standard due to advances in technology. The proposed revision can be found at *http://csrc.nist.gov/publications/drafts.html#fips140-3* and is now available for public review and comment.

Prior to the submission of this proposed standard to the Secretary of Commerce for review and approval, it is essential that consideration is given to the needs and views of the public, users, the information technology industry, and Federal, State and local government organizations. The purpose of this notice is to solicit such views.

DATES: Comments must be received on or before October 11, 2007.

ADDRESSES: Written comments may be sent to: Chief, Computer Security Division, Information Technology Laboratory, Attention: Dr. Allen Roginsky, 100 Bureau Drive—Stop 8930,

National Institute of Standards and Technology, Gaithersburg, MD 20899–8930. Electronic comments may also be sent to: *FIPS140-3@nist.gov.*

The current FIPS 140–2 standard can be viewed electronically at: *http://csrc.nist.gov/.* Comments received in response to this notice will be published electronically at *http://csrc.nist.gov/cryptval/140-3.htm.*

FOR FURTHER INFORMATION CONTACT: Dr. Allen Roginsky, Computer Security Division, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930, telephone (301) 975–3603.

SUPPLEMENTARY INFORMATION: FIPS 140–1, Security Requirements for Cryptographic Modules was issued in 1994 and was superseded by FIPS 140–2 in 2001. FIPS 140–2 identifies requirements for four security levels for cryptographic modules to provide for a wide spectrum of data sensitivity (*e.g.*, low value administrative data, million dollar funds transfers, and life protecting data), and a diversity of application environments.

Over 1600 modules have been tested by accredited private-sector laboratories and validated to-date as conforming to this standard. The standard provided that it be reviewed within five years to consider its continued usefulness and whether new or revised requirements should be added.

A notice was published in the **Federal Register** (Volume 70, Number 8) on January 12, 2005, soliciting public comments on reaffirming the standard. The comments supported reaffirmation of the standard, but suggested technical modifications to address advances in technology since the standard was originally issued. Using these comments, NIST prepared Draft FIPS 140–3.

The most important differences between this Draft FIPS 140–3 and the current FIPS 140–2 standard are: Specifying five security levels instead of four; having a separate section for software security; requiring to mitigate against the non-invasive attacks when validating at higher security levels; introducing a notion of public security parameters; allowing to defer various self-tests until certain conditions are met; and strengthening the requirements on user authentication and integrity testing.

Authority: Federal Information Processing Standards (FIPS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 5131 of the Information Technology Management Reform Act of 1996 and the Federal Information Security Management Act of 2002 (Pub. L. 107–347).

E.O. 12866: This notice has been determined not to be significant for the purposes of E.O. 12866.

Dated: July 5, 2007.

James M. Turner,

Deputy Director, NIST.

[FR Doc. E7–13654 Filed 7–12–07; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

XRIN: 0648–XB39

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Multispecies (Groundfish) Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, August 1, 2007, at 9 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone: (978) 535–4600.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

1. The Multispecies (Groundfish) Oversight Committee will continue development of Amendment 16 to the Northeast Multispecies Fishery Management Plan. Amendment 16 will adjust measures as necessary to continue the rebuilding of overfished groundfish stocks. At this meeting, the Committee will address sector management issues and they will discuss the recommendations of the Council's Sector Committee as well as specific sector proposals. The discussion will include, but not be limited to, developing alternatives for the baseline period to be used when allocating fishing opportunities to sectors, identifying stocks for which an allocation must be requested, providing allowances for non-sector fisheries (e.g. scallop dredge fishery, recreational fisheries, state waters fisheries, etc.), discussing discard monitoring requirements, and other issues related to sector management. If this discussion is completed, the Committee will review changes to the days-at-sea system for vessels that choose not to join a sector.

2. The Transboundary Management Guidance Committee will meet jointly with the Committee to receive reports of recent stock assessments for Eastern Georges Bank cod and haddock and Georges Bank yellowtail flounder.

3. Other business may also be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: July 9, 2007.

Tracey L. Thompson,

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

[FR Doc. E7–13561 Filed 7–12–07; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 3 p.m., Tuesday, July 17, 2007.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Eileen A. Donovan, 202–418–5100.

Eileen A. Donovan,

Acting Secretary of the Commission.

[FR Doc. 07–3459 Filed 7–11–07; 2:15 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy. U.S. Patent No. 7,072,560: Twist free method of optical fiber stowage and payout, Navy Case No. 84610//U.S. Patent No. 7,166,664: Limonene, pinene, or other terpenes and their alcohols, aldehydes and ketones, as polymer solvents for conducting polymers in aqueous and non-aqueous coating formulations and their uses, Navy Case No. 96100.

ADDRESSES: Requests for copies of the inventions cited should be directed to Naval Air Warfare Center Weapons Division, Code 4L4400D, 1900 N. Knox Road Stop 6312, China Lake, CA 93555–6106 and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Michael D. Seltzer, PhD., Head, Technology Transfer Office, Naval Air Warfare Center Weapons Division, Code 4L4400D, 1900 N. Knox Road Stop 6312, China Lake, CA 93555–6106, telephone 760–939–1074, Fax 760–939–1210, E-mail: *michael.seltzer@navy.mil.*

Authority: 35 U.S.C. 207, 37 CFR 404.7. Dated July 2, 2006.

Dated: July 9, 2007.

L.R. Almand,

Office of the Judge Advocate General,U.S. Navy,Administrative Law Division,Federal Register Liaison Officer.

[FR Doc. E7–13645 Filed 7–12–07; 8:45 am]

BILLING CODE 3810–FF–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 13, 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 email 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: July 9, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services,Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Data Collection/Needs Assessment for the Institute of Education Sciences' Funded Regional Educational Laboratory-Southeast (REL–SE).

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Individuals or Household.

Reporting and Recordkeeping Hour Burden:

Responses: 498.

Burden Hours: 747.

Abstract: This data collection is for the purpose of understanding the information needs of educators in the Southeast. Conducting market research on regional needs to inform annual planning is a required component of the REL–SE's contract with the U.S. Department of Education's Institute of Education Sciences. The needs assessment protocol utilizes both quantitative and qualitative items and will be conducted annually at 20 market research sessions of 20–40 respondents each.

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 3316. 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. E7–13570 Filed 7–12–07; 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 13, 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: July 9, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.
Title: Evaluation of the Quality Teaching for English Learners (QTEL) Program.
Frequency: Annually.
Affected Public: Individuals or Household.
Reporting and Recordkeeping Hour Burden:

Responses: 1,707.
Burden Hours: 1,289.

Abstract: This evaluation of WestEd's Quality Teaching for English Learners (QTEL) professional development program is a cluster random assignment evaluation. This study is part of the U.S. Department of Education's Regional Educational Laboratory Program. The QTEL program equips secondary teachers to provide challenging tasks and scaffold student learning to advance development of academic language. This study will be conducted in school districts in San Diego County. It will include at least 50 middle schools that have large numbers of English Language Learners (ELL). The study will use a three-year longitudinal design to track program effects on teacher knowledge, teacher practice, and student English reading and writing skills.

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 3328. 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. E7–13573 Filed 7–12–07; 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 13, 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: July 9, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.
Title: An Experimental Study of the Project CRISS Reading Program on Ninth-Grade Reading Achievement in Rural High Schools.
Frequency: Annually.
Affected Public: Individuals or Household.
Reporting and Recordkeeping Hour Burden:

Responses: 8,235.
Burden Hours: 7,607.

Abstract: This is an experimental study of an adolescent reading comprehension program called Project CRISS. The study is being performed by the Regional Educational Laboratory, Northwest. RELs are authorized to conduct scientifically valid research on promising educational programs that meet regional needs. The study will collect data on students, teachers, and principals.

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 3329. 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. E7–13574 Filed 7–12–07; 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 13, 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: July 9, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services,Office of Management.

Office of Planning, Evaluation and Policy Development

Type of Review: New.

Title: Evaluation of the Early Childhood Educator Professional Development Program.

Frequency: Other: One time.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 63.

Burden Hours: 103.

Abstract: The Evaluation of the Early Childhood Educator Professional Development (ECEPD) program will describe and analyze the strategies ECEPD projects are using to deliver professional development, and it will synthesize the outcomes of ECEPD projects.

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 3286. 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. E7–13584 Filed 7–12–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 11, 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: July 9, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: An Impact Evaluation of Early Literacy Programs.

Frequency: Annually.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 100.

Burden Hours: 18.

Abstract: The Study will help determine whether early literacy preschool programs have an impact on participating children, and, if so, whether such effects vary among different types of children, families, schools and children's preschool and program experiences. The information will guide decision making in preschool classroom practices and interventions to improve acquisition of early literacy skills and program implementation. The respondents will be preschool children, teachers, paraprofessionals, and parents.

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 3405. 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. E7–13585 Filed 7–12–07; 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 13, 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: July 10, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Planning, Evaluation and Policy Development

Type of Review: Revision.

Title: Longitudinal Analysis of Comprehensive School Reform Implementation and Outcomes (LACIO).

Frequency: On Occasion.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,210.

Burden Hours: 1,230.

Abstract: This request is for OMB approval of revised data collection associated with the Longitudinal Assessment of the Comprehensive School Reform Program Implementation and Outcomes (LACIO). Sec. 1606 of the Elementary and Secondary Education Act (ESEA), as reauthorized by the No Child Left Behind Act (Pub. L. 107 110) mandates activities to be conducted by K 12 schools across the country under ''comprehensive school reform,'' and Sec. 1607 mandates the National Evaluation. This request for the revision of OMB approval reflects a changed focus of the LACIO to address two concerns: (1) The extent to which the federal funds actually played the anticipated catalytic role and schools continue reform after CSR funding ended; and (2) the lessons from CSR that can be applied to school actions to successfully stimulate improved student achievement. This modification enables the Department of Education to respond to the changing policy environment and the need for information related to how high-poverty, low-achieving schools improve and sustain student outcomes. Under the modification, the contractor will conduct a study of the policies and processes implemented in schools that have turned around (failing schools that have improved their student performance dramatically), comparing these successful schools with those that are less successful, and examining the extent to which components in the Turnaround Evidence Review by Public Impact for the Center on Innovation and Improvement (CII) are apparent in successfully reforming schools. In addition, the contractor augmented the framework, adding attention to staff capacity and development, distributed leadership, external assistance, and

characteristics of effective schools. The study will place less emphasis on discrete programs and more on the processes—at the district and school level—and outcomes of reform under NCLB, thereby, enabling the Department to provide other low-performing schools with information about how to improve. Furthermore, this study will gather new data from districts and schools to determine what strategies and practices are implemented in improved schools. The contractor will collect the new data through document review and site visits. The contractor will carry out the work described in this modification, culminating in a final report due October 27, 2008.

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 3327. 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. E7–13662 Filed 7–12–07; 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 13, 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: July 10, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: National Assessment of Educational Progress 2008–2010 Operational and Pilot Surveys System Clearance—Wave 1.

Frequency: One time.

Affected Public: Individuals or household; State, Local, or Tribal Government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 18,120.

Burden Hours: 4,560.

Abstract: These materials are questionnaires to be used in 2008 for the NAEP, including 8th grade arts and materials to be completed by school administrators and students. This is the first group of materials that will be covered under the 2008–2010 NAEP assessments three-year system clearance.

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 3393. 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. E7–13709 Filed 7–12–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction Notice.

SUMMARY: On July 2, 2007, the Department of Education published a comment period notice in the **Federal Register** (Page 35982, Column 2) for the information collection, ''Student Achievement and Institutional Performance Pilot Program.'' The date for submitting comments stated in the Preamble was incorrect. As stated in the Abstract, interested persons are invited to submit comments by July 19, 2007. The IC Clearance Official, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: July 10, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services,Office of Management.

[FR Doc. E7–13661 Filed 7–12–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

DOE Response to Recommendation 2007–1 of the Defense Nuclear Facilities Safety Board, Safety-Related In Situ Nondestructive Assay of Radioactive Materials

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The Defense Nuclear Facilities Safety Board Recommendation 2007–1, concerning Safety-Related In Situ Nondestructive Assay of Radioactive Materials was published in the **Federal Register** on May 2, 2007 (72 FR 24279). In accordance with section 315(b) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(b), the Secretary transmitted the following response to the Defense Nuclear Facilities Safety Board on June 28, 2007.

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before August 13, 2007.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. James Heffner, Nuclear Engineer, Departmental Representative to the Defense Nuclear Facilities Safety Board, Office of Health, Safety and Security, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Issued in Washington, DC, on July 10, 2007.

Mark B. Whitaker, Jr.,

Departmental Representative to the Defense Nuclear Facilities Safety Board, Office of Health, Safety and Security.

The Secretary of Energy

Washington, DC 20585

June 28, 2007

The Honorable A.J. Eggenberger, Chairman, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901

Dear Mr. Chairman: The Department of Energy acknowledges receipt of the Defense Nuclear Facilities Safety Board's Recommendation 2007–1, Safety-Related In Situ Nondestructive Assay of Radioactive Materials, issued on April 25, 2007.

The Department recognizes that continuous improvement in in situ nondestructive assay (NDA) is warranted to support nuclear safety in various activities carried out at Department defense nuclear facilities and, therefore, accepts Recommendation 2007–1. Using the following approach, the Department will develop an Implementation Plan consistent with Integrated Safety Management System principles:

- Evaluate the condition of in situ NDA programs against evaluation criteria, which will be developed;
- Identify state of the practice, both commercial as well as within the Department, in training and qualification, design requirements for new facilities and equipment, standards for conducting in situ NDA, implementation of standards, and oversight;
- Identify any relevant ongoing research and development activities;
- Identify what is needed and any resulting gaps in personnel capabilities and training, equipment capabilities, policy and directives, and oversight;
- Establish requirements, programs, and guidance, as needed; and
- Develop a prioritized plan for implementing the above criteria and requirements.

I have assigned Mr. Richard Lagdon, Chief of Nuclear Safety, Office of the Under Secretary of Energy, as the Department's responsible manager for developing the Implementation Plan. He can be reached at (202) 586–9471.

Sincerely,

Samuel W. Bodman

[FR Doc. 07–3431 Filed 7–12–07; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0529 FRL–8439–4]

Agency Information Collection Activities; Proposed Collection; Comment Request; Information Collection Activities Associated with EPA's ENERGY STAR® Product Labeling; EPA ICR No. 2078.02, OMB Control No. 2060–0528

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on December 31, 2007. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 11, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0529 by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* Air and Radiation Docket Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. *Hand Delivery:* 1301 Constitution Avenue, NW., Room 3334, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2007–0529. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Ann Bailey, Climate Protection Partnerships Division, Office of Air and Radiation, Mailcode 6202J, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–343–9023; fax number: 202–343–2200, e-mail address: *bailey.ann@epa.gov.*

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0529, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use *www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified in this document.

What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Docket ID No.: EPA–HQ–OAR–2007–0529.

Affected entities: Entities potentially affected by this action are product manufacturers which are Partners in EPA's ENERGY STAR program.

Title: Information Collection Activities Associated with EPA's ENERGY STAR® Product Labeling.

ICR numbers: EPA ICR No. 2078.02, OMB Control No. 2060–0528.

ICR status: This ICR is currently scheduled to expire on December 31, 2007. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: ENERGY STAR is a voluntary program developed in collaboration with industry to create a self-sustaining market for energy efficient products. The center piece of the program is the ENERGY STAR label, a registered certification label that helps consumers identify products that save energy, save money, and help protect the environment without sacrificing quality or performance. In order to protect the integrity of the label and enhance its effectiveness in the marketplace, EPA must ensure that products carrying the label meet appropriate program requirements. Since ENERGY STAR is a self-certification program, it is important that program participants submit signed Partnership Agreements indicating that they will adhere to logo-use guidelines and that participating products meet specified energy performance criteria based on a standard test method.

As part of our contribution to the overall success of the program, EPA has agreed to facilitate the sale of qualifying products by providing consumers with easy-to-use information about the products. To be effective, EPA must receive qualifying product information from participating manufacturers. Partners are requested to submit updates to qualifying information on an annual basis, at minimum, so as to ensure that EPA information is recent and accurate. The information will be compiled into a complete qualifying products list per product category, posted on the ENERGY STAR Web site, and supplied to those purchasers who request it via phone, fax, or e-mail. In addition, because of the nature of these products, manufacturers of roof products and residential light fixtures are requested to submit testing reports in order to verify qualification.

In order to monitor progress and support the best allocation of resources, EPA also asks manufacturers to submit annual shipment data for their ENERGY STAR qualifying products. EPA is flexible as to the methods by which manufacturers may submit unit shipment data. For example, if manufacturers already submit this type of information to a third party, such as a trade association, they are given the option of arranging for shipment data to be sent to EPA via this third party to avoid duplication of efforts and to ensure confidentiality. In using any shipment data received directly from a partner, EPA will mask the source of the data so as to protect confidentiality.

Finally, Partners that wish to receive recognition for their efforts in ENERGY STAR may submit an application for the Partner of the Year Award.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 89.33 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions;

develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The estimated total cost for respondents is $7,056,533 and the hourly burden is approximately 89,150 hours. This cost includes an estimated burden cost of $6,817,702 and an estimated cost of $238,831 for capital investment or maintenance and operational costs. The estimated total cost for the Agency is $468,724 and the hourly burden is approximately 11,932 hours. This cost includes an estimated burden cost of $467,508 and an estimated cost of $1,216 for capital investment or maintenance and operational costs. A grand total of $7,525,257 and an hourly burden of approximately 101,082 hours are expected for all information collection activities under ENERGY STAR product labeling.

EPA collects initial information in the Partnership Agreement (PA), which is completed and submitted by every Partner participating in ENERGY STAR. One overarching PA has been developed by EPA for ENERGY STAR product labeling. It is expected that 292 new Partners will join each year for the three years of this ICR. The reporting burden for information collection requirements associated with completing the PA for each respondent is estimated to be 4.20 hours. This estimate includes time for reviewing the instructions on the PA, completing and reviewing the information requested by the PA, and submitting the PA.

Every manufacturing Partner is required to submit information on each of their qualifying products. Annual updates, at minimum, notifying EPA of any changes in qualifying product information, are required as well. Thirty-three different product categories are covered by EPA under ENERGY STAR. Each product category has specific qualifying product information that must be submitted by each Partner for at least one qualifying product. Qualifying product information is expected for 9,986 new qualifying products each year for the three years of this ICR. The qualifying product list for each product category is updated by the Agency once each month, for a total of 396 times annually (32 qualifying product lists multiplied by 12 months in a year). Approximately twice each month the Agency receives a request for qualifying product information that cannot be fulfilled by the ENERGY STAR Web site, for a total of 792 requests. The reporting burden for information collection requirements associated with completing qualifying product information for each qualifying product submitted by a respondent is estimated to be 4.85 hours. This estimate includes time for reviewing instructions, completing and reviewing the information requested, and submitting the information.

ENERGY STAR Partners for residential light fixtures and roof products are required to submit testing reports for each product determined to be ENERGY STAR qualified. It is anticipated that qualifying product information for 4,464 new roof and residential light fixture products will be received by EPA each year for the three years of this ICR. The reporting burden for information collection requirements associated with testing reports by roof product and residential light fixture Partners for each qualifying product submitted by a respondent is estimated to be 14.30 hours. This estimate includes performing testing in-house or by a Third Party, assembling the data into a report format, reviewing it, and submitting it.

Each year, ENERGY STAR Partners are required to submit unit shipment data for their ENERGY STAR qualified products. There will be an average of 692 total Partners each year for the three years of this ICR. Therefore, 692 reports of unit shipment data are expected each year for the three years of this ICR. Unit shipment data will be aggregated for each of the 33 product categories covered by EPA under ENERGY STAR. The reporting burden for information collection requirements associated with unit shipment data for each respondent is estimated to be 6.69 hours. This estimate includes reviewing instructions, gathering unit shipment data, compiling and reviewing it by category, and submitting it.

Partners interested in receiving recognition for their efforts on ENERGY STAR are required to submit a Partner of the Year application. One set of Partner of the Year award criteria are developed by the Agency each year and posted on the ENERGY STAR Web site. An average of 17 award applications are expected each year for the three years of this ICR. The reporting burden for information collection requirements associated with the Partner of the Year application for each respondent is estimated to be 59.29 hours. This estimate includes reviewing instructions on the application, gathering data and information for submission, completing the application, reviewing the information and narrative description required, and submitting the application to EPA.

Are There Changes in the Estimates from the Last Approval?

There is an increase of approximately 18,483 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. Although the estimated burden hours for each individual collection activity decreased, the overall increase in burden hours reflects the increased number of roof products and residential light fixture Partners that are required to submit testing reports along with qualifying product information. The currently approved ICR estimated 654 respondents, whereas this ICR estimates 4,464 respondents for this activity. This change is an adjustment.

What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: June 29, 2007.

Kathleen Hogan,

Director, Climate Protection Partnerships Division.

[FR Doc. E7–13623 Filed 7–12–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6688–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for

copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 6, 2007 (72 FR 17156).

Draft EISs

EIS No. 20070176, ERP No. D–AFS–L65535–ID, Spruce Creek Project, Proposed Timber Harvest, Temporary Road Construction, Thinning of Sub-Merchantable Trees, Enhancement of Asper and Whitebark Pine, Cascade Ranger District, Boise National Forest, Valley County, ID.

Summary: EPA commends the Forest Service for meeting the non-point source TMDL requirements in the project area. However, EPA has environmental concerns about potential impacts to Riparian Conservation Areas from timber management activities. Rating EC2.

EIS No. 20070188, ERP No. D–FHW–C40170–NY, Fort Drum Connector Route Project, Proposed Link between I–81 and U.S. Route 11 at the Fort Drum North Gate, Town of Le Ray and Pamelia, Jefferson County, NY.

Summary: EPA expressed environmental concern about wetland impacts, and requested additional information about mitigation measures. Rating EC2.

Final EISs

EIS No. 20070214, ERP No. F–FRC–G02015–00, EastTexas to Mississippi Expansion Project, Construction and Operation of 243.3 miles Natural Gas Pipeline to Transport Natural Gas from Production Fields in eastern Texas to Markets in the Gulf Coast, Midwestern, Northeastern and Southeastern United States.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20070217, ERP No. F–CDB–C80016–NY, EastRiver Waterfront Esplanade and Piers Project, Revitalization, Connecting Whitehall Ferry Terminal and Peter Minuit Plaza to East River Park, Funding, New York, NY.

Summary: EPA does not object to the proposed project.

EIS No. 20070224, ERP No. F–BLM–K65319–CA, Sierra Resource Management Plan, Provide Direction for Managing Public Lands, Several Counties, CA.

Summary: EPA continues to express environmental concern about impacts to water quality and aquatic habitat, and to public health from exposure to naturally occurring asbestos.

EIS No. 20070250, ERP No. F–NPS–D65037–PA, Flight 93 National Memorial, Designation of Crash Site to Commemorate the Passengers and Crew of Flight 93, Implementation, Stonycreek Township, Somerset County, PA.

Summary: EPA does not object to the proposed action.

Dated: July 10, 2007.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E7–13659 Filed 7–12–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6688–8]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 07/02/2007 through 07/06/2007 Pursuant to 40 CFR 1506.9.

EIS No. 20070281, Draft EIS, AFS, WV, Lower Williams Project Area (LWPA), Proposed to Perform Vegetation Management and Wildlife Habitat Improvements, Implementation, Gauley Ranger District, Monongahela National Forest, Webster County, WV, Comment Period Ends: 08/27/2007, Contact: O'Dell Tucker 304–799–4334 Ext 19.

EIS No. 20070282, Draft EIS, AFS, 00, Sierra Nevada Forests Management Indicator Species Amendment (MIS), Proposes to Adopt a Common List of Management Indicator Species (MIS), and Amending Land & Resource Management Plans for Following Ten Forests: Eldorado, Inyo, Lassen, Modoc, Plumas, Sequoia, Sierra, Stanislaus and Tahoe National Forests and Lake Tahoe Basin Management Unit, Several Counties, CA and Douglas, Esmeralda, Mineral Counties, NV, Comment PeriodEnds: 08/27/2007, Contact: Diana Craig 707–562–8737.

EIS No. 20070283, Final EIS, AFS, OR, Five Buttes Project, Conduct Vegetation Management Activities, Implementation, Deschutes National Forest, Crescent Ranger District, Deschutes County, OR, Wait Period Ends: 08/13/2007, Contact: Marcy Boehme 541–433–3200.

EIS No. 20070284, Draft Supplement, DOE, CA, Sacramento Area Voltage Support Project, Updated Information, Proposal to Build a Double-Circuit 230-kV Transmission Line, Placer, Sacramento and Sutter Counties, CA, Comment Period Ends: 08/27/2007, Contact: Catherine Cunningham 720–962–7000.

EIS No. 20070285, Draft EIS, COE, CA, Berth 136–147 [TraPac] Container Terminal Project, Upgrade Existing Wharf Facilities, Install a Buffer Area between the Terminal and Community, U.S. Army COE Section 10 and 404 Permit, West Basin Portion of the Port of Los Angeles, CA, Comment Period Ends: 08/27/2007, Contact: Dr. Spence D. MacNeil 805–585–2152.

EIS No. 20070286, Draft EIS, BLM, WY, Kemmerer Field Office Planning Area, Resource Management Plan, Implementation, Lincoln, Sweetwater and Uinta Counties, WY, Comment Period Ends: 10/11/2007 Contact: Michele Easley 307–828–4524.

EIS No. 20070287, Final EIS, USA, MD, Garrison Aberdeen Proving Ground, Base Realignment and Closure Actions, Realignment of Assets and Staff, Implementation, Harford and Baltimore Counties, MD, Wait Period Ends: 08/13/2007, Contact: Bob Ross 703–602–2878.

EIS No. 20070288, Second Draft Supplement, NOA, 00, Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region, Amendment 14 to the fishery Management Plan, Additional Information to Analyze a Range of Management Alternatives to End Bottomfish Overfishing in the Hawaiian Archipelago, HI, GU and AS, Comment Period Ends: 08/27/2007, Contact: William L. Robinson 808–973–2941.

EIS No. 20070289, Draft EIS, SFW, AZ, Horseshoe and Bartlett Reservoirs Project, To Store and Release Water, Issuance of an Incidental Take Permit for Operation, Located Northeast of Phoenix, Maricopa and Yavapai Counties, AZ, Comment Period Ends: 09/18/2007, Contact: Debra Bills 602–242–0210.

EIS No. 20070290, Final EIS, RUS, MO, Norborne Baseload Power Plant, Proposed Construction and Operation of a 660-megawatt Net Coal-Fired Power Plant, Carroll County, MO, Wait Period Ends: 08/13/2007, Contact: Stephanie Strength 202–720–0468.

EIS No. 20070291, Draft EIS, APH, 00, PROGRAMMATIC—Introduction of Genetically Engineered (GE) Organisms, To Address Current and

Future Technological Trends Resulting GE Plants, Implementation, Comment Period Ends: 08/27/2007, Contact: Michael J. Wach 301–734–0485.

EIS No. 20070292, Final EIS, COE, CA, San Luis Rey Flood Control Project, Operation and Maintenance of the Vegetation and Sediment Management, from College Blvd to the Pacific Ocean, San Diego County, CA, Wait Period Ends: 08/13/2007, Contact: Tiffany Kayama 213–452–3845.

EIS No. 20070293, Final EIS, SFW, 00, Light Goose Management Plan, Reducing and Stabilitizing Specific Populations ''Light Geese'' in North America, Implementation, Wait Period Ends: 08/13/2007, Contact: James R. Kelley 612–713–5409.

EIS No. 20070294, Final EIS, APH, 00, ADOPTION—Resident Canada Goose Management Plan, Evaluate Alternatives Strategies to Reduce, Manage, and Resident Canada Goose Population, Implementation, within the Conteriminous U.S., Contact: David Reinhold 301–734–7921.

U.S. DOA, APH has adopted the U.S. DOI/SFW Final EIS 20050479 filed 11/09/2005. APH was a cooperating agency on the project. Recirculation of the document is not necessary under 1506.3(b) of the CEQ Regulations.

Amended Notices

EIS No. 20070119, Draft EIS, NOA, AK, PROGRAMMATIC—Outer Continental Shelf Seismic Surveys in the Beaufort and Chukchi Seas, Proposed Offshore Oil and Gas Seismic Survey, AK, Comment Period Ends: 07/30/2007, Contact: William T. Hogarth 301–713–1632.

Revision of FR Notice Published 05/18/2007; Review Period extended to 07/30/2007.

EIS No. 20070185, Draft EIS, FHW, GA, Northwest I–75/I–575 Corridor Project, Transportation Improvements, Funding, Cobb and Cherokee Counties, GA, Comment Period Ends: 08/13/2007, Contact: Wayne Fedora 404–562–3651.

Revision of FR Notice Published on 05/18/2007; Review Period extended to 08/13/2007.

Dated: July 10, 2007.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E7–13670 Filed 7–12–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2007–0493; FRL–8138–4]

Endocrine Disruptor Screening Program; Assay Peer Review Process

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce the approach EPA intends to take for conducting peer reviews of the Tier 1 screening assays and Tier 2 testing assays that are being validated by the Agency's Endocrine Disruptor Screening Program (EDSP), as well as EPA's approach for conducting the peer review of the Tier 1 battery. EPA is also announcing the availability of a listserver (Listserv) that will allow interested parties to sign up to receive e-mail notifications of EDSP peer review updates, including information on the availability of peer review materials to be posted on the EDSP website. These materials may include the documents to be peer reviewed, background documents, the charge to the peer reviewers, and reports that summarize the results of peer reviews.

FOR FURTHER INFORMATION CONTACT: Linda Phillips, Office of Science Coordination and Policy (7203M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–1264; e-mail address: *phillips.linda@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you produce, manufacture, use, consume, work with, or import commercial or pesticide chemicals. To determine whether you or your business may be affected by this action, you should carefully examine section 408(p) of FFDCA, 21 U.S.C. 346a(p). Potentially affected entities, using the North American Industrial Classification System (NAICS) codes to assist you and others in determining whether this action might apply to certain entities, may include, but are not limited to:

- Chemical Manufacturers, Importers and Processors (NAICS code 325), e.g., entities who manufacture, import or process chemical substances.
- Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing (NAICS code 3253), e.g., entities who manufacture, import or process pesticide, fertilizer and agricultural chemicals.
- Scientific Research and Development Services (NAICS code 5417), e.g., persons who conduct testing of chemical substances for endocrine affects.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* Materials cited in this notice are available in docket number EPA–HQ–OPPT–2007–0493. All documents in the docket are listed in the regulations.gov index. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., 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/*.

II. Introduction

A. What Action is the Agency Taking?

EPA is announcing its approach for conducting peer reviews of Tier 1 screening assays and Tier 2 testing assays that are being validated by the Agency's Endocrine Disruptor Screening Program (EDSP), as well as its approach for conducting the peer review of the Tier 1 battery. EPA is also announcing the availability of a listserver (Listserv). To subscribe to the EDSP Listserv send a blank e-mail message to: *join-edsp@lists.epa.gov* from the location at which you normally send or receive mail. For more information on the listserv, go to*http://www.epa.gov/scipoly/oscpendo*. Using the Listserv, interested parties may sign up to receive e-mail notifications of EDSP peer review updates, including information on the availability of peer review materials to be posted at the EDSP website. These materials may include the documents to be peer reviewed, background documents, the charge to the peer reviewers, and reports that summarize the results of peer reviews. EPA is not at this time soliciting public comment on the individual Tier 1 assays. Rather, EPA will solicit comments on the Tier 1 battery once the individual peer reviews have been completed as discussed in Unit IV.D.

B. What is the Agency's Authority for Taking this Action?

Section 408(p) of FFDCA requires EPA ''to develop a screening program, using appropriate validated test systems and other scientifically relevant information, to determine whether certain substances may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect as [EPA] may designate.'' (FFDCA 21 U.S.C. 346a(p)). These test systems are being validated under EPA's EDSP. EPA's validation process includes peer review as its final step.

III. Background

EPA initially set forth the EDSP in the August 11, 1998, **Federal Register** notice (63 FR 42852) (FRL–6021–3) and solicited public comment on the program in the December 28, 1998, **Federal Register** notice (63 FR 71541) (FRL–6052–9). The program set forth in these notices was based on the recommendations of the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), which was chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, section 9(c). The EDSTAC was comprised of members representing the commercial chemical and pesticides industries, Federal and State agencies, worker protection and labor organizations, environmental and public health groups, and research scientists.

EDSTAC recommended that EPA's program address both potential human and ecological effects; examine effects on estrogen, androgen, and thyroid hormone-related processes; and include non-pesticide chemicals, contaminants, and mixtures in addition to pesticides (Ref. 1). Based on these recommendations, EPA developed a two tiered approach, referred to as the EDSP. The purpose of Tier 1 is to identify substances that have the potential to interact with the estrogen, androgen, or thyroid hormone systems using a battery of relatively short-term screening assays. The purpose of Tier 2 is to identify and establish a dose-response relationship for any adverse effects that might result from the interactions identified through the Tier 1 assays. The Tier 2 tests are multi-generational assays that will provide the Agency with more definitive testing data. EDSTAC also recommended that EPA establish a priority-setting approach for choosing chemicals to undergo Tier 1 screening.

EPA currently is implementing its EDSP in three major parts that are being developed in parallel and with substantial work on each well underway. This document deals only with the peer review component of the validation process (item 3 in the following discussion). EPA is addressing the other aspects of the EDSP in separate documents published in the **Federal Register**. The three parts are briefly summarized as follows:

1. *Priority setting*. EPA is prioritizing chemicals to undergo screening in the battery of Tier 1 assays. EPA described its priority setting approach for the first 50-100 chemicals to be tested in the **Federal Register** of September 27, 2005 (70 FR 56449) (FRL–7716–9). The draft initial list of chemicals to undergo Tier 1 screening was published in the **Federal Register** for public review on June 18, 2007 (72 FR 33486) (FRL–8129–3). The Agency expects to finalize this initial list of chemicals before screening is implemented in 2008. More information on EPA's priority setting approach for the EDSP is available at *http://www.epa.gov/scipoly/oscpendo/prioritysetting*.

2. *Procedures*. EPA intends to commence Tier 1 screening of the first group of pesticide chemicals by issuing test orders under FFDCA section 408(p) to chemical companies identified as the manufacturer or processor of the identified chemicals, including the pesticide registrant. EPA is developing a draft implementation policy that will describe the procedures that EPA will use to issue orders, the procedures that order recipients would use to respond to the order, how data protection and compensation will be addressed in the test orders, and other related procedures or policies. In addition, EPA is developing a draft template for the test order and a draft information collection request (ICR) to obtain the necessary clearances under the Paperwork Reduction Act (PRA). The Agency expects to seek public comment on the draft implementation policy and related documents in late summer 2007, and after considering those comments, EPA expects to finalize the policy by the end of 2007.

3. *Assay validation*. EPA is validating assays that are candidates for inclusion in the Tier 1 screening battery, selecting the appropriate screening assays for the screening battery based on the validation data, and developing and validating Tier 2 tests. Validation is defined as the process by which the reliability and relevance of test methods are evaluated for a specific use (Ref. 2). EPA has implemented the validation process in several phases (Ref. 3), including the following:

- Preparation of detailed review papers (DRPs) that involve a search of the relevant scientific literature and development of a document that discusses the scientific basis of each assay and critically evaluates candidate protocols.
- Conduct of pre-validation studies that demonstrate and optimize the assay, with the end result being a standardized protocol for use in the multi-laboratory validation phase.
- Conduct of validation studies in multiple laboratories. The purpose of this phase is to demonstrate the transferability of the protocol, measure lab-to-lab variability, and help establish final performance characteristics for the assay.
- Peer review of the data to determine strengths and weaknesses of the assays. Peer review is the critical evaluation of scientific and technical work products by independent experts. Its purpose is to improve the quality, credibility, and acceptability of regulatory decisions. According to EPA's Peer Review Handbook (Ref. 4), peer review is an important component of the scientific process. It provides a focused, objective evaluation of a research proposal, publication, risk assessment, health advisory, guidance

or other document submitted for review. The criticisms, suggestions and new ideas provided by the peer reviewers ensure objectivity, stimulate creative thought, strengthen the reviewed document and confer scientific credibility on the product. Comprehensive, objective peer review leads to good science and product acceptance within the scientific community.

EPA plans to peer review the following EDSP work products:

Tier 1 Assays	Tier 1 Assay Battery	Tier 2 Assays
Adult Male Androgen Receptor Binding Aromatase Estrogen Receptor Binding Female Pubertal Fish Screen Frog Metamorphosis Hershberger[1] Male Pubertal Steroidogenesis H295R Uterotrophic[2]	Battery To be Determined	Amphibian Growth and Reproduction Two-generation Avian Two-generation Fish Two-generation Mysid

[1]The Hershberger assay has been peer reviewed by the Organization for Economic Cooperation and Development (OECD). EPA will not conduct a separate peer review of this assay.

[2]The Uterotrophic assay has been peer reviewed by OECD. EPA will not conduct a separate peer review of this assay.

The primary product to be peer reviewed for each assay will be an Integrated Summary Report (ISR) that summarizes and synthesizes the information compiled from the validation process (i.e., DRPs, pre-validation studies, and inter-lab validation studies, with a major focus on inter-laboratory validation results).

IV. Peer Review Process

The approaches that EPA intends to use for conducting peer reviews of the Tier 1 and Tier 2 assays, and the Tier 1 battery are described in the following sections.

A. Tier 1 Assays

The mechanism that will be used to peer review Tier 1 Assays will be an external letter review organized under an EPA peer review contract. The procedures used for peer review of the Tier 1 assays will be in accordance with EPA's Peer Review Handbook (Ref. 4). For each assay, the contractor will compile a list of qualified peer review candidates who are independent of those who performed the work or who have been involved in the development or refinement of the protocol, including those who have provided EPA with expert advice throughout the validation process. The potential peer reviewers will be identified from among academia, government, and the private sector, based on their subject matter expertise, availability, and lack of conflict of interest or past involvement in the project. From this pool of candidate reviewers, the contractor will establish a balanced peer review panel consisting of 3 to 10 peer reviewers. EPA will be notified of the identity of the peer reviewers, but will not have contact with them before or during the peer review process to ensure that an independent review is performed. The contractor will provide the reviewers with the ISR for the assay to be reviewed and any supporting documentation that is needed for the peer review, along with a list of charge questions that will be developed by EPA. The ISR will summarize and synthesize the information compiled from the validation process (i.e., DRPs, pre-validation studies, and inter-lab validation studies), with a major focus on inter-laboratory validation results. The charge to the reviewers will be designed to address the following types of issues:

1. Clarity of the stated purpose of the assay.

2. Clarity, comprehensiveness, and consistency of the data interpretation with the stated purpose of the assay.

3. Biological and toxicological relevance of the assay as related to its stated purpose.

4. Clarity and conciseness of the protocol in describing the methodology of the assay such that the laboratory can:

a. Comprehend the objective;

b. Conduct the assay;

c. Observe and measure prescribed endpoints;

d. Compile and prepare data for statistical analyses; and

e. Report the results.

5. Strengths and/or limitations of the assay.

6. Impacts of the choice of:

a. Test substances,

b. Analytical methods, and

c. Statistical methods in terms of demonstrating the performance of the assay.

7. Repeatability and reproducibility of the results obtained with the assay, considering the variability inherent in biological and chemical test methods.

The panel will review and comment on the assay, and the contractor will compile the peer review record. The peer review record will include the peer review document and all supporting materials given to the peer reviewers; the instructions/charge to the peer reviewers; all comments, information, and materials received from the peer reviewers; and names, affiliations, qualifications of the peer review panel members. EPA will use the peer review record to make a final determination as to a Tier 1 assay's suitability for use in the screening program, and finalize the assay for consideration for inclusion in the Tier 1 battery. EPA plans to begin peer reviewing Tier 1 assays by mid-2007. This schedule is dependent upon the successful completion of studies that are currently underway.

B. Tier 1 Battery

As recommended by the Endocrine Disruptor Screening and Testing Advisory Committee (EDSTAC), EPA's EDSP testing strategy will consist of a battery of Tier I assays. The battery is expected to be comprised of screening assays that, when used in combination, will identify substances that have the potential to interact with the estrogen, androgen, and thyroid hormone systems.

Prior to initiating testing, EPA intends to propose a battery of Tier 1 screening assays. The battery will be peer reviewed by the Scientific Advisory Panel (SAP) established under the Federal Insecticide, Fungicide, and

Rodenticide Act (FIFRA). The FIFRA SAP is structured to provide scientific advice, information and recommendations to EPA on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a Federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the FACA. The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health and the National Science Foundation. In addition, FIFRA, as amended by the FQPA of 1996, established a Science Review Board consisting of at least 60 scientists who are available to the FIFRA SAP on an ad hoc basis to assist in reviews conducted by the Panel. As a peer review mechanism, the FIFRA SAP provides comments, evaluations and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendation to the Agency. More information about the FIFRA SAP is available at *http://www.epa.gov/scipoly/sap*.

The proposed battery along with the materials supporting its composition will be provided to a panel of approximately 15 to 20 SAP reviewers. Some of the panel members may be individuals who participated in review of one or more Tier 1 assays, and some individuals will be new to the EDSP peer review process. Use of some of the same reviewers for both the Tier 1 assays and the Tier 1 battery is intended to ensure that individuals familiar with the individual assays are represented when the battery is discussed. This should not present a conflict of interest because the context of the review and the questions being asked of the battery reviewers will differ from what is asked of the reviewers for the individual Tier 1 assays (e.g., questions posed to the SAP reviewers would pertain to whether the proposed battery adequately covers the endpoints of interest for estrogen, androgen, and thyroid while questions posed to the Tier 1 assay reviewers would focus on the strengths and weaknesses of individual assays.

C. Tier 2 Assays

The peer review strategy for the Tier 2 assays will follow a pattern similar to that used for Tier 1 battery. These assays will be peer reviewed by the FIFRA SAP.

D. Public Comment

The formal peer review process described above is intended to ensure a systematic and unbiased review of the scientific basis for including an assay in the EDSP. Although the Agency recognizes that other qualified scientists may also wish to offer opinions to the Agency on the merits of the assays, EPA is not soliciting public comments during the period in which the individual Tier 1 assays are being peer reviewed. Instead, the Agency will accept comments on the overall Tier 1 battery from the public when the composition of the Tier 1 battery is being peer reviewed by the SAP. A separate**Federal Register** notice will announce the SAP review of the Tier 1 battery and provide information on opportunities for public comment.

V. Listserv

The EDSP has created a listserver (Listserv) or ''mailing group.'' A Listserv is an electronic mailing list that makes it possible to reach all individuals in a mailing group with a single e-mail message sent over the Internet. By adding your name to the EDSP Listserv, you will periodically receive an e-mail announcing the availability of materials on the EDSP website and other timely information. To subscribe to the EDSP Listserv send a blank e-mail message to: *join-edsp@lists.epa.gov* from the location at which you normally send or receive mail.

VI. References

The following is a list of the documents that are specifically referenced in this document. These references are available in the docket as identified under **ADDRESSES**.

1. U.S. EPA. Endocrine Disruptor Screening and Testing Advisory Committee Final Report. August 1998. Available at:*http://www.epa.gov/scipoly/oscpendo/edspoverview/finalrpt.htm*.

2. National Institute of Environmental Health Sciences (NIEHS). Validation and Regulatory Acceptance of Toxicological Test Methods, A Report of the ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods. Research Triangle Park, NC. NIH Report 97-3981. March 1997.

3. U.S. EPA. Validation of Screening and Testing Assays Proposed for the EDSP, Draft Version 5.3. October 23, 2006. Available at:*http://www.epa.gov/scipoly/sap/meetings/2007/february/edsp-validation-paper.pdf*.

4. U.S. EPA. Science Policy Council Handbook: Peer Review, 3rd Edition. Office of Science Policy, U.S. Environmental Protection Agency, Washington, DC. EPA/100/B-06/002. Available at: *http://www.nheerl.epa.gov/nheerl__science/peer/about__peer/files/3rd__Edition__PR__Handbook.pdf*.

List of Subjects

Environmental protection, Chemicals, Endocrine disruptors, Pesticides.

Dated: July 2, 2007.

James B. Gulliford,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–13672 Filed 7–12–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[Docket Nos. EPA–R04–SFUND–2007–0542; FRL–8439–3]

Georgia-Pacific Hardwood Site, Plymouth, Washington County, NC; Notice of Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of settlement.

SUMMARY: Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for reimbursement of past response concerning the Georgia-Pacific Hardwood Site located in Plymouth, Washington County, North Carolina.

DATES: The Agency will consider public comments settlement until August 13, 2007. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Batchelor. Submit your comments, identified by Docket ID No. EPA–R04–SFUND–2007–0542 or Site name Georgia-Pacific Hardwood Superfund Site by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: Batchelor.Paula@epa.gov.*
- *Fax:* 404/562–8842/Attn Paula V. Batchelor.
- *Mail:* Ms. Paula V. Batchelor, U.S. EPA Region 4, SD–SEIMB, 61 Forsyth Street, SW., Atlanta, Georgia 30303. ''In

addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.''

Instructions: Direct your comments to Docket ID No. EPA–R04–SFUND–2007–0452. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the U.S. EPA Region 4 office located at 61 Forsyth Street, SW., Atlanta, Georgia 30303. Regional office is open from 7 a.m. until 6:30 p.m. Monday through Friday, excluding legal holidays.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: Paula V. Batchelor at 404/562–8887.

Dated: June 22, 2007.

Rosalind H. Brown,

Chief, Superfund Enforcement & Information Management Branch,Superfund Division.

[FR Doc. E7–13628 Filed 7–12–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE BOARD

[No. 2007–N–10]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2006–07 sixth quarter review cycle under the Finance Board's community support requirements regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to the Finance Board.

DATES: Bank members selected for the review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board on or before August 31, 2007.

ADDRESSES: Bank members selected for the 2006–07 sixth quarter review cycle under the Finance Board's community support requirements regulation must submit completed Community Support Statements to the Finance Board either by regular mail at the Federal Housing Finance Board, Office of Supervision, Community Investment and Affordable Housing, 1625 Eye Street, NW., Washington, DC 20006, or by electronic mail at *FITZGERALDE@FHFB.GOV.*

FOR FURTHER INFORMATION CONTACT: Emma J. Fitzgerald, Program Analyst, Office of Supervision, Community Investment and Affordable Housing, by telephone at 202/408–2874, by electronic mail at *FITZGERALDE@FHFB.GOV,* or by regular mail at the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. See 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.*, and record of lending to first-time homebuyers. See 12 U.S.C. 1430(g)(2). Pursuant to section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirements regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. See 12 CFR part 944. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. 12 CFR 944.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 944.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 944.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 944.2(a). The Finance Board will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the August 31, 2007 deadline prescribed in this notice. 12 CFR 944.2(b)(1)(ii) and (c). On or before July 27, 2007, each Bank will notify the members in its district that have been selected for the 2006–07 sixth quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. 12 CFR 944.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form, which also is available on the Finance Board's Web site: *http://www.fhfb.gov.* Upon request, the

member's Bank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 2006–07 sixth quarter community support review cycle:

Member	City	State
Federal Home Loan Bank of Boston—District 1		
Charter Oak Federal Credit Union	Groton	Connecticut
Salisbury Bank and Trust Company	Lakeville	Connecticut
Chelsea Groton Savings Bank	Norwich	Connecticut
Rockville Bank	Rockville	Connecticut
Thomaston Savings Bank	Thomaston	Connecticut
The Wilton Bank	Wilton	Connecticut
Kennebec Savings Bank	Augusta	Maine
Bath Savings Institution	Bath	Maine
Maine Savings Federal Credit Union	Hampden	Maine
Androscoggin Savings Bank	Lewiston	Maine
Saco & Biddeford Savings Institution	Saco	Maine
Sanford Institution for Savings	Sanford	Maine
The Community Bank	Brockton	Massachusetts
Chicopee Savings Bank	Chicopee	Massachusetts
Weymouth Bank	East Weymouth	Massachusetts
Easthampton Savings Bank	Easthampton	Massachusetts
Dukes County Savings Bank	Edgartown	Massachusetts
Bank of Fall River, A Co-operative Bank	Fall River	Massachusetts
Gloucester Cooperative Bank	Gloucester	Massachusetts
Hudson Savings Bank	Hudson	Massachusetts
Hyde Park Cooperative Bank	Hyde Park	Massachusetts
Lee Bank	Lee	Massachusetts
The Washington Savings Bank	Lowell	Massachusetts
Eastern Bank	Lynn	Massachusetts
Community Credit Union of Lynn	Lynn	Massachusetts
Strata Bank	Medway	Massachusetts
Middlesex Savings Bank	Natick	Massachusetts
Newburyport Five Cents Savings Bank	Newburyport	Massachusetts
North Easton Savings Bank	North Easton	Massachusetts
Seamen's Bank	Provincetown	Massachusetts
Granite Savings Bank	Rockport	Massachusetts
The Cooperative Bank	Roslindale	Massachusetts
Randolph Savings Bank	Stoughton	Massachusetts
The Savings Bank	Wakefield	Massachusetts
Walpole Co-operative Bank	Walpole	Massachusetts
Watertown Savings Bank	Watertown	Massachusetts
Northern Bank & Trust Company	Woburn	Massachusetts
First Colebrook Bank	Colebrook	New Hampshire
Merrimack County Savings Bank	Concord	New Hampshire
Laconia Savings Bank	Laconia	New Hampshire
Federal Home Loan Bank of New York—District 2		
Skylands Community Bank	Hackettstown	New Jersey
Haddon Savings Bank	Haddon Heights	New Jersey
Gibraltar Savings Bank, FSB	Newark	New Jersey
New Community Federal	Newark	New Jersey
Merrill Lynch Trust Company, FSB	Princeton	New Jersey
R&I Bank	Rahway	New Jersey
Manufacturers and Traders Trust Company	Buffalo	New York
The Bank of Greene County	Catskill	New York
Bank of Richmondville	Cobleskill	New York
Fairport Savings Bank	Fairport	New York
Trustco Bank	Glenville	New York
Highland Falls FS&LA	Highland Falls	New York
Steuben Trust Company	Hornell	New York
Ulster Savings Bank	Kingston	New York
Suffolk Federal Credit Union	Medford	New York
Walden Savings Bank	Montgomery	New York
Atlantic Bank of New York	New York	New York
Habib American Bank	New York	New York
Sterling National Bank	New York	New York
Rome Savings Bank Rome	New York	New York
Sleepy Hollow Bank	Sleepy Hollow	New York
Solvay Bank	Solvay	New York
Champlain National Bank	Willsboro	New York
Banco Popular de Puerto Rico	San Juan	Puerto Rico

Member	City	State
Federal Home Loan Bank of Pittsburgh—District 3		
Enterprise Bank	Allison Park	Pennsylvania
Apollo Trust Company	Apollo	Pennsylvania
Farmers and Merchants Trust Company	Chambersburg	Pennsylvania
Cambria County Federal Savings & Loan Association	Cresson	Pennsylvania
Portage National Bank	Ebensburg	Pennsylvania
Elderton State Bank	Elderton	Pennsylvania
East Penn Bank	Emmaus	Pennsylvania
First National Bank of Fredericksburg	Fredericksburg	Pennsylvania
The Gratz National Bank	Gratz	Pennsylvania
Harleysville National Bank & Trust Company	Harleysville	Pennsylvania
Irwin Bank	Irwin	Pennsylvania
The Farmers National Bank of Kittanning	Kittanning	Pennsylvania
The Bank of Landisburg	Landisburg	Pennsylvania
First National Bank of Liverpool	Liverpool	Pennsylvania
The Mars National Bank	Mars	Pennsylvania
The Union National Bank of Mount Carmel	Mt. Carmel	Pennsylvania
New Tripoli Bank	New Tripoli	Pennsylvania
Reliance Standard Life Insurance Company	Philadelphia	Pennsylvania
St. Edmond's Federal Savings Bank	Philadelphia	Pennsylvania
Police & Fire Federal Credit Union	Philadelphia	Pennsylvania
Phoenixville Federal Bank and Trust	Phoenixville	Pennsylvania
Orrstown Bank	Shippensburg	Pennsylvania
Jersey Shore State Bank	Williamsport	Pennsylvania
PeoplesBank, a Codorus Valley Company	York	Pennsylvania
First Exchange Bank	Mannington	West Virginia
FNB Bank, Inc.	Romney	West Virginia
Ameribank	Welch	West Virginia
Federal Home Loan Bank of Atlanta—District 4		
AuburnBank	Auburn	Alabama
SOUTHBank, A Federal Savings Bank	Huntsville	Alabama
First Commercial Bank of Huntsville	Huntsville	Alabama
Peachtree Bank	Maplesville	Alabama
The North Jackson Bank	Stevenson	Alabama
Riverside National Bank	Fort Pierce	Florida
Peoples State Bank	Lake City	Florida
The Bank of Brevard	Melbourne	Florida
The First National Bank of Florida	Milton	Florida
The Bank of Tampa	Tampa	Florida
First Commercial Bank of Tampa Bay	Tampa	Florida
Indian River National Bank	Vero Beach	Florida
HeritageBank of the South	Albany	Georgia
First American Bank and Trust Company	Athens	Georgia
Bank of Atlanta	Atlanta	Georgia
ebank	Atlanta	Georgia
United Community Bank	Blairsville	Georgia
First State Bank of Randolph County	Cuthbert	Georgia
First Intercontinental Bank	Doraville	Georgia
Glennville Bank	Glennville	Georgia
Farmers and Merchants Bank	Lakeland	Georgia
Security Bank of Bibb County	Macon	Georgia
Southwest Georgia Bank	Moultrie	Georgia
The Carver State Bank	Savannah	Georgia
The First State Bank	Stockbridge	Georgia
Bank of Upson	Thomaston	Georgia
Thomasville National Bank	Thomasville	Georgia
Kopernik Federal Bank	Baltimore	Maryland
Liberty Federal Savings and Loan Association	Baltimore	Maryland
Bradford Bank	Baltimore	Maryland
Slavie Federal Savings Bank	Bel Air	Maryland
Mercantile Eastern Shore Bank	Chestertown	Maryland
Chesapeake Bank and Trust Company	Chestertown	Maryland
Hagerstown Trust Company	Hagerstown	Maryland
Lafayette Federal Credit Union	Kensington	Maryland
First United Bank & Trust	Oakland	Maryland
NBRS Financial	Rising Sun	Maryland
Bank of Stanly	Albemarle	North Carolina
Home Savings Bank of Albemarle, SSB	Albemarle	North Carolina
Self-Help Credit Union	Durham	North Carolina
Farmers & Merchants Bank	Salisbury	North Carolina
First National Bank of Shelby	Shelby	North Carolina

Member	City	State
Farmers and Merchants Bank	Holly Hill	South Carolina
E*Trade Bank	Arlington	Virginia
Northern Neck State Bank	Bowling Green	Virginia
American National Bank and Trust Company	Danville	Virginia
The Bank of Fincastle	Fincastle	Virginia
Marshall National Bank and Trust Company	Marshall	Virginia
The Middleburg Bank	Middleburg	Virginia
First Sentinel Bank	Richlands	Virginia
First Bank	Strasburg	Virginia
Federal Home Loan Bank of Cincinnati—District 5		
Bedford Loan and Deposit Bank	Bedford	Kentucky
South Central Bank of Bowling Green, Inc.	Bowling Green	Kentucky
Meade County Bank	Brandenburg	Kentucky
Campbellsville National Bank	Campbellsville	Kentucky
The First National Bank of Columbia	Columbia	Kentucky
Edmonton State Bank	Edmonton	Kentucky
First Security Bank & Trust,	McLean Island	Kentucky
The Lawrenceburg National Bank	Lawrenceburg	Kentucky
The Farmers National Bank of Lebanon	Lebanon	Kentucky
Liberty Alliance Federal Credit Union	Lexington	Kentucky
Bank of McCreary County	Whitley City	Kentucky
Williamsburg National Bank	Williamsburg	Kentucky
FirstMerit Bank, N.A.	Akron	Ohio
Bethel Building and Loan Company	Bethel	Ohio
The Citizens National Bank of Bluffton	Bluffton	Ohio
The Equitable Savings and Loan Company	Cadiz	Ohio
CinFed Employees Federal Credit Union	Cincinnati	Ohio
The Mt. Washington Savings and Loan Company	Cincinnati	Ohio
Charter One Bank, N.A.	Cleveland	Ohio
Community First Bank, National Association	Forest	Ohio
First Ohio Credit Union, Incorporated	Fostoria	Ohio
Galion Building and Loan Association	Galion	Ohio
Second National Bank	Greenville	Ohio
Greenville National Bank	Greenville	Ohio
Lawrence Federal Savings Bank	Ironton	Ohio
The First Bremen Bank	Lancaster	Ohio
First Federal Savings and Loan Association of Lorain	Lorain	Ohio
The New Richmond National Bank	New Richmond	Ohio
Geauga Savings Bank	Newbury	Ohio
Ripley Federal Savings Bank	Ripley	Ohio
Strasburg Savings Bank	Strasburg	Ohio
Toledo Area Catholic Credit Union	Sylvania	Ohio
The Peoples Savings Bank	Urbana	Ohio
First Federal Savings and Loan Association of Van Wert	Van Wert	Ohio
Perpetual Savings Bank	Wellsville	Ohio
People's Community Bank	West Chester	Ohio
Century National Bank	Zanesville	Ohio
The Citizens National Bank of Athens	Athens	Tennessee
Tennessee Valley Federal Credit Union	Chattanooga	Tennessee
Bank of Putnam County	Cookeville	Tennessee
First Federal Bank	Dickson	Tennessee
Carter County Bank	Elizabethton	Tennessee
Gates Banking & Trust Company	Gates	Tennessee
Bank of Gleason	Gleason	Tennessee
Greene County Bank	Greeneville	Tennessee
Bank of Halls	Halls	Tennessee
Commercial Bank	Harrogate	Tennessee
Union Bank	Jamestown	Tennessee
Bank of Tennessee	Kingsport	Tennessee
First Bank	Lexington	Tennessee
The Bank of Milan	Milan	Tennessee
Citizens Bank	New Tazewell	Tennessee
Commercial Bank & Trust Company	Paris	Tennessee
Tennessee State Bank	Pigeon Forge	Tennessee
The Farmers Bank	Portland	Tennessee
Central Bank	Savannah	Tennessee
First Community Bank of Bedford County	Shelbyville	Tennessee
Farmers & Merchants Bank	Trezevant	Tennessee
American City Bank	Tullahoma	Tennessee
Reelfoot Bank	Union City	Tennessee

Member	City	State
Federal Home Loan Bank of Indianapolis—District 6		
The New Washington State Bank	Charlestown	Indiana
First National Bank	Cloverdale	Indiana
CSB State Bank	Cynthiana	Indiana
Three Rivers Federal Credit Union	Fort Wayne	Indiana
Grabill Bank	Grabill	Indiana
Lafayette Savings Bank	Lafayette	Indiana
Peoples Savings & Loan Association	Monticello	Indiana
American Trust and Savings Bank	Whiting	Indiana
FirstBank—Alma	Alma	Michigan
Signature Bank	Bad Axe	Michigan
Lake—Osceola State Bank	Baldwin	Michigan
Central State Bank	Beulah	Michigan
Eastern Michigan Bank	Croswell	Michigan
State Bank of Ewen	Ewen	Michigan
Oakland Commerce Bank	Farmington Hills	Michigan
Credit Union One	Ferndale	Michigan
Co-op Services Credit Union	Livonia	Michigan
Firstbank	Mount Pleasant	Michigan
First National Bank of Norway	Norway	Michigan
Sterling Bank & Trust, FSB	Southfield	Michigan
United Federal Credit Union	St. Joseph	Michigan
Federal Home Loan Bank of Chicago—District 7		
First Community Bank and Trust	Beecher	Illinois
National Bank of Commerce	Berkeley	Illinois
Commonwealth Credit Union	Bourbonnais	Illinois
Integra Bank, N.A.	Bridgeview	Illinois
Marquette Bank	Chicago	Ilinois
ShoreBank	Chicago	Illinois
The First Commercial Bank	Chicago	Illinois
Resource Bank, N.A.	DeKalb	Illinois
Du Quoin State Bank	Du Quoin	Illinois
First Clover Leaf Bank	Edwardsville	Illinois
Crossroads Bank	Effingham	Illinois
Midwest Bank and Trust Company	Elmwood Park	Illinois
Fisher National Bank	Fisher	Illinois
First State Bank of Forrest	Forrest	Illinois
Midwest Community Bank	Freeport	Illinois
Jacksonville Savings Bank	Jacksonville	Illinois
Union Federal Savings and Loan Association	Kewanee	Illinois
Citizens State Bank	Lena	Illinois
Brickyard Bank	Lincolnwood	Illinois
Citizens National Bank	Macomb	Illinois
First Suburban National Bank	Maywood	Illinois
Morris Building and Loan, s.b.	Morris	Illinois
First National Bank of Nokomis	Nokomis	Illinois
Nokomis Savings Bank	Nokomis	Illinois
First National Bank of Pana	Pana	Illinois
Peoples Bank & Trust	Pana	Illinois
Vermillion Valley Bank	Piper City	Illinois
First State Bank of Red Bud	Red Bud	Illinois
AmeriMark Bank	Villa Park	Illinois
North Shore Trust and Savings	Waukegan	Illinois
Waukegan Savings and Loan, SB	Waukegan	Illinois
Prospect Federal Savings Bank	Worth	Illinois
First Community Bank, Xenia-Flora	Xenia	Illinois
Eagle Valley Bank	Burnesville	Minnesota
Capaha Bank, S.B.	Cape Girardeau	Missouri
American National Bank Fox Cities	Appleton	Wisconsin
State Bank of Arcadia	Arcadia	Wisconsin
First National Bank & Trust	Barron	Wisconsin
Blackhawk State Bank	Beloit	Wisconsin
First National Bank	Berlin	Wisconsin
Bonduel State Bank	Bonduel	Wisconsin
Bank of Cashton	Cashton	Wisconsin
Badger State Bank	Cassville	Wisconsin
State Bank of Chilton	Chilton	Wisconsin
American Bank	Fond du Lac	Wisconsin
Peoples Bank of Wisconsin	Hayward	Wisconsin
Horicon State Bank	Horicon	Wisconsin
Farmers State Bank	Markesan	Wisconsin

Member	City	State
Mid Wisconsin Bank	Medford	Wisconsin
Mitchell Bank	Milwaukee	Wisconsin
Lincoln State Bank	Milwaukee	Wisconsin
Bank of Monticello	Monticello	Wisconsin
The Bank of New Glarus	New Glarus	Wisconsin
First National Community Bank	New Richmond	Wisconsin
The River Bank	Osceola	Wisconsin
Bank of Poynette	Poynette	Wisconsin
Johnson Bank	Racine	Wisconsin
Shell Lake State Bank	Shell Lake	Wisconsin
Acuity Bank, SSB	Tomah	Wisconsin
The Equitable Bank, S.S.B.	Wauwatosa	Wisconsin
ALLCO Credit Union	West Allis	Wisconsin
Fortress Bank of Westby	Westby	Wisconsin
Westby Co-op Credit Union	Westby	Wisconsin
Federal Home Loan Bank of Des Moines—District 8		
Ackley State Bank	Ackley	Iowa
Exchange State Bank	Adair	Iowa
First State Bank	Belmond	Iowa
Columbus Junction State Bank	Columbus Junction	Iowa
Freedom Security Bank	Coralville	Iowa
Iowa State Savings Bank	Creston	Iowa
Decorah Bank & Trust Company	Decorah	Iowa
AmerUS Life Insurance Company	Des Moines	Iowa
Dupaco Community Credit Union	Dubuque	Iowa
Grundy National Bank	Grundy Center	Iowa
Hartwick State Bank	Hartwick	Iowa
Hiawatha Bank & Trust Company	Hiawatha	Iowa
Community State Bank	Indianaola	Iowa
Green Belt Bank & Trust	Iowa Falls	Iowa
First National Bank	Le Mars	Iowa
First National Bank of Muscatine	Muscatine	Iowa
Security State Bank	New Hampton	Iowa
First National Bank of Sioux Center	Sioux Center	Iowa
The Security National Bank of Sioux City, Iowa	Sioux City	Iowa
Heartland Bank	Somers	Iowa
State Bank	Spencer	Iowa
Farmers Trust and Savings Bank	Spencer	Iowa
First Bank & Trust	Spirit Lake	Iowa
Citizens First National Bank of Storm Lake	Storm Lake	Iowa
West Chester Savings Bank	Washington	Iowa
Community National Bank	Waterloo	Iowa
First National Bank	Waverly	Iowa
Peoples Savings Bank	Wellsburg	Iowa
Farm Bureau Mutual Insurance Company	West Des Moines	Iowa
Farm Bureau Life Insurance Company	West Des Moines	Iowa
Farmers Savings Bank	Wever	Iowa
State Bank	Worthington	Iowa
Community America Credit Union	Kansas City	Kansas
Atwater State Bank	Atwater	Minnesota
First National Bank Brewster	Brewster	Minnesota
City County Federal Credit Union	Brooklyn Center	Minnesota
Peoples Bank of Commerce	Cambridge	Minnesota
First National Bank	Chisholm	Minnesota
Clinton State Bank	Clinton	Minnesota
Eitzen State Bank	Eitzen	Minnesota
Mainstreet Bank	Forest Lake	Minnesota
Citizens State Bank of Glenville	Glenville	Minnesota
Eagle Bank	Glenwood	Minnesota
First Security Bank—Hendricks	Hendricks	Minnesota
Jackson Federal Savings and Loan Association	Jackson	Minnesota
Janesville State Bank	Janesville	Minnesota
Citizens State Bank of Kelliher	Kelliher	Minnesota
Security State Bank of Kenyon	Kenyon	Minnesota
Lake Community Bank	Long Lake	Minnesota
Lake Country State Bank	Long Prairie	Minnesota
Frandsen Bank & Trust	Lonsdale	Minnesota
Bank of Maple Plain	Maple Plain	Minnesota
Citizens Bank of Minnesota	New Ulm	Minnesota
Community National Bank	Northfield	Minnesota
Minnwest Bank Ortonville	Ortonville	Minnesota
First National Bank of Henning	Ottertail	Minnesota

Member	City	State
Pine River State Bank	Pine River	Minnesota
First Security Bank—Sanborn	Sanborn	Minnesota
Americana Community Bank	Sleepy Eye	Minnesota
Heritage Bank, National Association	Spicer	Minnesota
Western Bank	St. Paul	Minnesota
Vermillion State Bank	Vermillion	Minnesota
Northern State Bank of Virginia	Virginia	Minnesota
First State Bank of Wabasha	Wabasha	Minnesota
Merchants Bank, NA	Winona	Minnesota
First State Bank of Wyoming	Wyoming	Minnesota
Bank of Zumbrota	Zumbrota	Minnesota
Boone County National Bank	Columbia	Missouri
Commercial Trust Company	Fayette	Missouri
Home Exchange Bank	Jamesport	Missouri
Jefferson Bank of Missouri, Inc.	Jefferson City	Missouri
Central Bank of Kansas City	Kansas City	Missouri
Kearney Trust Company	Kearney	Missouri
Lawson Bank	Lawson	Missouri
United State Bank	Lewistown	Missouri
First State Bank of Purdy	Monett	Missouri
First Missouri State Bank	Poplar Bluff	Missouri
The Seymour Bank	Seymour	Missouri
State Bank of Slater	Slater	Missouri
Metropolitan National Bank	Springfield	Missouri
Webb City Bank	Webb City	Missouri
Heartland State Bank	Edgeley	North Dakota
Bremer Bank, N.A.	Grand Forks	North Dakota
Unison Bank	Jamestown	North Dakota
Northland Financial	Steele	North Dakota
Peoples State Bank	Westhope	North Dakota
Security State Bank	Wishek	North Dakota
Dakota State Bank	Blunt	South Dakota
BankWest, Inc.	Pierre	South Dakota
First Bank of White	White	South Dakota
1st Dakota National Bank	Yankton	South Dakota
Superior Guaranty Insurance Company	Burlington	Vermont
Southwest Bank of St. Louis	Milwaukee	Wisconsin
Federal Home Loan Bank of Dallas—District 9		
Sagicor Life Insurance Company	Scottsdale	Arizona
Pinnacle Bank	Bentonville	Arkansas
Bank of Cave City	Cave City	Arkansas
First National Bank of Crossett	Crossett	Arkansas
Simmons First Bank of El Dorado, N.A.	El Dorado	Arkansas
Bank of Arkansas, N.A.	Fayetteville	Arkansas
Greers Ferry Lake State Bank	Heber Springs	Arkansas
Little River Bank	Lepanto	Arkansas
Malvern National Bank	Malvern	Arkansas
Merchants and Planters Bank	Newport	Arkansas
Commercial National Bank of Texas	Texarkana	Arkansas
First Bank of the Delta, N.A.	West Helena	Arkansas
Liberty Bank and Trust Company	Baton Rouge	Louisiana
Kaplan State Bank	Kaplan	Louisiana
Sabine State Bank and Trust Company, Inc.	Many	Louisiana
Exchange Bank and Trust Company	Natchitoches	Louisiana
Sicily Island State Bank	Sicily Island	Louisiana
St. Martin Bank and Trust Company	St. Martinville	Louisiana
Concordia Bank & Trust Company	Vidalia	Louisiana
The Evangeline Bank & Trust Company	Ville Platte	Louisiana
Progressive Bank	Winnsboro	Louisiana
First Security Bank	Batesville	Mississippi
Peoples Bank of Franklin County	Bude	Mississippi
Bank of the South	Crystal Springs	Mississippi
The Commercial Bank	DeKalb	Mississippi
Community Bank of Mississippi	Jackson	Mississippi
Community Bank	Laurel	Mississippi
Century Bank	Lucedale	Mississippi
Great Southern National Bank	Meridian	Mississippi
Newton County Bank	Newton	Mississippi
First National Bank of Oxford	Oxford	Mississippi
The Citizens Bank of Philadelphia	Philadelphia	Mississippi
Renasant Bank	Tupelo	Mississippi
My Bank	Belen	New Mexico

Member	City	State
The Carlsbad National Bank	Carlsbad	New Mexico
Western Bank	Lordsburg	New Mexico
Community Bank	Santa Fe	New Mexico
Centinel Bank of Taos	Taos	New Mexico
Amarillo National Bank	Amarillo	Texas
Treaty Oak Bank	Austin	Texas
First National Bank of Bastrop	Bastrop	Texas
Citizens State Bank	Buffalo	Texas
1st Community Bank	Corpus Christi	Texas
National Bank of Daingerfield	Daingerfield	Texas
Equity Bank, SSB	Dallas	Texas
Town North Bank, N.A.	Dallas	Texas
First National Bank	Edinburg	Texas
First National Bank	El Paso	Texas
First National Bank	Fairfield	Texas
First National Bank in Graham	Graham	Texas
First State Bank, Granger	Granger	Texas
First Community Credit Union of Houston	Houston	Texas
First National Bank of Huntsville	Huntsville	Texas
The Laredo National Bank	Laredo	Texas
Randolph-Brooks Federal Credit Union	Live Oak	Texas
First State Bank of Livingston	Livingston	Texas
The First National Bank of Livingston	Livingston	Texas
First State Bank	New Braunfels	Texas
American Bank, N.A.	Waco	Texas
Union Square Federal Credit Union	Wichita Falls	Texas
Federal Home Loan Bank of Topeka—District 10		
FirstBank of Arvada	Arvada	Colorado
FirstBank of Aurora	Aurora	Colorado
FirstBank of Douglas County	Castle Rock	Colorado
American National Bank	Denver	Colorado
FirstBank of Lakewood	Lakewood	Colorado
FirstBank of Littleton	Littleton	Colorado
FirstBank of Silverthorne	Silverthorne	Colorado
FirstBank of Wheat Ridge	Wheat Ridge	Colorado
Colorado Community Bank	Yuma	Colorado
The First State Bank of Burlingame	Burlingame	Kansas
The Farmers State Bank	Circleville	Kansas
ESB Financial	Emporia	Kansas
Home State Bank	Erie	Kansas
Union State Bank	Everest	Kansas
First National Bank & Trust Co. in Larned	Larned	Kansas
The Bank	Oberlin	Kansas
First State Bank and Trust	Tonganoxie	Kansas
Security Benefit Life Insurance Company	Topeka	Kansas
Capital City Bank	Topeka	Kansas
Commerce Bank and Trust	Topeka	Kansas
Wellsville Bank	Wellsville	Kansas
Boeing Wichita Credit Union	Wichita	Kansas
First National Bank & Trust of Beatrice	Beatrice	Nebraska
Exchange Bank	Gibbon	Nebraska
First State Bank	Gothenburg	Nebraska
Bank of Nebraska	La Vista	Nebraska
West Gate Bank	Lincoln	Nebraska
Home State Bank	Louisville	Nebraska
Bank of Mead	Mead	Nebraska
Farmers & Merchants Bank	Milford	Nebraska
First State Bank	Scottsbluff	Nebraska
Cattle National Bank & Trust Company	Seward	Nebraska
The First National Bank of Valentine	Valentine	Nebraska
CharterWest National Bank	West Point	Nebraska
Winside State Bank	Winside	Nebraska
AmeriState Bank	Atoka	Oklahoma
ACB Bank	Cherokee	Oklahoma
First Commercial Bank	Edmond	Oklahoma
Grand Savings Bank	Grove	Oklahoma
Weokie Credit Union	Oklahoma City	Oklahoma
American Fidelity Assurance Company	Oklahoma City	Oklahoma
First NB&TC of Weatherford, Inc.	Weatherford	Oklahoma
First National Bank in Wewoka	Wewoka	Oklahoma

Member	City	State
Federal Home Loan Bank of San Francisco—District 11		
Omni Bank, N.A.	Alhambra	California
Fremont Investment & Loan	Anaheim	California
Bay Federal Credit Union	Capitola	California
First Coastal Bank	El Segundo	California
Farmers & Merchants Bank of Central California	Lodi	California
Center Bank	Los Angeles	California
Nara Bank	Los Angeles	California
Wilshire State Bank	Los Angeles	California
County Bank	Merced	California
Valley Community Bank	Pleasanton	California
Alliance Credit Union	San Jose	California
Silver State Bank	Henderson	Nevada
Security Savings Bank	Las Vegas	Nevada
Federal Home Loan Bank of Seattle—District 12		
Honolulu City & County Employees FCU	Honolulu	Hawaii
Rocky Mountain Bank	Billings	Montana
Bank of Bridger	Bridger	Montana
Mountain West Bank, N.A.	Helena	Montana
Three Rivers Bank of Montana	Kalispell	Montana
First National Bank of Lewistown	Lewistown	Montana
Bitterroot Valley Bank	Lolo	Montana
Missoula Federal Credit Union	Missoula	Montana
Western Bank of Wolf Point	Wolf Point	Montana
Rogue Federal Credit Union	Medford	Oregon
First National Bank of Layton	Layton	Utah
Capital Community Bank	Orem	Utah
Trans West Credit Union	Salt Lake City	Utah
Deseret First Credit Union	Salt Lake City	Utah
Anchor Bank	Aberdeen	Washington
The Bank of the Pacific	Aberdeen	Washington
Whatcom Educational Credit Union	Bellingham	Washington
Security State Bank	Centralia	Washington
North Cascades National Bank	Chelan	Washington
Bank of Whitman	Colfax	Washington
Islanders Bank	Friday Harbor	Washington
Community First Bank	Kennewick	Washington
1st Security Bank of Washington	Mountlake Terrace	Washington
NorthStar Bank	Seattle	Washington
Sound Community Bank	Seattle	Washington
Yakima National Bank	Yakima	Washington
Yakima Valley Credit Union	Yakima	Washington
First National Bank of Wyoming	Laramie	Wyoming
Rawlins National Bank	Rawlins	Wyoming
First State Bank	Wheatland	Wyoming

II. Public Comments

To encourage the submission of public comments on the community support performance of Bank members, on or before the July 27, 2007, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2006-07 sixth quarter review cycle. 12 CFR 944.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. 12 CFR 944.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 2006-07 sixth quarter review cycle must be delivered to the Finance Board on or before the August 31, 2007 deadline for submission of Community Support Statements.

Dated: June 29, 2007.

Neil R. Crowley,

Acting General Counsel.

[FR Doc. E7–13147 Filed 7–12–07; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of

a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 9, 2007.

Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Taunton Bancshares, Inc.; to become a bank holding company by acquiring at least 98 percent of the voting shares of The State Bank of Taunton, both of Taunton, Minnesota.

Board of Governors of the Federal Reserve System, July 10, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–13620 Filed 7–12–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 9, 2007.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Wachovia Corporation, Charlotte, North Carolina; to acquire 100 percent of the voting shares of A. G. Edwards Trust Company FSB, St. Louis, Missouri, and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, July 10, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–13621 Filed 7–12–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0990–0000; 60-day notice]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection.

Title of Information Collection: HHS Web Site Customer Satisfaction.

Form/OMB No.: 0990–0000.

Use: The results of the HHS Web Site Customer Satisfaction Survey will be used to ensure that the content on the HHS web sites meets visitor needs and expectations. In addition, the results will determine if the site will be easy to use and the content easy to understand.

Frequency: On Occasion.

Affected Public: Individual or Households.

Annual Number of Respondents: 48,000.

Total Annual Responses: 48,000.

Average Burden per Response: 12 minutes.

Total Annual Hours: 9,600.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to: *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be received with 60-days, and directed to the OS Paperwork Clearance Officer at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Resources and Technology, Office of Resources Management, Attention: Sherrette Funn-Coleman (0990–0000), Room 537–H, 200 Independence Avenue, SW., Washington DC 20201.

Dated: July 3, 2007.

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E7–13691 Filed 7–12–07; 8:45 am]

BILLING CODE 4150–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of the Availability of Funds and Request for Applications for a Cooperative Agreement for a Project Titled Disease Prevention and Health Promotion Scholarship Program

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Disease Prevention and Health Promotion.

ACTION: Notice.

Announcement Type: Competitive Cooperative Agreement.

Agency Funding Opportunity Number: N/A.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.990.

DATES: To receive consideration, applications must be received by the

Office of Grants Management, Office of Public Health and Science (OPHS), Department of Health and Human Services (DHHS), Attention Disease Prevention and Health Promotion Scholarship, no later than 5 p.m. Eastern Time on August 13, 2007. The application due date requirement in this announcement supersedes the instructions in the OPHS–1 form.

ADDRESSES: Application kits may be obtained electronically by accessing Grants.gov at *http://www.grants.gov* or GrantSolutions at *www.GrantSolutions.gov*. To obtain a hard copy of the application kit, contact OPHS/Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852 at (240) 453–8822. Applications must be prepared using Form OPHS–1 ''Grant Application,'' which is included in the application kit.

SUMMARY:

Total Amount Awarded: $600,000.

Total Number of Awards: One (1).

Description of Opportunity: The Office of Disease Prevention and Health Promotion (ODPHP)/Office of Public Health and Science (OPHS), announces a competitive cooperative agreement project titled Disease Prevention and Health Promotion Scholarship Program for up to $600,000, in the fiscal year (FY) 2007 for a 5 year period, subject to available funding. This project seeks to provide disease prevention and health promotion educational and training opportunities for medical and public health students; preventive medicine and primary care residents; and practicing physicians and public health professionals.

Eligibility: To qualify for funding, an applicant must be a professional non-profit organization, association, or institute of higher learning that focuses or has as its mission to educate one or more of the following groups: Medical and/or public health students, preventive medicine and primary care residents; and practicing physicians from communities across the country. Eligible applicants are also encouraged to apply in partnerships. Faith-based groups that meet the definition of professional non-profit organization or institution of higher learning as described above are also eligible to apply.

FOR FURTHER INFORMATION CONTACT:

For Administrative Requirements, Please Contact: OPHS/Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852; phone 240–453–8822.

For Programmatic Requirements, Please Contact: Cecilia Penn, MD, MPH; or Sarah Linde-Feucht, MD, 1101 Wootton Pkwy, Suite LL 100, Rockville, MD 20852. Phone: 240–453–8251; 240–453–8256.

SUPPLEMENTARY INFORMATION:

Section I. Funding Opportunity Description

Under authority of Section 301, Title III of the U.S. Public Health Service Act: General Powers and Duties of the Public Health Service, 42 U.S.C. Section 301, ODPHP/OPHS, of the U.S. Department of Health and Human Services (HHS), announces a total of $600,000 for fiscal year (FY) 2007 is available for a competitive cooperative agreement project entitled Disease Prevention and Health Promotion Scholarship Program. This project supports several focus areas of Healthy People 2010 specifically, Access to Quality Health Services; Educational and Community-Based Programs; Health Communication; and Public Health Infrastructure.

Purpose

The purpose of this cooperative agreement is to enhance core competencies in disease prevention and health promotion for medical and public health students, residents, physicians, and public health professionals. Measurable outcomes will include: (1) Increasedknowledge of public health issues; (2) increased understanding of process, content, value, and use of policies, programs and initiatives aimed to support the Nation's health goals; for example Healthy People 2010, (Healthy People 2020 (under development)), and HealthierUS; (3) increased knowledge of and aptitude in the use of health information technology including healthfinder®, National Health Information Center (NHIC), and the Prevention Communication Research Database (PCRD); (4) increased experience in and knowledge of priority setting and bases for national policy decisions.

This project enables the Office of Disease Prevention and Health Promotion to fulfill its mission to lead and coordinate efforts within the Department of Health and Human Services related to disease prevention and health promotion. The use of cooperative agreements with public and private not-for-profit organizations facilitates the education of emerging and current public health professionals.

Section II. Award Information

a. *Availability of Funds:* $600,000 is expected to be available for FY 2007 to fund one cooperative agreement. This agreement is expected to begin September 1, 2007 and will be made for a 12-month budget period for up to 5 years pending availability of funding. Funding estimates may change. Awardee may make subcontract awards.

b. *Cooperative Agreement:* The administrative and funding instrument to be used for this program will be a cooperative agreement in which there will be substantial ODPHP/HHS scientific and programmatic involvement. Under the cooperative agreement, ODPHP will support and/or stimulate awardee activities by working with them in a non-directive partnership role. This will include formulation of a work plan, participation in stakeholder meetings, data analysis, evaluation design, and development of structure and content of educational activities. Awardee and ODPHP responsibilities are listed as follows:

c. *Awardee Responsibilities:* A successful applicant, with assistance from or in collaboration with ODPHP, will:

1. Develop, implement, and monitor education and training in disease prevention and health promotion through the Paul Ambrose Health Promotion Graduate Student Leadership Symposium.

i. Develop and execute a 2–3 day educational seminar for up to 40 selected first-year through fourth-year medical students, third-year through fourth-year pharmacy students, graduate nursing students, graduate physician assistant students, and graduate dentistry students to enhance their understanding of community-based health promotion and disease prevention strategies within the framework of Healthy People 2010 and 2020, as well as HealthierUS.

ii. Assist symposium students and their sponsoring institutions in the development of a specific health promotion or disease prevention project prior to and/or following the symposium by linking students to faculty at their institutions of higher learning engaged in disease prevention and health promotion activities.

iii. Provide a forum for students to share their progress and outcomes for their projects.

2. Develop, implement, manage, and monitor preventive medicine and primary care resident and practicing primary care clinician education in disease prevention and health promotion.

i. Convene a meeting at the start of each residency year (12 month period starting in June) and/or project year with relevant residency program directors, field placement/site mentors, and/or advisors to review program goals, objectives, and educational plans;

to gain insight as to how to bolster this educational opportunity.

ii. Facilitate and structure an elective rotation for 2–3 months duration.

iii. Recruit and select 4–8 residents to participate in this elective rotation.

iv. Conduct and share with ODPHP an evaluation of resident experiences while at ODPHP.

3. Recruit, interview, and select a preventive medicine/primary care physician with public health background to be the Luther Terry Fellow every 2 years. The awardee will also provide a framework for identifying educational content and resources in the public health community for the fellowship development.

4. Recruit, interview, and select a maximum of 3 public health professionals to serve a 1-year fellowship/internship position to support ODPHP office teams: Health Communications, Science, or Community Strategies teams. The awardee will also provide a framework for identifying educational content and resources in the public health community for the fellowship/internship development.

5. Develop and execute a one-day workshop for selected public health professionals representing States, Territories, Tribes, and Communities to enhance their understanding and application of Healthy People 2010 and 2020, HealthierUS, and/or other prevention programs. (Designated Support–$200K)

6. Coordinate the abstract submission process for a National Prevention Summit or similar conference(s) utilizing an Abstract Management System capable of meeting goals established by ODPHP and conference co-planners for the conference(s).

7. Recruit and select 2 public health professionals (post 5 years of obtaining bachelors or masters' degree) for 6 months duration per fiscal year with specific skills or background in Social and Behavioral Sciences; Nutrition and Food Safety; Health Policy and Management; Population and International Health; or Prevention and Research Policy. These professionals would contribute to and engage in health policy development and initiatives within the Office.

8. Develop, present, and implement a proposal to expand disease prevention and health promotion education opportunities for primary care providers. This may include expanding continuing medical education or other mechanisms for education practitioners on principles of public health, disease prevention and health promotion.

d. *ODPHP Responsibilities:*

1. Provide technical assistance and oversight as necessary for overall design and implementation of the Disease Prevention and Health Promotion Scholarship Program.

2. Contribute to the development and approval of educational experiences, including materials and program activities for scholarship participants.

3. Provide location and mentorship for scholars on assignment at ODPHP.

4. Provide assistance in management of program strategies, directions, and any decisions related to adjustment in funding levels of participating institutions.

5. Participate in training and educational events.

6. Participate in the development and review of evaluation activities.

e. *Use of Funds:* Funds may not be used for construction or renovation, to purchase or lease vehicles or equipment, to purchase a facility to house project staff or carry out project activity, or to substitute new activities and expenditures for current ones.

Section III. Eligibility Information

1. *Eligible Applicants:* To qualify for funding, an applicant must be a professional non-profit organization, association, or institution of higher learning whose mission is to educate one or more of the following groups: medical and public health students, preventive medicine and primary care residents, public health professionals, and practicing clinicians from communities across the country. Eligible applicants also are encouraged to apply as partners and submit one joint application. Faith-based groups that meet the definition of professional non-profit organization or institutions of higher learning as described above are also eligible to apply.

2. *Cost Sharing or Matching:* Awardee will not be expected to match funds or share project costs.

Section IV. Application and Submission Information

1. *Address to Request Application Kit:* Application kits for this grant program may be obtained via Grants.gov at *http://www.grants.gov* or the GrantSolutions system at *http://www.grantsolutions.gov*. To obtain a hard copy of the application kit for this grant program, contact OPHS/Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852, at (240) 453–8822. Applications must be prepared using Form OPHS–1, which can be obtained at the Web sites noted above.

2. *Content and Form of Application Submission:*

A. Application and Submission

All applications must be accompanied by a Project Abstract. The abstract should contain substantive information about the proposed projects in summary form and must be typed, single spaced, and not exceed 2 pages. A list of keywords and a format sheet for your use in preparing the abstract will be included in the application packet.

All grant applications must be accompanied by a Project Narrative. The applicant should refer to instructions provided in OPHS–1 (Rev 03/2006) and specific guidelines given in the Program Guidelines of the Application Packet. Biographical sketches should be either typed on the appropriate form or plain paper and should not exceed two pages, with publications listed being limited only to those that are directly relevant to this project.

Program Narrative: This section provides a comprehensive framework and description of all aspects of the proposed program. It should be succinct, self-explanatory, and well organized so that reviewers can understand the proposed project. Use the following section headers for the Narrative:

- *Executive Summary:* This section should briefly describe the proposed project and supporting initiatives as well as summarize goals that the program intends to achieve through the project initiatives.
- *Work Plan:* Describe the current and proposed activities or steps that will be used to achieve the stated goals and objectives. Describe expected outcomes resulting from activities as well as any evaluation mechanisms that will be used to measure the success of the initiatives.
- *Mechanism for Administration:* Describe how resources and funds will be administered with regard to the proposed projects.
- *In-Kind Support and Resources:* Describe any in-kind support from other sources, if any that will be used to support the proposed initiatives and activities.
- *Appendices:* Please provide the additional relevant information (including tables, charts, biographic profiles, and other relevant documents) to complete the content of the application. Please note that these are supplementary in nature, and are not intended to be a continuation of the project narrative. Be sure each appendix is clearly labeled.

B. Data Universal Numbering System Number (DUNS)

Applicants must have a Dun and Bradstreet (D&B) Data Universal

Numbering System number as the universal identifier when applying for Federal grants. The D&B number can be obtained by calling (866) 705–5711 or through the Web site at *http://www.dnb.com/us/*.

Application Format Requirements

1. *Length of Application:* The entire application may not exceed 80 pages in length, including the abstract, project and budget narratives, face page, attachments, any appendices and letters of commitment and support. Pages must be numbered consecutively.

2. Applications submitted electronically that exceed 80 pages when printed will be deemed non-compliant. All non-compliant applications will be returned to the applicant without further consideration.

3. *Number of Copies:* Please submit one (1) original and two (2) unbound copies of the application. Please do not bind or staple the application. Application must be single sided.

4. *Font:* Please use an easily readable serif typeface, such as Times Roman, Courier, or CG Times. The text and table portions of the application must be submitted in not less than 12 point and 1.0 line spacing. Applications not adhering to 12 point font requirements may be returned.

5. *Paper Size and Margins:* For scanning purposes, please submit the application on 8½″ x 11″ white paper. Margins must be at least one (1) inch at the top, bottom, left and right of the paper. Please left-align text.

6. *Numbering:* Please number the pages of the application sequentially from page 1 (face page) to the end of the application, including charts, figures, tables, and appendices.

7. *Names:* Please include the name of the applicant on each page.

8. *Section Headings:* Please put all section headings flush left in bold type.

3. Submission Dates and Times

The Office of Public Health and Science (OPHS) provides multiple mechanisms for the submission of applications, as described in the following sections. Applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of applications submitted using any of these mechanisms. Applications submitted to the OPHS Office of Grants Management after the deadlines described below will not be accepted for review. Applications which do not conform to the requirements of the grant announcement will not be accepted for review and will be returned to the applicant.

While applications are accepted in hard copy, the use of the electronic application submission capabilities provided by the Grants.gov and GrantSolutions.gov systems is encouraged. Applications may only be submitted electronically via the electronic submission mechanisms specified below. Any applications submitted via any other means of electronic communication, including facsimile or electronic mail, will not be accepted for review.

In order to apply for new funding opportunities which are open to the public for competition, you may access the Grants.gov Web site portal. All OPHS funding opportunities and application kits are made available on Grants.gov. If your organization has/had a grantee business relationship with a grant program serviced by the OPHS Office of Grants Management, and you are applying as part of ongoing grantee related activities, please access GrantSolutions.gov.

Electronic grant application submissions must be submitted no later than 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement using one of the electronic submission mechanisms specified below. All required hardcopy original signatures and mail-in items must be received by the OPHS Office of Grants Management (1101 Wootton Parkway, Suite 550, Rockville, MD 20852) no later than 5 p.m. Eastern Time on the next business day after the deadline date specified in the **DATES** section of the announcement.

Applications will not be considered valid until all electronic application components, hardcopy original signatures, and mail-in items are received by the OPHS Office of Grants Management according to the deadlines specified above. Application submissions that do not adhere to the due date requirements will be considered late and will be deemed ineligible.

Applicants are encouraged to initiate electronic applications early in the application development process, and to submit early on the due date or before. This will aid in addressing any problems with submissions prior to the application deadline.

Electronic Submissions Via the Grants.gov Web Site Portal

The Grants.gov Web site Portal provides organizations with the ability to submit applications for OPHS grant opportunities. Organizations must successfully complete the necessary registration processes in order to submit an application. Information about this system is available on the Grants.gov Web site, *http://www.grants.gov*.

In addition to electronically submitted materials, applicants may be required to submit hard copy signatures for certain Program related forms, or original materials as required by the announcement. It is imperative that the applicant review both the grant announcement, as well as the application guidance provided within the Grants.gov application package, to determine such requirements. Any required hard copy materials, or documents that require a signature, must be submitted separately via mail to the OPHS Office of Grants Management, and, if required, must contain the original signature of an individual authorized to act for the applicant agency and the obligations imposed by the terms and conditions of the grant award. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the Grants.gov Web site Portal must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. All required mail-in items must received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Upon completion of a successful electronic application submission via the Grants.gov Web site Portal, the applicant will be provided with a confirmation page from Grants.gov indicating the date and time (Eastern Time) of the electronic application submission, as well as the Grants.gov Receipt Number. It is critical that the applicant print and retain this confirmation for their records, as well as a copy of the entire application package.

All applications submitted via the Grants.gov Web site Portal will be validated by Grants.gov. Any applications deemed ''Invalid'' by the Grants.gov Web site Portal will not be transferred to the GrantSolutions system, and OPHS has no responsibility for any application that is not validated and transferred to OPHS from the Grants.gov Web site Portal. Grants.gov will notify the applicant regarding the application validation status. Once the application is successfully validated by

the Grants.gov Web site Portal, applicants should immediately mail all required hard copy materials to the OPHS Office of Grants Management to be received by the deadlines specified above. It is critical that the applicant clearly identify the Organization name and Grants.gov Application Receipt Number on all hard copy materials.

Once the application is validated by Grants.gov, it will be electronically transferred to the GrantSolutions system for processing. Upon receipt of both the electronic application from the Grants.gov Web site Portal, and the required hardcopy mail-in items, applicants will receive notification via mail from the OPHS Office of Grants Management confirming the receipt of the application submitted using the Grants.gov Web site Portal.

Applicants should contact Grants.gov regarding any questions or concerns regarding the electronic application process conducted through the Grants.gov Web site Portal.

Electronic Submissions Via the GrantSolutions System

OPHS is a managing partner of the GrantSolutions.gov system. GrantSolutions is a full life-cycle grants management system managed by the Administration for Children and Families, Department of Health and Human Services (HHS), and is designated by the Office of Management and Budget (OMB) as one of the three Government-wide grants management systems under the Grants Management Line of Business initiative (GMLoB). OPHS uses GrantSolutions for the electronic processing of all grant applications, as well as the electronic management of its entire Grant portfolio.

When submitting applications via the GrantSolutions system, applicants are required to submit a hard copy of the application face page (Standard Form 424) with the original signature of an individual authorized to act for the applicant agency and assume the obligations imposed by the terms and conditions of the grant award. If required, applicants will also need to submit a hard copy of the Standard Form LLL and/or certain Program related forms (e.g., Program Certifications) with the original signature of an individual authorized to act for the applicant agency. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Electronic applications submitted via the GrantSolutions system must contain all completed online forms required by the application kit, the Program Narrative, Budget Narrative and any appendices or exhibits. The applicant may identify specific mail-in items to be sent to the Office of Grants Management separate from the electronic submission; however these mail-in items must be entered on the GrantSolutions Application Checklist at the time of electronic submission, and must be received by the due date requirements specified above. Mail-In items may only include publications, resumes, or organizational documentation. When submitting the required forms, do not send the entire application. Complete hard copy applications submitted after the electronic submission will not be considered for review.

Upon completion of a successful electronic application submission, the GrantSolutions system will provide the applicant with a confirmation page indicating the date and time (Eastern Time) of the electronic application submission. This confirmation page will also provide a listing of all items that constitute the final application submission including all electronic application components, required hardcopy original signatures, and mail-in items, as well as the mailing address of the OPHS Office of Grants Management where all required hard copy materials must be submitted.

As items are received by the OPHS Office of Grants Management, the electronic application status will be updated to reflect the receipt of mail-in items. It is recommended that the applicant monitor the status of their application in the GrantSolutions system to ensure that all signatures and mail-in items are received.

Mailed or Hand-Delivered Hard Copy Applications

Applicants who submit applications in hard copy (via mail or hand-delivered) are required to submit an original and two copies of the application. The original application must be signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award.

Mailed or hand-delivered applications will be considered as meeting the deadline if they are received by the OPHS Office of Grant Management on or before 5 p.m. Eastern Time on the deadline date specified in the **DATES** section of the announcement. The application deadline date requirement specified in this announcement supersedes the instructions in the OPHS–1. Applications that do not meet the deadline will be returned to the applicant unread.

4. Intergovernmental Review

This program is subject to the Public Health Systems Reporting Requirements. Under these requirements, a community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The Applicant shall submit a copy of the application face page (SF–424) and a one page summary of the project, called the Public Health System Impact Statement. The PHSIS is intended to provide information to State and local health officials to keep them apprised on proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions.

Community-based, non-governmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted: (a) A copy of the face page of the application (SF 424), (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with the appropriate State or local health agencies. Copies of the letters forwarding the PHSIS to these authorities must be contained in the application materials submitted to the ODPHP/HHS.

This program is also subject to the requirements of Executive Order 12372 that allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit to be made available under this notice will contain a listing of States that have chosen to set up a review system and will include a State Single Point of Contact (SPOC) in the State for review. Applicants (other than federally recognized Indian tribes) should contact their SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC in each affected State. A complete list of SPOCs may be found at the following Web site: *http://www.whitehouse.gov/omb/grants/spoc.html*. The due date for State process recommendations is 60 days after the application deadline. The

ODPHP/HHS does not guarantee that it will accommodate or explain its responses to State process recommendations received after that date. (See ''Intergovernmental Review of Federal Programs,'' Executive Order 12372, and 45 C.F.R. Part 100 for a description of the review process and requirements.)

5. Funding Restrictions

Funds may not be used for construction, building alterations, equipment purchase, medical treatment, renovations, or to purchase food. Allowance, allocation, rationale, and necessity of direct and indirect costs that may be charged are outlined in the following documents: OMB–21 (Institutes of Higher Education); OMB Circular A–122 (Nonprofit Organizations) and 45 CFR Part 74, Appendix E (Hospitals). Copies of these circulars can be found on the Internet at: *http://www.whitehouse.gov/omb.* All budget requests must be justified fully in terms of the proposed goals and objectives of the program and include an itemized computational explanation/breakout of how costs were determined.

Section V. Application Review Information

Applications will be screened by ODPHP staff for completeness and for responsiveness to the RFA. The Applicant should pay strict attention addressing these criteria, as they are the basis upon which applications will be judged. Those applications judged to be non-responsive or incomplete will be returned to the applicant without review.

1. Criteria

Applications that are complete and responsive to the guidance will be evaluated for technical merit by an appropriate peer review group specifically convened for this solicitation and in accordance with HHS policies and procedures. As part of the initial merit review, all applications will receive a written critique. All applications recommended for approval will be discussed fully by an ad hoc peer review group and assigned a priority score for funding. Eligible applications will be assessed according to the following criteria:

a. Education and Training Plan (30 Points)

The proposed goals and objectives in the Education Plan relate to the goal of increasing knowledge and use of disease prevention and health promotion materials and methods among the targeted levels of medical students/residents and practitioners:

1. Extent to which the plan summarizes the state of disease prevention and health promotion education for medical students, preventive medicine and primary care residents, and practicing primary care physicians.

2. The extent to which disease prevention and health promotion lectures and applied experiences and opportunities exist in medical education and clinical practice.

3. Description of how the applicant develops each activity specific to the medical students, preventive medicine residents and primary care residents, and practicing physicians as outlined under Awardee Responsibilities.

4. Appropriateness and relationship of strategies and objectives to the overall goal and implementation of the required activities.

5. Appropriateness of specific, realistic, measurable and time-phased process and outcome objectives for each of the strategies to be implemented.

6. Relevancy of the evidentiary basis for the proposed strategies.

7. Degree to which the *Healthy People 2010 and 2020* initiatives, corresponding Healthy People State plans, the Clinical and Community Guides to Preventive Services, and Healthier U.S. will be incorporated into proposed activities.

8. Where applicable, how proposed strategies and objectives are currently being implemented using other resources.

9. How applicant will leverage additional resources for implementation of components of the each educational/training activity.

b. Project Evaluation (20 Points)

1. Extent to which application describes how process and outcome objectives for all educational activities will be measured, evaluated and documented.

2. Identification of mechanisms to track: (1) The participants in the educational/training activities, (2) the effect(s) the activities have on the respective careers, and (3) use of clinical preventive services and participation in health promotional activities.

3. Feasibility and appropriateness of evaluation design;

4. Ability to share and disseminate project results.

c. Organizational Capabilities/Qualifications (20 Points)

1. The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed activities is well defined.

2. The application clearly demonstrates the successful management of projects of similar scope by the organization and or by the individual and/or team designated to manage the project.

3. The organization's active involvement in education and or training of the targeted groups is demonstrated.

4. Position descriptions and/or resumes of key personnel, including those of consultants/contractors, are presented. The position descriptions and/or resumes relate specifically to the staff in the proposed approach and budget of the application. Position descriptions clearly describe the position and its project objectives. Resumes demonstrate that proposed staff are qualified to carry out proposed activities. Either the position descriptions or the resumes contain the qualifications and/or specialized skills, necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

d. Partnerships (15 Points)

1. List and description of partner organization(s) (if any) and its mission(s) and how the organization(s) supports the purposes of this cooperative agreement.

2. Description of how partners (if any) were selected and how they will contribute to the development, implementation, monitoring, and any modifications to the proposed activities over time.

e. Budget (15 Points)

A detailed, well-written, and fully justified budget which:

1. Includes sufficient details to facilitate the determination of cost and the relevance to the proposed activities;

2. Requests funds which are appropriate and necessary for the scope of the proposed activities; and

3. Demonstrates administrative efficiency and value which allows for the maximizing of resources for the proposed activities.

2. Review and Selection Process

Applications will be reviewed in competition with other submitted applications, by a panel of peer reviewers. Each of the above criteria will be addressed and considered by the reviewers in assigning the overall score. Final award will be made by September 1, 2007, on the basis of score, program relevance and availability of funds.

Section VI. Award Administration Information

1. Award Notices

ODPHP/HHS does not release information about individual applications during the review process until final funding decisions have been made. When these decisions have been made, applicants will be notified by letter regarding the outcome of their applications. The official document notifying an applicant that an application has been approved and funded is the Notice of Grant Award signed by the Grants Management Officer, which specifies to the awardee the amount of money awarded, the purpose of the agreement, the terms and conditions of the agreement, and the amount of funding.

2. Administrative and National Policy Requirements

The regulations set out at 45 CFR parts 74 and 92 are the Department of Health and Human Services (HHS) rules and requirements that govern the administration of grants. Part 74 is applicable to all recipients except those covered by part 92, which governs awards to State and local governments. The applicant funded under this announcement must be aware of and comply with these regulations. The CFR volume that includes parts 74 and 92 may be downloaded from: *http://www.access.gpo.gov/nara/cfr/waisidx_05/45cfrv1_05.html*.

The HHS Appropriations Act requires that when issuing statements, press releases, requests for proposals, bid solicitation, and other documents describing projects or programs funded in whole or in part with Federal money, grantees shall clearly state the percentage and dollar amount of the total cost of the program or project which will be financed with Federal money and the percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

3. Reporting

All projects are required to have an evaluation plan, consistent with the scope of the proposed project and funding level that conforms to the project's stated goals and objectives. The evaluation plan should include both a process evaluation to track the implementation of project activities and an outcome evaluation to measure changes in knowledge and skills that can be attributed to the project. Project funds may be used to support evaluation activities.

A successful applicant under this notice will also submit (1) Semi-annual progress reports; (2) an annual Financial Status Report; and (3) a final progress report and Financial Status Report in the format established by ODPHP, in accordance with provisions of the general regulations which apply under ''Monitoring and Reporting Program Performance,'' 45 CFR 74.51–74.52, with the exception of State and local governments to which 45 CFR part 92, Subpart C reporting requirements apply.

In addition to conducting their own evaluation of projects, the successful applicant must be prepared to participate in an external evaluation, to be supported by ODPHP/HHS and conducted by an independent entity, to assess efficiency and effectiveness for the project funded under this announcement.

Section VII. Agency Contacts

For Application Kits, submission of applications, and information on budget and business aspects of the application, please contact: OPHS/Office of Grants Management, 1101 Wootton Parkway, Suite 550, Rockville, MD 20852 at (240) 453–8822. Also contact OPHS/Office of Grants Management with questions regarding programmatic information and/or requests for technical assistance in the preparation of the grant application.

For programmatic requirements, please contact: Cecilia Penn, MD, MPH; or Sarah Linde-Feucht, MD, 1101 Wootton Pkwy, Suite LL 100, Rockville, MD 20852, Phone: 240–453–8251; 240–453–8256.

Section VIII. Other Information

Tips for Writing a Strong Application

- Keep your audience in mind. Reviewers will use only the information contained in the application to assess the application. Be sure the application and responses to the program requirements and expectations are complete and clearly written. Do not assume that reviewers are familiar with the applicant organization. Keep the review criteria in mind when writing the application.
- Start preparing the application early. Allow plenty of time to gather required information from various sources.
- Follow the instructions in this guidance carefully. Place all information in the order requested in the guidance. If the information is not placed in the requested order, you may receive a lower score.
- Be brief, concise, and clear. Make your points understandable. Provide accurate and honest information, including candid accounts of problems and realistic plans to address them. If any required information or data is omitted, explain why. Make sure the information provided in each table, chart, attachment, etc., is consistent with the proposal narrative and information in other tables.
- Be organized and logical. Many applications fail to receive a high score because the reviewers cannot follow the thought process of the applicant or because parts of the application do not fit together.
- Be careful in the use of appendices. Do not use the appendices for information that is required in the body of the application. Be sure to cross-reference all tables and attachments located in the appendices to the appropriate text in the application.
- Carefully proofread the application. Misspellings and grammatical errors will impede reviewers in understanding the application. Be sure pages are numbered (including appendices) and that page limits are followed. Limit the use of abbreviations and acronyms, and define each one at its first use and periodically throughout application.

Dated: July 2, 2007.

Sarah Linde-Feucht,

Deputy Director, Office of Disease Prevention and Health Promotion.

[FR Doc. E7–13701 Filed 7–12–07; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Anticipated Availability of Funds for Family Planning Services Grants

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Population Affairs.

ACTION: Notice; correction.

SUMMARY: The Office of Population Affairs, OPHS, HHS published a notice in the **Federal Register** of Monday, June 11, 2007 announcing the anticipated availability of funds for family planning services grants. Since that time, an additional State/population/area to be served has become available for competition. This Notice reflects the availability of Arizona, Navajo Nation for competition.

FOR FURTHER INFORMATION CONTACT: Susan B. Moskosky, 240–453–2818.

Correction

In the **Federal Register** of June 11, 2007, FR Doc. 07–11183, on page 32113, correct Table I to read:

States/populations/areas to be served	Approximate funding available	Application due date	Approximate grant funding date
Region I:			
No service areas competitive in FY 2008.			
Region II:			
New York, New York City area	$4,209,000	03/01/08	07/01/08
New Jersey	8,586,000	09/01/07	01/01/08
Region III:			
Maryland	3,957,000	12/01/07	04/01/08
Southeast Pennsylvania	4,889,000	03/01/08	07/01/08
West Virginia	2,169,000	12/01/07	04/01/08
Region IV:			
Kentucky	5,442,500	03/01/08	07/01/08
South Carolina	5,767,000	03/01/08	07/01/08
Florida, Greater Miami area	544,000	06/01/08	09/30/08
Region V:			
Ohio, Central area	709,500	11/01/07	03/01/08
Minnesota	2,632,500	09/01/07	01/01/08
Region VI:			
Arkansas	3,341,000	11/01/07	03/01/08
Louisiana	4,370,000	03/01/08	07/01/08
New Mexico	2,835,000	09/01/07	01/01/08
Region VII:			
Iowa	2,531,500	03/01/08	07/01/08
Iowa	1,061,500	06/01/08	09/30/08
Region VIII:			
Montana	1,970,000	03/01/08	07/01/08
Region IX:			
Arizona	4,080,500	09/01/07	01/01/08
Arizona, Navajo Nation	658,900	03/01/08	07/01/08
California	20,451,500	09/01/07	01/01/08
California, Los Angeles area	472,000	09/01/07	01/01/08
Republic of the MarshallIslands	190,500	03/01/08	07/01/08
Region X:			
Alaska	873,000	03/01/08	07/01/08

In addition, on page 32111, in the first column, under II. Award Information, please correct the second sentence to read, ''Of this amount, OPA intends to make available approximately $81.7 million for competing Title X family planning services grant awards in 22 states, populations, and/or areas.''

Dated: July 10, 2007.

Evelyn M. Kappeler,

Acting Director,Office of Population Affairs.

[FR Doc. E7–13700 Filed 7–12–07; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration On Aging

Availability of Funding Opportunity Announcement

Funding Opportunity Title/Program Name: Alzheimer's Disease Demonstration Grants to States (ADDGS) Program: Translating Evidence-Based Alzheimer's Disease and Related Dementia Direct Services Research Into Practice.

Announcement Type: Initial Announcement.

Funding Opportunity Number: HHS–2007–AoA–AZ–0718.

Statutory Authority: Sec. 398 of the Public Health Service Act (Pub. L. 78–410; 42 U.S.C. 280c–3), amended by the Home Health Care and Alzheimer's Disease Amendments of 1990 (Pub. L. 101–557) and by the Health Professions Education Partnerships Act of 1998 (Pub. L. 105–392).

Catalog of Federal Domestic Assistance (CFDA) Number: 93.051, Alzheimer's Disease Demonstration Grants to States (ADDGS) Program.

DATES: The deadline date for the submission of applications is August 28, 2007. The deadline date for submission of a letter of intent is July 31, 2007.

I. Funding Opportunity Description

This announcement seeks proposals that will demonstrate how existing evidence-based service delivery research programs targeting persons with Alzheimer's disease or related dementias (ADRD) or their caregivers can be translated into useful programs that can be administered at a reasonable cost at the community level through the Aging Services Network. Applications that seek to replicate evidence-based programs that do not specifically target persons with ADRD or their caregivers will not be considered for funding. ADDGS Program's mission is to expand the availability of diagnostic and support services for persons with Alzheimer's disease, their families, and their caregivers, as well as improve the responsiveness of the home and community based care system to persons with ADRD. The program focuses on serving hard-to-reach and underserved people with ADRD. A detailed description of the funding opportunity may be found at *http://www.aoa.gov/doingbus/fundopp/fundopp.asp.*

II. Award Information

1. Funding Instrument Type: Cooperative Agreement.

2. Anticipated Total Priority Area Funding Per Budget Period: AoA intends to make available, under this program announcement, cooperative agreements for up to eight (8) projects, with eighteen (18) month project periods, at a federal share up to $400,000 with most awardees expected to receive $250,000.

III. Eligibility Criteria and Other Requirements

1. Eligible Applicants

This is a limited grant competition. Eligibility for grant awards is limited to agencies of State Government including, but not limited to, current ADDGS grantees.

2. Cost Sharing or Matching

Under this program, AoA will fund no more than 75 percent of the project's total cost. Grantees are required to provide at least 25 percent of the total program costs from non-federal cash or in-kind resources in order to be considered for the award.

3. DUNS Number

[All grant applicants must obtain a D-U-N-S number from Dun and Bradstreet. It is a nine-digit identification number, which provides unique identifiers of single business entities. The D-U-N-S number is free and easy to obtain from *http://www.dnb.com/US/duns_update/*]

4. Intergovernmental Review

Executive Order 12372, Intergovernmental Review of Federal Programs, is not applicable to these grant applications.

IV. Application and Submission Information

Address to Request Application

Application materials are available online at *http://www.grants.gov.*

1. Submission Requirements

Applications must be submitted electronically to *http://www.grants.gov.* In order to be able to submit the application; you must register in the Central Contractor Registry (CCR) database. Information about CCR is available at *http://www.grants.gov/CCRRegister.*

2. Submission Dates and Times

To receive consideration, applications must be submitted electronically by midnight, Eastern time, August 28, 2007.

V. Responsiveness Criteria

Each application submitted will be screened to determine whether it was received by the closing date and time.

Applications received by the closing date and time will be screened for completeness and conformity with the requirements outlined in Sections III and IV of this Notice and the Program Announcement. Only complete applications that meet these requirements will be reviewed and evaluated competitively.

VI. Application Review Information

Eligible applications in response to this announcement will be reviewed according to the following evaluation criteria: Purpose and Need for Assistance (15 points); Approach/Method— Workplan and Activities (40 points); Outcomes/Benefits/Impacts (25 points); and Level of Effort, Program Management, Organizational Capacity (20 points).

VII. Agency Contacts

Direct inquiries regarding programmatic issues to U.S. Department of Health and Human Services, Administration on Aging, Office of Community-Based Services, Washington, DC 20201, telephone: 202–357–3452.

Dated: July 10, 2007.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 07–3433 Filed 7–12–07; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–0028]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an email to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Evaluation of Customer Satisfaction with the Agency for Toxic Substances and Disease Registry Internet Home Page and Links (OMB No. 0923–0028)—Reinstatement—Agency for Toxic Substances and Disease Registry (ATSDR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

ATSDR's mandate under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, is to assess the presence and nature of health hazards at specific Superfund sites. ATSDR considers evaluation to be a critical component for enhancing program effectiveness and improving resource management. Furthermore, in accordance with the Government Performance and Results Act of 1993 (Pub. L. 103–62), the e-Government Act of 2002 and the Federal Enterprise Architecture are key elements of the President's Management Agenda. These ''e-government'' initiatives have charged staff at all levels of the federal government with the improvement of program effectiveness and public accountability by promoting new focuses on results, service quality, and customer satisfaction. Federal agencies are further charged with the responsibility to articulate clearly the results of their programs in terms that are understandable to their customers, their stakeholders, and the American taxpayer. The proposed data collection addresses these concerns and serves to improve ATSDR's health promotion agenda by providing data on which to assess and improve the usefulness and usability of information provided via ATSDR's Internet-based Home Page and Links. ATSDR has designed its Internet site to serve the general public, persons at risk for exposure to hazardous substances, collaborating organizations, state and local governments, and health professionals. As a ''Support Delivery of Services'' tool, the ATSDR Web site presents information focused on prevention of exposure and adverse human health effects and diminished quality of life associated with exposure to hazardous substances from waste sites, unplanned releases, and other sources of pollution present in the environment. Furthermore, the ATSDR Web site advances the Agency's health promotion messages, product outreach activities, and future survey options currently under consideration. Therefore, it is critical that ATSDR have the capacity to answer whether or not

these activities elicit the desired effects or impact.

ATSDR is requesting a reinstatement with minor changes for the following customer satisfaction surveys:

- ATSDR Web Site User Satisfaction Survey (WSUS)
- Toxicological Profiles User Satisfaction Survey (TPUS)
- ToxFAQs™ User Satisfaction Survey (TFUS)
- Public Health Statements User Satisfaction Survey (PHSUS)
- Toxicology Curriculum for Communities Training Manual User Satisfaction Survey (TCCUS)
- ToxProfiles™ CD–ROM User Satisfaction Survey (TP–CDUS)

The results of this project will ensure that these audiences will continue to find our knowledge products and informational pieces easy to access, clear, informative and useful. Specifically, this project will continue to examine whether current and future informational updates are presented in an appropriate technological format and whether they meet the needs, wants, and preferences of visitors to the ATSDR Web site. The survey questions have been held to the absolute minimum required for the use of the data.

This extension request is for a three-year period. There are no costs to the respondents other than their time. The total estimated annualized burden hours are 166.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
ATSDR Web site Visitors	WSUS	1000	1	5/60
	TPUS	300	1	5/60
	TFUS	300	1	5/60
	PHSUS	100	1	5/60
	TCCUS	160	1	5/60
	TP–CDUS	140	1	5/60

Dated: July 9, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–13597 Filed 7–12–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–0274]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

CDC Model Performance Evaluation Program (MPEP) (0920–0274)—Revision—National Center for Preparedness, Detection, and Control of Infectious Diseases (proposed) (NCPDCID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting OMB approval of a revision to its data collection, the CDC Model Performance Evaluation Program (MPEP). CDC originally implemented MPEP in 1986 to evaluate the performance of laboratories conducting testing to detect human immunodeficiency virus type 1 (HIV–1) antibody (Ab). CDC is requesting a 3-year approval for this data collection.

In this program, respondents receive 2 shipments of specimens per year. Respondents test the specimens in their laboratory/testing site and report their results either using a report booklet or on-line. CDC provides the respondent with a report containing the analysis of the laboratory test results reported to CDC. Participation in this program is voluntary and provides the respondents an opportunity to (1) assure accurate tests are being provided by the laboratory/testing site through external quality assessment; (2) improve testing quality through self-evaluation in a non-regulatory environment; (3) test well characterized samples from a source outside the test kit manufacturer; (4) discover potential testing problems so that procedures can be adjusted to eliminate them; (5) compare of testing results with others at a national and international level; and (6) consult with CDC staff to discuss testing issues.

In this request, CDC proposes to make the following revisions to the currently approved data collection:

- Addition of a Name and Address change form to report changes for the MPEP manager and coordinator at the respondent laboratory;
- Inclusion of additional test kit manufacturers approved by the FDA since previous OMB approval; and
- Elimination of reporting HIV–1 RNA Viral Load and CD4+ T-cell determinations.

There are no costs to the respondents other than their time to complete the survey. The total estimated annualized burden hours are 257.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
New Enrollees	100	1	3/60
Laboratory Change Form	20	1	3/60

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Laboratory Test Result Form	754	2	10/60

Dated: July 9, 2007.

Maryam Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–13605 Filed 7–12–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Childhood Lead Poisoning Prevention (ACCLPP), National Center for Environmental Health (NCEH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following meeting of the aforementioned committee:

Times and Dates:
8:30 a.m.–5 p.m., September 18, 2007.
8:30 a.m.–12:30 p.m., September 19, 2007.

Place: Radisson Plaza Hotel Minneapolis, 35 South 7th Street, Minneapolis, MN 55402, Telephone: (612) 339–4900.

Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people.

Purpose: The Committee provides advice and guidance to the Secretary; the Assistant Secretary for Health; and the Director, CDC, regarding new scientific knowledge and technological developments and their practical implications for childhood lead poisoning prevention efforts. The Committee also reviews and reports regularly on childhood lead poisoning prevention practices and recommends improvements in national childhood lead poisoning prevention efforts.

Matters To Be Discussed: The meeting will include discussion on the potential approaches to strengthen existing strategies to achieve the Healthy People 2010 goal of eliminating Elevated Blood Lead Levels as a Public Health Problem in the United States by 2010, the development of a prevention based research agenda, and the study designs related to adverse effects from Blood Lead Levels (BLLs) < 10 µg/dl; and updates on the school performance and concurrent BLLs.

Agenda items are subject to change as priorities dictate.

Opportunities will be provided during the meeting for oral comments. Depending on the time available and the number of requests, it may be necessary to limit the time of each presenter.

Contact Person for More Information: Claudine Johnson, Clerk, Lead Poisoning Prevention Branch, Division of Environmental Emergency Health Services, NCEH, CDC, 4770 Buford Hwy, NE., Mailstop F–40, Atlanta, GA 30341, Telephone (770) 488–3629, Fax (770) 488–3635.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: July 6, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–13596 Filed 7–12–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Racial and Ethnic Approaches to Community Health Across the United States (REACH US), Request for Applications (RFA) DP07–707

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting of the aforementioned Special Emphasis Panel.

Times and Dates: 3 p.m.–8 p.m., July 31, 2007 (Closed), 8 a.m.–5 p.m., August 1, 2007 (Closed), 8 a.m.–5 p.m., August 2, 2007 (Closed), 3 p.m.–8 p.m., August 6, 2007 (Closed), 8 a.m.–5 p.m., August 7, 2007 (Closed), 8 a.m.–5 p.m., August 8, 2007 (Closed), 8 a.m.–5 p.m., August 9, 2007 (Closed).

Place: Sheraton Gateway Hotel Atlanta Airport, 1900 Sullivan Road, Atlanta, GA 30337, Telephone (800) 454–6835.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Pub. L. 92–463.

Matters To Be Discussed: The meeting will include the review, discussion, and evaluation of research grant applications in response to RFA DP07–707, ''Racial and Ethnic Approaches to Community Health Across the United States (REACH US).''

For Further Information Contact: Thijuanie Lockhart, Program & Management Analyst, CDC, 4770 Buford Highway, NE., Mail Stop K–30, Atlanta, GA 30341, Telephone (404) 488–5303.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: July 9, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–13602 Filed 7–12–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–67776, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 72 FR 35491–35492, dated June 28, 2007) is amended to reflect the establishment of the Extramural Research Program Office within the National Center for Chronic Disease Prevention and Health Promotion, Coordinating Center for Health Promotion, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows: After the functional statement for the Program Services Branch (CUC13), Office of the Director (CUC1), National Center for Chronic Disease Prevention and Health Promotion (CUC), insert the following:

Extramural Research Program Office (CUC18). The Extramural Research Program Office (ERPO) plans, develops,

coordinates, and evaluates extramural research activities in cooperation with centers, divisions, and offices within the Coordinating Center for Health Promotion. In carrying out its mission, the ERPO: (1) Coordinates, monitors, and directs the extramural research program which is designed to address center priorities; (2) provides scientific leadership in the processes supporting extramural research of the center; (3) works with National Centers to prepare and promote initiatives to stimulate extramural research in relevant priority areas; (4) coordinates and conducts in-depth external peer review and secondary program relevance review of extramural research applications by use of consultant expert panels; (5) makes recommendations to the center directors on award selections on the basis of secondary reviews; (6) staff members serve as the program officials and work with CDC grants management officers, and the Procurement and Grants Office to implement and monitor the scientific, technical, and administrative aspects of awards; (7) facilitates scientific collaborations between external and internal investigators; (8) evaluates extramural research progress and impact and disseminates findings; and (9) assists Office of the Chief Science Officer, CDC, in developing extramural research policies and oversees the implementation of those policies within the center.

Dated: June 28, 2007.

William H. Gimson,

Chief Operating Officer, Centers for Disease Control and Prevention (CDC).

[FR Doc. 07–3427 Filed 7–12–07; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10137, CMS–10237 and 10214, CMS–10242, CMS–379 and CMS–10102]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Application for Prescription Drug Plans (PDP); Application for Medicare Advantage Prescription Drug (MA–PD); Application for Cost Plans to Offer Qualified Prescription Drug Coverage; Application for Employer Group Waiver Plans to Offer Prescription Drug Coverage; Service Area Expansion Application for Prescription Drug Coverage; *Use:* Collection of this information is mandated in Part D of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. The application requirements are codified in Subpart K of 42 CFR 423. Coverage for the prescription drug benefit is provided through prescription drug plans (PDPs) that offer drug-only coverage, or through Medicare Advantage (MA) organizations that offer integrated prescription drug and health care coverage (MA–PD plans). PDPs must offer a basic drug benefit. Medicare Advantage Coordinated Care Plans (MA–CCPs) must offer either a basic benefit or may offer broader coverage for no additional cost. Medicare Advantage Private Fee for Service Plans (MA–PFFS) may choose to offer a Part D benefit. Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Plans may also provide a Part D benefit. If any of the contracting organizations meet basic requirements, they may also offer supplemental benefits through enhanced alternative coverage for an additional premium.

The information will be collected under the solicitation of proposals from PDP, MA–PD, Cost Plan, and Employer Group Waiver Plans applicants. The collected information will be used by CMS to: (1) Insure that applicants meet CMS requirements, and (2) support the determination of contract awards.

Refer to the ''High-Level Summary of Changes in Employer Group Waiver Plan Part D Applications'' and ''High-Level Summary of All Part D Application Revisions from 2008 Solicitation for the 2009 Solicitation'' documents to review changes from 2008 to 2009; *Form Number:* CMS–10137 (OMB#: 0938–0936); *Frequency:* Reporting: Once; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 455; *Total Annual Responses:* 455; *Total Annual Hours:* 11,890.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Advantage (MA) Applications—Part C; *Use:* An entity seeking a contract as an MA organization must be able to provide Medicare's basic benefits plus meet the organizational requirements set out in regulations at 42 CFR part 422. An applicant must demonstrate that it can meet the benefit and other requirements within the specific geographic area it is requesting. The application forms are designed to give CMS the information they need about the health plan to determine compliance with Federal regulations at 42 CFR part 422 in an efficient manner. The cited regulations outline the MA application process that begins with submission of an application in the form and manner that the Secretary provides. The MA application forms will be used by CMS to determine whether an entity is eligible to enter into a contract to provide services to Medicare beneficiaries. Refer to the ''2009 Medicare Advantage Application Changes'' document to review a list of the 2009 changes. *Form Number:* CMS–10237 and 10214 (OMB#: 0938–0935); *Frequency:* Reporting: Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 241; *Total Annual Responses:* 241; *Total Annual Hours:* 5,858.

3. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Revisions to Payment Policies Under the Physician Fee Schedule, Other Changes to Payment Under Part B, and Revisions to Payment Policies for Ambulance Services for CY 2008 (42 CFR 424.36—Signature Requirements); *Use:* 42 CFR 424.33(a)(3) states that all claims must be signed by the beneficiary or the beneficiary's representative (in accordance with 42 CFR 424.36(b)). 42 CFR 424.36(a) states that the beneficiary's signature is required on a claim unless the beneficiary has died or the provisions of § 424.36(b), (c), or (d) apply. The statutory authority requiring a beneficiary's signature on a claim submitted by a provider is located in section 1835(a) and in 1814(a) of the

Social Security Act (the Act), for Part B and Part A services, respectively. The authority requiring a beneficiary's signature for supplier claims is implicit in sections 1842(b)(3)(B)(ii) and in 1848(g)(4) of the Act. Because it is very difficult to obtain a beneficiary's signature (or the signature of a person authorized to sign on behalf of the beneficiary) on a claim when the beneficiary is being transported by ambulance in emergency situations, CMS is proposing that, for emergency ambulance transport services, an ambulance provider or supplier may submit the claim without a beneficiary's signature, as long as certain documentation requirements are met. The information collected will be used by CMS contractors (both, fiscal intermediaries and carriers) that process and pay emergency ambulance transport claims. *Form Number:* CMS–10242 (OMB#: 0938–New); *Frequency:* Reporting: Hourly, Daily, Weekly, Monthly and Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 9,000; *Total Annual Responses:* 6,500,000; *Total Annual Hours:* 541,667.

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Financial Statement of Debtor and Supporting Regulations in 42 CFR 405.376; *Use:* 42 CFR 405.376(g) requires that, ''* * * In determining whether a claim will be compromised, or collection action terminated, CMS will consider the following factors: * * * age and health of the debtor, present and potential income, inheritance prospects, possible concealment or fraudulent transfer of assets * * *'' Sections 1842(a)(1)(B) and (C) of the Social Security Act and 42 CFR 405.376(g) provide the authority for collection of this information.

In some instances a physician/supplier who is notified of a debt may allege inability to immediately repay the debt in full and may request an extended repayment schedule. Alternatively, the debtor may request a compromise settlement for less than the full amount due. Before establishing an extended repayment schedule or compromise settlement, the CMS's Regional Offices and the carrier must evaluate the provider's capacity to pay the debt. Accordingly, the provider is requested to complete a ''Financial Statement of Debtor'' form, CMS–379. *Form Number:* CMS–379 (OMB#: 0938–0270); *Frequency:* Reporting: Yearly; *Affected Public:* Business or other for-profit; *Number of Respondents:* 500; *Total Annual Responses:* 500; *Total Annual Hours:* 1000.

5. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* National Implementation of Hospital Consumer Assessment of Health Providers and Systems (HCAHPS); *Use:* The intent of the HCAHPS initiative is to provide a standardized survey instrument and data collection methodology for measuring patients' perspectives on hospital care. While many hospitals collect information on patient satisfaction, there is no national standard for collecting or publicly reporting this information that would enable valid comparisons to be made across all hospitals. In order to make ''apples to apples'' comparisons to support consumer choice, it is necessary to introduce a standard measurement approach. Hospital Consumer Assessment of Healthcare Providers and Systems, also known as the CAHPS Hospital Survey (HCAHPS) can be viewed as a core set of questions that hospitals can combine with their customized items. HCAHPS was developed and is being implemented under the auspices of the Hospital Quality Alliance, a private/public partnership that includes hospital associations, consumer groups, payors and government agencies that share a common interest in reporting on hospital quality.

Beginning in July 2007, participation in HCAHPS can affect the annual payment update for the inpatient prospective payment system (IPPS) hospitals participating in the Reporting Hospital Quality Data Annual Payment Update (RHQDAPU) program; *Form Number:* CMS–10102 (OMB#: 0938–0981); *Frequency:* Reporting: Monthly; *Affected Public:* Individuals or households; *Number of Respondents:* 2,820,000; *Total Annual Responses:* 2,820,000; *Total Annual Hours:* 329,940.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on September 11, 2007.

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—C,Attention: Bonnie L Harkless, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 3, 2007.

Michelle Shortt,

Director, Regulations Development Group,Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E7–13412 Filed 7–12–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0265]

Global Harmonization Task Force, Study Groups 1 and 5; New Proposed and Final Documents; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of several proposed and final documents that have been prepared by Study Groups 1 and 5 of the Global Harmonization Task Force (GHTF). These documents represent a harmonized proposal and recommendation from the GHTF Study Groups that may be used by governments developing and updating their regulatory requirements for medical devices. These documents are intended to provide information only and do not describe current regulatory requirements; elements of these documents may not be consistent with current U.S. regulatory requirements. FDA is requesting comments on these documents.

DATES: Submit written or electronic comments by October 11, 2007. After the 90 day period, written comments or electronic comments may be submitted at any time to the contact persons listed in this document.

ADDRESSES: Submit written requests for single copies of the guidance documents to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the

guidance. Submit written comments concerning this guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: *For information regarding Study Group 1*: Ginette Y. Michaud, Chairperson, GHTF, Study Group 1, Office of Device Evaluation Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–3700.

For information regarding Study Group 5: Herbert Lerner, GHTF, Study Group 5, Office of Device Evaluation, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 240–276–3641.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has participated in a number of activities to promote the international harmonization of regulatory requirements. In September 1992, a meeting was held in Nice, France by senior regulatory officials to evaluate international harmonization. This meeting led to the development of the organization now known as the Global Harmonization Task Force (GHTF) to facilitate harmonization. Subsequent meetings have been held on a yearly basis in various locations throughout the world.

The GHTF is a voluntary group of representatives from national medical device regulatory authorities and the regulated industry. Since its inception, the GHTF has been comprised of representatives from five founding members grouped into three geographical areas: Europe, Asia-Pacific, and North America, each of which actively regulates medical devices using their own unique regulatory framework.

The objective of the GHTF is to encourage convergence at the global level of regulatory systems of medical devices to facilitate trade while preserving the right of participating members to address the protection of public health by regulatory means considered most suitable. One of the ways this objective is achieved is by identifying and developing areas of international cooperation to facilitate progressive reduction of technical and regulatory differences in systems established to regulate medical devices. In an effort to accomplish these objectives, the GHTF formed five study groups to draft documents and carry on other activities designed to facilitate global harmonization. This notice is a result of documents that have been developed by two of the Study Groups (1 and 5).

Study Group 1 was initially tasked with the responsibility of identifying differences between various regulatory systems. In 1995, the group was asked to propose areas of potential harmonization for premarket device regulations and possible guidance that could help lead to harmonization. As a result of its efforts, this group has developed proposed documents SG1(PD)/N045R12:2007 and SG1(PD)/N046R3:2007.

SG1(PD)/N045R12:2007 (proposed document) entitled ''Principles of In Vitro Diagnostic (IVD) Medical Devices Classification'' assists a manufacturer to allocate its IVD Medical Device to an appropriate risk class using a set of harmonized classification principles based on an IVD Medical Device's intended use. This document applies to IVD Medical Devices.

SG1(PD)/N046R3:2007 (proposed document) entitled ''Principles of Conformity Assessment for In Vitro Diagnostic (IVD) Medical Devices'' provides an overview of conformity assessment elements to demonstrate conformity to GHTF final document entitled ''Essential Principles of Safety and Performance for Medical Devices.'' ''Principles of Conformity Assessment for In Vitro Diagnostic (IVD) Medical Devices'' applies to IVD Medical Devices. It describes the evidence and procedures that may be used by the manufacturer to demonstrate that a medical device is safe and performs as intended by the manufacturer, and the process by which a Regulatory Authority, or Conformity Assessment Body, may confirm that the procedures are properly applied by the manufacturer.

Study Group 5 was initially tasked with the responsibility of developing guidance documents on the content and format for clinical investigation reports and on how to conduct and document a clinical evaluation. As a result of its efforts, this group has developed documents SG5/N1R8:2007 and SG5/N2R8:2007.

SG5/N1R8:2007 (final document) entitled ''Clinical Evidence—Key Definitions and Concepts'' introduces the concepts of clinical evaluation and clinical evidence, and examines the relationship between clinical investigation, clinical data, clinical evaluation, and clinical evidence. SG5/N2R8:2007 (final document) entitled ''Clinical Evaluation'' provides guidance on how to conduct the clinical evaluation of a medical device as part of the conformity assessment procedure prior to placing a medical device on the market, as well as to support its ongoing marketing.

II. Significance of Guidance

These documents represent recommendations from the GHTF study groups and do not describe regulatory requirements. FDA is making these documents available so that industry and other members of the public may express their views and opinions.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may also do so by using the Internet. The Center for Devices and Radiological Health (CDRH) maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. Information on the GHTF may be accessed at *http://www.ghtf.org*. The CDRH web site may be accessed at *http://www.fda.gov/cdrh*.

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**), written or electronic comments regarding these documents. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 5, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–13664 Filed 7–12–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2007D–0266]

International Conference on Harmonisation; Draft Guidance on Q10 Pharmaceutical Quality System; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Q10 Pharmaceutical Quality System.'' The draft guidance was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guidance describes a model for an effective quality management system for the pharmaceutical industry, referred to as the Pharmaceutical Quality System. The draft guidance applies to drug substances and drug products, including biotechnology and biological products, throughout the product lifecycle. The draft guidance is intended to provide a comprehensive approach to an effective pharmaceutical quality system that is based on International Organization for Standardization (ISO) concepts, includes applicable good manufacturing practice (GMP) regulations, and complements the ICH guidances on ''Q8 Pharmaceutical Development'' and ''Q9 Quality Risk Management.''

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by October 11, 2007.

ADDRESSES: Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the Guidance: Joseph C. Famulare, Center for Drug Evaluation and Research (HFD–300), Food and Drug Administration, 11919 Rockville Pike, Rockville, MD 20852, 301–827–8910; Christopher Joneckis, Center for Biologics Evaluation and Research (HFM–1), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–435–5681; or Diana Amador-Toro, Office of Regulatory Affairs (HFR-CE350), Food and Drug Administration, 10 Waterview Blvd., Parsippany, NJ 07054, 973–331–4915.

Regarding the ICH: Michelle Limoli, Office of International Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4480.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA; and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and IFPMA, as well as observers from the World Health Organization, Health Canada, and the European Free Trade Area.

In May 2007, the ICH Steering Committee agreed that a draft guidance entitled ''Q10 Pharmaceutical Quality System'' should be made available for public comment. The draft guidance is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group.

The draft guidance provides guidance on a comprehensive approach to an effective pharmaceutical quality system that is based on ISO concepts, includes applicable GMP regulations, and complements the ICH guidances on ''Q8 Pharmaceutical Development'' and ''Q9 Quality Risk Management.'' The draft guidance describes a model for a pharmaceutical quality system that can be implemented throughout the different stages of a product lifecycle.

The model demonstrates industry and regulatory authorities' support of an effective pharmaceutical quality system to enhance the quality, safety, and availability of medicines around the world in the interest of public health. Implementation of the Pharmaceutical Quality System throughout the product lifecycle should facilitate innovation and continual improvement, promote the use of scientific and risk management principles, and strengthen the link between pharmaceutical development and manufacturing activities.

The draft guidance applies to drug substances and drug products, including biotechnology and biological products, throughout the product lifecycle. Much of the content of the draft guidance applicable to manufacturing sites is currently specified by regional GMP requirements. The draft guidance is not intended to create any new expectations beyond current regulatory requirements. Consequently, content of the guidance that is additional to current GMP requirements is optional.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments on the draft guidance. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/ohrms/dockets/default.htm*, *http://www.fda.gov/cder/guidance/index.htm*, or *http://www.fda.gov/cber/reading.htm*.

Dated: July 9, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–13667 Filed 7–12–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. 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.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Uniform Progress Reports (OMB No. 0915–0061)—Revision

The HRSA Uniform Progress Report (UPR) is used for the preparation and submission of continuation applications for Title VII and VIII health professions and nursing education and training programs. The UPR measures grantee success in meeting (1) The objectives of the grant project, and (2) the cross-cutting outcomes developed for the Bureau of Health Professions' education and training programs. Part I of the progress report is designed to collect information to determine whether sufficient progress has been made on the approved project objectives, as grantees must demonstrate satisfactory progress to warrant continuation of funding. Part II collects information on activities specific to a given program. Part III, the Comprehensive Performance Management System (CPMS), collects data on overall project performance related to the Bureau's strategic goals, objectives, outcomes, and indicators. Progress will be measured based on the objectives of the grant project, and outcome measures and indicators developed by the Bureau to meet requirements of the Government Performance and Results Act (GPRA).

The Bureau has simplified several tables in UPR II and added the ability for grantees to provide better race and ethnicity data. In addition, to respond to the requirements of GPRA, the Bureau has revised its cross-cutting goals, expected outcomes, and indicators in UPR III CPMS that provide the framework for collection of outcome data for its Title VII and VIII programs. An outcome based performance system is critical for measuring whether program support is meeting national health workforce objectives. At the core of the performance measurement system are found cross-cutting goals with respect to workforce quality, supply, diversity, and distribution of the health professions workforce.

The estimated annual burden is as follows:

Report	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Uniform progress report	1,550	1	1,550	24	37,200
Total	1,550		1,550		37,200

Send comments to Susan G. Queen, PhD, HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 5, 2007.

Alexandra Huttinger,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. E7–13626 Filed 7–12–07; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Healthcare Integrity and Protection Data Bank for Final Adverse Information on Health Care Providers, Suppliers, and Practitioners (OMB No. 0915–0239)—Extension

Section 221(a) of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 specifically directs the Secretary to establish a national health care fraud and abuse data collection program for the reporting and disclosure of certain final adverse actions taken against health care providers, suppliers, and practitioners. A final rule was published October 26, 1999, in the **Federal Register** to implement the statutory requirements of section 1128E of the Social Security Act (The Act) as added by Section 221(a) of HIPAA. The Act requires the Secretary to implement the national health care fraud and abuse data collection program. This Data Bank is known as the Healthcare Integrity and Protection Data Bank (HIPDB). It contains the following types of information: (1) Civil judgments against a health care provider, supplier, or practitioner in Federal or State court related to the delivery of a health care item or service; (2) Federal or State criminal convictions against a health care provider, supplier, or practitioner related to the delivery of a health care item or service; (3) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, or practitioners; (4) Exclusion of a health care provider, practitioner or supplier from participation in Federal or State health care programs; and (5) Any other adjudicated actions or decisions that the Secretary shall establish by regulations. Access to this Data Bank is limited to Federal and State Government agencies and health plans. The final regulations governing the HIPDB are codified at 45 CFR part 61.

The reporting forms and the request for information forms (query forms) must be accessed, completed, and submitted to the HIPDB electronically through the HIPDB Web site at *http://www.npdb-hipdb.hrsa.gov.* All reporting and querying is performed through this secure Web site. Due to overlap in requirements for the HIPDB, some of the National Practitioner Data Bank's burden has been subsumed under the HIPDB.

Estimates of burden are as follows:

Regulatory citation	Number of respondents	Frequency of responses	Total responses	Hours per response (min.)	Total burden hours
61.6(a),(b) Errors & Omissions	188	4.4	817	15	204.25
61.6 Revisions/Appeal Status	130	26.9	3,492	30	1,746
61.7 Reporting by State Licensure Boards	305	80.8	24,640	45	18,480
61.8 Reporting of State Criminal Convictions	45	56.0	2,518	45	1,888.5
61.9 Reporting of Civil Judgments	4	2.5	10	45	7.5
61.10(b) Reporting Exclusions from participating in Federal and State Health Care Programs	9	320.3	2,883	20	961
61.11 Reporting of adjudicated actions/decisions	92	17	1,562	45	1,171.5
61.12 Request for Information—State & Federal Agencies	855	279.3	238,814	5	19,901.26
61.12 Request for Information—Health Plans, etc.	1,239	532.4	659,617	5	54,968.1
61.12 Request for Information—Health Care Providers, Suppliers, Practitioners (Self-query)	50,416	1	50,416	25	21,006.7
61.12(a)(4) Request by Researchers for Aggregate Data	1	1	1	30	.5
61.15 Place Report in Dispute	300	1	300	5	25
61.15 Add a Subject Statement	669	1	669	45	501.8
61.15 Request for Secretarial Review	15	1	15	480	120
Total	54,268		985,754		120,982.11

Note: Numbers in the table may not add up exactly due to rounding.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days 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.''

Dated: July 5, 2007.

Alexandra Huttinger,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. E7–13627 Filed 7–12–07; 8:45 am]

BILLING CODE 4165–15–P

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 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: SAMHSA Application for Peer Grant Reviewers (OMB No. 0930–0255)—Extension

Section 501(h) of the Public Health Service (PHS) Act (42 U.S.C. 290aa) directs the Administrator of the Substance Abuse and Mental Health Services Administration (SAMHSA) to establish such peer review groups as are needed to carry out the requirements of Title V of the PHS Act. SAMHSA administers a large discretionary grants program under authorization of Title V, and, for many years, SAMHSA has funded grants to provide prevention and treatment services related to substance abuse and mental health.

In support of its grant peer review efforts, SAMHSA desires to continue to expand the number and types of reviewers it uses on these grant review committees. To accomplish that end, SAMHSA has determined that it is important to proactively seek the inclusion of new and qualified representatives on its peer review groups. Accordingly SAMHSA has developed an application form for use by individuals who wish to apply to serve as peer reviewers.

The application form has been developed to capture the essential information about the individual applicants. Although consideration was given to requesting a resume from interested individuals, it is essential to have specific information from all applicants about their qualifications. The most consistent method to accomplish this is through completion of a standard form by all interested persons which captures information about knowledge, education, and experience in a consistent manner from all interested applicants. SAMHSA will use the information provided on the applications to identify appropriate peer grant reviewers. Depending on their experience and qualifications, applicants may be invited to serve as either grant reviewers or review group chairpersons.

The following table shows the annual response burden estimate.

Number of respondents	Responses/ respondent	Burden/ Responses (hours)	Total Burden Hours
500	1	1.5	750

Written comments and recommendations concerning the proposed information collection should be sent by August 13, 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 OMB'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: July 5, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E7–13604 Filed 7–12–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[CGD08–07–015]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) will meet to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. The meeting will be open to the public.

DATES: The next meeting of LMRWSAC will be held on Tuesday, August 28, 2007, from 9 a.m. to 12 p.m. This meeting may adjourn early if all business is finished. Requests to make oral presentations or submit written materials for distribution at the meeting should reach the Coast Guard on or before August 14, 2007. Requests to have a copy of your material distributed to each member of the committee in advance of the meeting should reach the Coast Guard on or before August 14, 2007.

ADDRESSES: The meeting will be held in the World Trade Center of New Orleans, 2 Canal Street, 18th Floor, New Orleans, LA 70130. This notice is available on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade (LTJG) Thao Nguyen, Assistant Committee Administrator, e-mail *thao.v.nguyen@uscg.mil* or LTJG Tom Sanborn, e-mail *tom.a.sanborn@uscg.mil.* Written materials and requests to make presentations should be mailed to Commanding Officer, USCG Sector New Orleans, Attn: Waterways Management, 1615 Poydras St., New Orleans, LA 70112.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463).

Agenda of Meeting

Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC). The agenda includes the following:

(1) Introduction of committee members
(2) Opening Remarks
(3) Approval of the May 23, 2007 minutes
(4) Old Business:
  (a) Captain of the Port status report
  (b) VTS update report
  (c) Subcommittee/Working Groups update reports

(5) New Business
(6) Adjournment

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Assistant Committee Administrator no later than August 14, 2007. Written material for distribution at the meeting should reach the Coast Guard no later than August 14, 2007. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 25 copies to the Assistant Committee Administrator no later than August 14, 2007.

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 the Assistant Committee Administrator at the location indicated under **ADDRESSES** as soon as possible.

Dated: June 28, 2007.

J.R. Whitehead

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 07–3424 Filed 7–12–07; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1711–DR]

Kansas; Amendment No. 1 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–1711–DR), datedJuly 2, 2007, and related determinations.

EFFECTIVE DATE: July 5, 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 Individual Assistance program for 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 July 2, 2007.

(The counties of Elk, Miami, Montgomery, Neosho, and Wilson for Individual Assistance (already designated for emergency protective measures [Category B], limited to direct Federal assistance under the Public Assistance program).

(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. E7–13612 Filed 7–12–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1706–DR]

Nebraska; Amendment No. 1 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 Nebraska (FEMA–1706–DR), datedJune 6, 2007, and related determinations.

EFFECTIVE DATE: July 6, 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 Nebraska 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 July 2, 2007.

Thomas 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. E7–13610 Filed 7–12–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1710–DR]

New York; Amendment No. 1 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 New York (FEMA–1710–DR), dated July 2, 2007, and related determinations.

EFFECTIVE DATE: July 6, 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 New York 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 July 2, 2007.

Sullivan 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. E7–13615 Filed 7–12–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–56]

Notice of Submission of Proposed Information Collection to OMB; Section 202 Supportive Housing for the Elderly Application Submission Requirements

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.

Grant application for Section 202 Supportive Housing for the Elderly and addition of predevelopment grant funding for architectural and engineering work, site control, and other planning related expenses for Section 202 grantees.

DATES: *Comments Due Date:* August 13, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0267) 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: Section 202 Supportive Housing for the Elderly Application Submission Requirements.

OMB Approval Number: 2502–0267.

Form Numbers: HUD–92015–CA, HUD–96010, HUD–92041, SF–424, SF–424–Supplemental, SF–LLL, HUD–2880, HUD–2990, HUD–2991, HUD–92042, HUD–424–B, HUD–27300, HUD–96011, and HUD–2994–A, SF–269.

Description of the Need for the Information and Its Proposed Use: Grant application for Section 202 Supportive Housing for the Elderly and addition of predevelopment grant funding for architectural and engineering work, site control, and other planning related expenses for Section 202 grantees.

Frequency of Submission: Annually.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	300		1		40		12,001

Total Estimated Burden Hours: 12,001.

Status: Extension of a currently collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 2, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–13676 Filed 7–12–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–55]

Notice of Submission of Proposed Information Collection to OMB; Application for Insurance of Advance of Mortgage Proceeds

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.

A mortgagor (or mortgagor/contractor) requests an advance of mortgage proceeds for reimbursement of project construction expenditures. Upon further input and review the mortgagee transmits the information to HUD for approval on a monthly basis for reimbursement of funds.

DATES: *Comments Due Date:* August 13, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0097) 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: Application for Insurance of Advance of Mortgage Proceeds.

OMB Approval Number: 2502–0097.

Form Numbers: Form HUD–92403.

Description of the Need for the Information and Its Proposed Use:

A mortgagor (or mortgagor/contractor) requests an advance of mortgage proceeds for reimbursement of project construction expenditures. Upon further input and review the mortgagee transmits the information to HUD for approval on a monthly basis for reimbursement of funds.

Frequency of Submission: On Occasion.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	2,100		16		0.1		3,360

Total Estimated Burden Hours: 3,360.

Status: Extension of a current collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 2, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–13677 Filed 7–12–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–54]

Notice of Submission of Proposed Information Collection to OMB; Semi-annual Labor Standards Enforcement Report—Local Contracting Agencies (HUD 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 is used by HUD to fulfill its reporting obligation under DOL regulations at 29 CFR Part 5, Section 5.7(b).

DATES: *Comments Due Date:* August 13, 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 (2501–0019) 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: Semi-annual Labor Standards Enforcement Report—Local Contracting Agencies (HUD Programs).

OMB Approval Number: 2501–0019.

Form Numbers: HUD–4710; HUD–4710i.

Description of the Need for the Information and Its Proposed Use:

The information is used by HUD to fulfill its reporting obligation under DOL regulations at 29 CFR Part 5, Section 5.7(b).

Frequency of Submission: Semi-annually.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden Hours
Reporting Burden	4,500		2		2		18,000

Total Estimated Burden Hours: 18,000.

Status: Extension of a current collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 2, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–13678 Filed 7–12–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5125–N–28]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: July 13, 2007.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: July 5, 2007.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 07–3349 Filed 7–12–07; 8:45 am]

BILLING CODE 4210–67–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[DSG070003 ID330–07–1430–FR 241A, IDI–34925–01]

Notice of Realty Action: Recreation and Public Purposes Act Classification; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has determined that certain public lands located in Custer County, Idaho are suitable for classification for conveyance to the Custer County Commission, under authority of the Recreational and Public Purposes Act, June 14,1926 as amended by the Recreation and Public Purpose Act of 1988 (43 U.S.C. 869 *et seq.*),

DATES: Comments regarding the proposed conveyance should be received by August 27, 2007.

ADDRESSES: Detailed information concerning this action, including but not limited to documentation related to compliance with applicable environmental and cultural resource laws, is available for review at the BLM Challis Field Office. Address all written comments concerning this Notice to David Rosenkrance, BLM Challis Field Office Manager, 801 Blue Mountain Road, Challis, Idaho 83226–9304. 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: Tim Vanek, Realty Specialist, BLM Challis Field Office, (208) 879–6218.

SUPPLEMENTARY INFORMATION: The following described public land in Custer County, Idaho, has been examined and found suitable for conveyance to the Custer County Commission under the provisions of the Recreation and Public Purposes Act, as amended:

Boise Meridian, Idaho

T. 13 N., R 19 E.
Sec. 4, lots 9, 14, 15, 18, 19, W½NE¼SW¼, E½NW¼SW¼, SE¼SW¼, and; sec. 5, lot 9.

The land described above contains approximately 126.87 acres in Custer County. The land is adjacent to an existing waste transfer site which was formerly public land patented to the Village of Challis, ID in 1959 and was deeded to Custer County in 1997. The 40-acre patented parcel contains: Household refuse collection bins, a recycling area, yard debris collection, used appliance/scrap metal collection and used tire collection. A 40-acre, public land parcel immediately south and southeast of the patented parcel contains a construction debris pit and dead animal burial pit. The use of this parcel was first authorized to Custer County by the BLM for the purpose of non-municipal waste disposal under R&PP Lease on January 15, 1983. That authorization expired January 13, 2003. The BLM Challis Field Office re-authorized the use on June 3, 2005 with R&PP Lease in serial number: IDI–34925. This authorization also expired, on February 14, 2006. The remaining 76.87 acres are lots adjacent to the expired lease parcel and the patented parcel. These lots are not currently used for waste transfer, but they have been disturbed with trails, fences, and equipment storage.

The Custer County Commission proposes to use the land to continue operation of the Challis waste transfer site and expand the site when necessary. The land is not needed for Federal purposes. Conveyance of the public lands is consistent with the Challis Resource Management Plan and would be in the public interest.

The patent, when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior. In particular, statutory provisions governing the disposal of existing leased disposal sites are to be found at 43 U.S.C 869–2(c)(2), regulatory provisions at 43 CFR 2743.3 and 2743.3–1. Statutory provisions governing the disposal of new disposal sites are to be found at 43 U.S.C. 869–2(b), regulatory provisions at 43 CFR 2743.2 and 2343.2–1.

2. A right of way for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

3. All valid existing rights.

4. The United States will reserve all minerals together with the right to prospect for, mine, and remove the minerals under applicable laws and such regulations as the Secretary of the Interior may prescribe, including all necessary access and exit rights.

5. These parcels are subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liabilities Act, 42 U.S.C. 9620(h) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988, Sat. 1670.

6. The patentee, its successors or assigns, by accepting a patent, agrees to indemnify, defend, and hold harmless the United States, its officers, agents, representatives, and employees (hereinafter ''United States'') from any costs, damages, claims, causes of action in connection with the patentee's use, occupancy, or operations on the patented real property. This agreement includes, but is not limited to, acts or omissions of the patentee and its employees, agents, contractors, lessees, or any third party arising out of, or in connection with, the patentee's use, occupancy, or operations on the patented real property which cause or give rise to, in whole or in part: (1) Violations of Federal, State, and local laws and regulations that are now, or may in the future become, applicable to the real property and/or applicable to the use, occupancy, and/or operations thereon; (2) judgments, claims, or demands of any kind assessed against the United States; (3) costs, expenses, or damages of any kind incurred by the United States; (4) releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), pollutant(s), or contaminants(s), and/or petroleum product(s) or derivative(s) of a petroleum product, as defined by Federal or State environmental laws; of, on, into, or under land, property, and other interests of the United States; (5) other activities by which solid or hazardous substance(s) or waste(s), pollutant(s) or contaminant(s), or petroleum product(s) or derivative(s) of a petroleum product as defined by Federal or State environmental laws are generated, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to the said solid or hazardous substance(s) or waste(s) or contaminant(s), or petroleum product(s) or derivative(s) of a petroleum product as defined by Federal or State laws. Patentee shall stipulate that it will be solely responsible for compliance with all applicable Federal, State, and local environmental laws and regulatory provisions, throughout the life of the facility, including any closure and/or post-closure requirements that may be imposed with respect to any physical plant and or facility upon the real property under any Federal, State, or local environmental laws or regulatory provisions. In the case of a patent being issued, this covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

Additional detailed information concerning this Notice of Realty Action, including environmental records, is available for review at the BLM Challis Field Office, 801 Blue Mountain Road, Challis, Idaho 83226. Office hours are 7:45 a.m. to 4:30 p.m., Monday through Friday except holidays.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the mining laws except for conveyance under the Recreation and Public Purposes Act.

You may submit comments regarding the proposed classification or conveyance of the land to the BLM Field Office Manager at the address stated above. You may submit comments involving the suitability of the lands for a waste transfer site. Comments on the classification are restricted to the following four subjects:

(1) Whether the land is physically suited for the proposal;

(2) Whether the use will maximize the future use or uses of the land;

(3) Whether the use is consistent with local planning and zoning; and

(4) If the use is consistent with State and Federal programs.

You may submit comments regarding the specific use proposed in the County's application; and whether the BLM followed proper administrative procedures in reaching the decision. Comments received during this process, including respondent's name, address, and other contact information will be available for public review.

The State Director will review any adverse comments. In the event the public does not submit adverse comments, the classification will become effective no sooner than September 11, 2007. The lands will not be offered for conveyance until after the classification becomes effective.

FOR FURTHER INFORMATION CONTACT: Tim Vanek, Realty Specialist, BLM Challis Field Office, (208) 879–6218.

Authority: 43 CFR Subpart 2741.

David Rosenkrance,

Challis Field Manager.

[FR Doc. E7–13682 Filed 7–12–07; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–5870–EU; N–66141]

Notice of Realty Action: Direct (Non-Competitive) Sale of Public Land and Opening Order; Humboldt County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: One parcel of public land (Parcel N–66141) located southwest of Winnemucca, Nevada, and totaling 177.31 acres, has been examined and found suitable for disposal utilizing direct sale procedures. The authority for the sale is found under Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA) (Pub. L. 94–579), 43 U.S.C. 1713, 1719.

DATES: Comments regarding the proposed sale must be received by the Bureau of Land Management (BLM) on or before August 27, 2007.

ADDRESSES: Comments regarding the proposed sale should be addressed to Field Manager, BLM, Winnemucca Field Office, 5100 East Winnemucca Blvd., Winnemucca, Nevada 89445.

FOR FURTHER INFORMATION CONTACT: Information regarding the proposed sale can be obtained at the public reception desk at the BLM, Winnemucca Field Office, from 7:30 a.m. to 4:30 p.m., Monday through Friday (except Federal holidays), or by contacting Barbara Kehrberg, Realty Specialist, at the above address, or at (775) 623–1500, or by e-mail *bkehrberg@nv.blm.gov.* For general information on the BLM's public land sale procedures, refer to the following Web address: *http://www.blm.gov/nhp/what/lands/realtysales.htm.*

SUPPLEMENTARY INFORMATION: Parcel N–66141 is located approximately 6 miles west of the city of Winnemucca, Nevada, west of Airport Road, south of and adjacent to the Union Pacific Railroad tracks, and is described as follows:

Mount Diablo Meridian

T. 35 N., R. 37 E.

Sec. 16, lots 3, 8, 10, 11, 15, 16, and 17.

The area described contains 177.31 acres, more or less, in Humboldt County.

This parcel of public land is proposed for sale to the City of Winnemucca, Nevada, at no less than the appraised fair market value (FMV) of $210,000.00, as determined by the authorized officer. An appraisal report has been prepared by a State-certified appraiser for the purposes of establishing the FMV.

Consistent with Section 203 of FLPMA, a tract of the public land may

be sold where, as a result of approved land use planning, the sale of the tract meets the disposal criteria of that section. The lands described above are identified as suitable for disposal in the BLM Sonoma-Gerlach Management Framework Plan (MFP) signed July 9, 1982, and in the BLM Paradise-Denio and Sonoma-Gerlach Management Framework Plan Lands Amendment (Amendment), signed January 1999. The proposed disposal action is consistent with the objectives, goals, and decisions of the MFP and Amendment. MFP objective and decision L2.2 provides that the Winnemucca Field Office should dispose of this property to local governmental entities as identified by a local government, consistent with community plans.

This sale also meets the criteria found in 43 CFR 2710.0–3(a)(2), which states: ''Disposal of such tract shall serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on lands other than public lands and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.'' The City of Winnemucca needs these lands to provide rail transportation to the City-developed industrial park and for proposed airport expansion.

The disposal (sale) of Parcel N–66141 also meets the criteria found under 43 CFR 2710.0–3(a)(3), which authorizes disposal where ''such tract, because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands''. The lands are isolated, surrounded by private lands, or intermingled with private lands as to make them difficult to manage for any Federal purpose. Parcel N–66141 is bordered on the north by the Union Pacific Railroad, on the east and south by city-owned property, and on the west by private property. There is no existing legal access to the subject lands.

Regulation 43 CFR 2711.3–3(a), provides that ''direct sales (without competition) may be utilized, when in the opinion of the authorized officer, a competitive sale is not appropriate and the public interest would best be served by a direct sale. Examples include, but are not limited to: (1) A tract identified for transfer to State or local government.'' As noted above, these lands were identified in the MFP as to be disposed of to only a local governmental entity.

The BLM prepared a preliminary Environmental Assessment (EA) and provided a 30-day comment period. All comments received have been considered and incorporated into the EA and Decision Record. The EA Number NV–020–06–EA–08, Decision Record, Environmental Site Assessment, map, and approved appraisal report covering the proposed sale are available for review at the BLM, Winnemucca Field Office, in Winnemucca, Nevada, at the address listed above.

Termination of Exchange Segregation

Lands described in this Notice were previously segregated under Exchange file N–80983, but a decision has been made not to proceed with this exchange. This Notice officially terminates that Exchange Segregation of the described lands. Pursuant to 43 CFR 2201.1–2(c)(2), this Notice will also serve as an opening order to restore the above described lands to operation of the sale provisions of sections 203 and 209 of the FLPMA, 43 U.S.C. 1713, 1719, and not the general mining laws, as of 7:30 a.m. on July 13, 2007.

Sales Segregation

Publication of this Notice in the **Federal Register** segregates the subject land from all forms of appropriations under the public land laws, including the general mining laws, except sale under the Sections 203 and 209 of FLPMA. The segregation will terminate upon issuance of the patent, upon publication in the **Federal Register** of a termination of the segregation, on July 13, 2009, whichever occurs first.

Terms and Conditions of Sale

The patent issued would contain the following numbered reservations, covenants, terms and conditions:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Oil, gas, and geothermal resources are reserved from the land sold; permittees, licensees, and lessees retain the right to prospect for, mine, and remove the minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights.

3. All valid existing rights.

4. A right-of-way authorized under the Act of March 4, 1911, 36 Stat. 1253, (43 U.S.C. 961), for an aerial transmission line granted to Sierra Pacific Power Company, its successor or assignees, by right-of-way NEV–042767, for Parcel N–66141.

5. A right-of-way authorized under Title V of FLPMA, (43 U.S.C. 1761), for an aerial transmission line granted to Sierra Pacific Power Company, its successor or assignees, by right-of-way NVN–041642, for Parcel N–66141.

6. The patentee, by accepting patent, agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind arising from the past, present, or future acts or omissions of the patentee, its employees, agents, contractors, lessees, or any third-party arising out of or in connection with the patentee's use, occupancy, or operations on the patented real property resulting in: (1) Violations of Federal, State, and local laws and regulations that are now, or in the future become, applicable to the real property; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substance(s), pollutant(s) or containment(s), and/or petroleum product or derivative of a petroleum product, as defined by Federal and State environmental laws, off, on, into, or under land, property, and other interests of the United States; (5) Other activities by which solid or hazardous substance(s), pollutant(s) or contaminant(s), and/or petroleum product or derivative of a petroleum product, or waste(s), as defined by Federal and State environmental laws, are generated, released, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substance(s) or waste(s), pollutant(s) or contaminant(s), and/or petroleum product or derivative of a petroleum product; or (6) natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

7. Pursuant to the requirements established by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), (43 U.S.C. 9620(h)), as amended by the Superfund Amendments and Reauthorization Act of 1988, (100 Stat. 1670), notice is hereby given that the above-described lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, nor have any hazardous substances been disposed of or released on the subject property.

No warranty of any kind, expressed or implied, is given by the United States as

to the title, physical condition, or potential uses of the parcel of land proposed for sale, and the conveyance of any such parcel will not be on a contingency basis. It is the buyer's responsibility to be aware of all applicable Federal, State, and local government policies and regulations that would affect the subject lands. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

In the event of a sale, the unreserved mineral interests will be conveyed simultaneously with the sale of the land. These unreserved mineral interests have been determined to have no known mineral value pursuant to 43 CFR 2720.0–6 and 2720.2(a). Acceptance of the sale offer will constitute an application for conveyance of those unreserved mineral interests. The purchaser will be required to pay a $50.00 non-refundable filing fee for conveyance of mineral interests, and for payment of publication costs. The purchaser must remit the remainder of the purchase price within 180 days from the date the sale offer is received. Payments must be by certified check, postal money order, bank draft, or cashiers check payable to the U.S. Department of the Interior—BLM. Failure to meet conditions established for this sale will void the sale and any monies received will be forfeited.

Public Comments

The subject parcel of land will not be offered for sale prior to the 60-day publication of this Notice of Realty Action. For a period until August 27, 2007, interested persons may submit written comments to the BLM Winnemucca Field Office at the address listed above. Facsimiles, telephone calls, and e-mails are unacceptable means of notification.

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.

Any adverse comments will be reviewed by the Nevada State Director, who may sustain, vacate, or modify this realty action and issue a final determination.

(Authority: 43 CFR 2711.1–2(a))

Rodger T. Bryan,

Acting Field Manager, Winnemucca.

[FR Doc. E7–13679 Filed 7–12–07; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management, Interior

[ID–410–1232–FU–ID27]

Notice of Intent to Collect Fees on Public Land in Kootenai County, ID Under the Federal Lands Recreation Enhancement Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to applicable provisions of the Federal Lands Recreation Enhancement Act (REA), 16 U.S.C. 6801, *et seq.*, the Bureau of Land Management (BLM)'s Coeur d'Alene Field Office is proposing to begin collecting fees in 2008 at the Mineral Ridge Public Boat Launch site on Lake Coeur d'Alene, Kootenai County, Idaho. The site is located within section 1 of Township 49 North, Range 3 West.

DATES: The public comment period will expire on August 13, 2007. The public is encouraged to participate in the public comment period. Effective six months after the publication of this notice, the BLM Coeur d'Alene Field Office will initiate fee collection at the Mineral Ridge Public Boat Launch site. The Coeur d'Alene District Resource Advisory Council (RAC) was presented this proposal on December 6, 2006 and supports initiation of fees at this site. Fees will be established by separate supplemental rules pursuant to 43 CFR 8365.1–6. Future adjustments in the fee amount will be modified in accordance with the Coeur d'Alene Field Office Recreation Fee Business Plan, consultation with the Coeur d'Alene District RAC and other public notice prior to a fee increase.

ADDRESSES: Mail: Field Manager, Coeur d'Alene Field Office, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815.

FOR FURTHER INFORMATION CONTACT: Eric Thomson, Field Manager, or Brian White, Outdoor Recreation Planner, Coeur d'Alene Field Office, 3815 Schreiber Way, Coeur d'Alene, Idaho 83815. (208) 769–5030 or (208) 769–5031.

SUPPLEMENTARY INFORMATION: The Coeur d'Alene Field Office is proposing a fee structure of $4.00 per vehicle for parking and/or boat launching at the Mineral Ridge Boat Launch site which is commensurate with other public facilities on Lake Coeur d'Alene. An annual pass would be available for $30.00 that would additionally be accepted at the BLM's Blackwell Island Public Boat Launch which is also located on Lake Coeur d'Alene. Development of this site is consistent with the Emerald Empire Management Framework Plan (1981) and was analyzed in the Coeur d'Alene Lake Recreation Area Management Plan Environmental Assessment of May, 1993.

The BLM is committed to providing, and receiving fair value for the use of, developed recreation facilities and services in a manner that meets public use demands, provides quality experiences and protects important resources. The BLM's policy is to collect fees at all specialized recreation sites, or where the BLM provides facilities, equipment or services, at federal expense, in connection with outdoor use. In an effort to meet increasing demands for services and maintenance of developed facilities, the BLM would implement a fee program for the Mineral Ridge Public Boat Launch. The BLM's mission for the site is to ensure that funding is available to maintain existing facilities and recreational opportunities, to provide for law enforcement presence, to develop additional services, and to protect resources. This mission entails communication with those who will be most directly affected by this project, including recreationists, other recreation providers, partners, neighbors, elected officials, other agencies and others who have a stake in addressing concerns that may arise from the BLM management of the site.

Under section 3(g) of the REA, the Mineral Ridge Public Boat Launch on Lake Coeur d'Alene qualifies as a site wherein visitors can be charged an ''Expanded Amenity Recreation Fee.'' Visitors wishing to use the amenities at the site could purchase a recreation use permit (RUP) as described in 43 CFR Part 2930. Pursuant to the REA and implementing regulations at 43 CFR Subpart 2933, fees may be charged for day-use facilities such as the Mineral Ridge Public Boat Launch. Specific visitor fees and payment instructions will be clearly posted on site. Persons holding the America the Beautiful—The National Parks and Federal Recreational Lands—Senior Pass (i.e. Interagency Senior Pass), a Golden Age Passport, or the America the Beautiful—The National Parks and Federal Recreational Lands—Access Pass (i.e. Interagency Access Pass) or a Golden Access Passport will be entitled to a 50 percent

discount on the daily use fee or $30.00 annual pass.

The Mineral Ridge Boat Launch includes a paved parking area, boat launch and mooring facilities, permanent toilet and trash receptacles, and interpretive signs. This site would join three other BLM sites on the lake that already charge comparable fees.

The Fee Collection Business Plan prepared for the Mineral Ridge Public Boat Launch site provides for fee collection in considering: (1) The amount of the recreation fee shall be commensurate with the benefits and services provided to the visitor; (2) the aggregate effect of recreation fees on recreation users and recreation service providers; (3) comparable fees charged elsewhere by other public agencies and by nearby private sector operators; (4) public policy or management objectives served by the recreation fee; (5) suggestions and other guidance from the Coeur d'Alene District Resource Advisory Council (RAC); and (6) other factors or criteria as determined by the Secretary.

The Coeur d'Alene District Resource Advisory Council (RAC); government officials; tribal, federal, state, county, and local government agencies; conservationists, recreationists, adjacent landowners and right-of-way holders have been or will be notified of the proposal to collect fees through direct mailings, bulletins, fee brochures, public meetings, and on-site public contacts.

The REA provides authority for 10 years for the Secretary of the Interior and the Secretary of Agriculture to establish, modify, charge, and collect recreation fees for use of some federal recreation lands and waters, and contains specific provisions addressing public involvement in the establishment of recreation fees, including a requirement that Recreation Resource Advisory Committees or Councils have the opportunity to make recommendations regarding establishment of such fees. The REA also directed the Secretaries of the Interior and Agriculture to publish advance notice in the **Federal Register** whenever new recreation fee areas are established under their respective jurisdictions. In accordance with the BLM recreation fee program policy, the Recreation Fee Business Plan for the site explains the fee collection process and outlines how the fees will be used on-site. The BLM has notified and involved the public at each stage of the planning process, including the proposal to collect fees. The Coeur d'Alene District RAC has reviewed the fee proposal and supports the concept. Fee amounts will be posted on-site, and at the Coeur d'Alene Field Office. Copies of the Business Plan are available for public review.

The BLM welcomes public comments on this proposal. Please send any comments you have to the address specified in the **ADDRESSES** section. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you are advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Authority: 16 U.S.C. 6803(b).

Marc Shumaker,

Acting Coeur d'Alene Field Manager.

[FR Doc. E7–13692 Filed 7–12–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–090–07–1610–DP]

Notice of Availability of the Kemmerer Draft Resource Management Plan Revision and Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*), and the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701 *et seq.*), the Bureau of Land Management (BLM) announces the availability of the Kemmerer Draft Resource Management Plan Revision and Draft Environmental Impact Statement (DRMP/DEIS).

DATES: The Kemmerer DRMP/DEIS will be available for public review for 90 days from the date the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) in the **Federal Register**. The BLM can best use comments and resource information submitted within this review period. To ensure that the public has an opportunity to comment on the DRMP/DEIS, public involvement activities will be scheduled in Cokeville, Lyman, Kemmerer, Evanston, and Rock Springs, Wyoming. All meetings, hearings or other public involvement activities will be announced at least 15 days in advance through public notices, media news releases, Web site announcements, or mailings.

ADDRESSES: Copies of the DRMP/DEIS have been sent to affected Federal, State and local governments and to interested parties. The document will be available electronically on the following Web site: *http://www.blm.gov/rmp/kemmerer*.Copies of the document will be available for public inspection during normal business hours at the following locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009.
- Bureau of Land Management, Kemmerer Field Office, 312 HWY 189 N, Kemmerer, Wyoming 83101.

Comments may be submitted by any of the following methods:

- *Web site: http://www.blm.gov/rmp/kemmerer*.
- *Facsimile:* (307) 828–4539.
- *Mail:* Send to the contact listed below.

FOR FURTHER INFORMATION CONTACT: Michele Easley, Team Leader, BLM Kemmerer Field Office, 312 HWY 189 N, Kemmerer, Wyoming 83101. Ms. Easley may also be contacted by telephone: (307) 828–4524. Requests for information may be sent electronically to: *kemmerer_wymail@blm.gov* with ''Attention: Kemmerer RMP Info Request'' in the subject line.

SUPPLEMENTARY INFORMATION: The Kemmerer Field Office planning area is located in Lincoln, Uinta, and Sweetwater counties, Wyoming. It includes approximately 1.4 million acres of public land surface and 1.6 million acres of Federal mineral estate administered by the BLM.

The existing Kemmerer RMP was completed and its Record of Decision (ROD) signed on April 29, 1986. New information and changed conditions within the planning area have resulted in a need for the BLM to update the existing RMP. These changes include but are not limited to: increasing interest in development of domestic energy sources, including wind power; increased off-highway-vehicle use and demand for outdoor recreation opportunities; heightened public awareness of and interest in BLM management actions and permitted uses; and concerns over wildlife habitat, including sensitive species habitat and populations.

The BLM published a Notice of Intent (NOI) in the **Federal Register** on June 16, 2003 to prepare an RMP/EIS and initiate its revision of the Kemmerer RMP. The DRMP/DEIS describes

existing conditions of the physical, biological, cultural, historic, and socioeconomic resources in and around the planning area. Based on the analyses of alternative management strategies, public input, and interdisciplinary team and cooperating agency discussions, a preferred alternative was developed to address resources such as air and water quality, crucial big game range and other wildlife habitats, scenic views, healthy vegetative cover, and soil stability, while providing for resource uses such as mineral exploration and development, wind energy development, livestock grazing, timber extraction, and motorized and non-motorized recreation. The BLM analyzed four alternatives in the DRMP/DEIS:

- *Alternative A:* Continuation of Existing Management (No Action): Continuation of the current management goals, objectives, and direction specified in the Kemmerer RMP and ROD (1986).
- *Alternative B:* Provide a high level of environmental protection for wildlife habitat and other resource values, while allowing the production of resource commodities.
- *Alternative C:* Maximize the production of resource commodities while providing an adequate level of environmental protection for other resources.
- *Alternative D* (BLM's Preferred Alternative): Optimize the mix of resource outputs, including production of resource commodities and wildlife habitat while providing enhancement of environmental protection for all resources.

Ten areas were proposed for consideration as Areas of Critical Environmental Concern (ACEC): The Transcontinental Railroad; Raymond Mountain Expansion Area—existing and expansion; the Dry Fork, Upper Tributary, and Lower Tributary watersheds; Bridger Butte; White-tailed Prairie Dog colonies; the Fossil Basin; Special status plant species habitats; and Cushion plant communities. The BLM found that nine of these areas meet relevance and importance criteria, and effects of including these proposals were analyzed. One (Transcontinental Railroad) did not meet the relevance criteria for ACEC consideration. Currently one ACEC, Raymond Mountain, exists within the planning area. This area was included for consideration of retention. In summary, the areas meeting relevance and importance criteria are as follows:

- Raymond Mountain Expansion (33,928 potential acres): Values of critical concern are wildlife and fisheries habitat. Management limitations—maintaining and enhancing riparian resources and wildlife habitat in the area.
- Dry Fork Watershed (4,690 potential acres): Values of critical concern are wildlife and fisheries habitat. Management limitations—maintaining and enhancing riparian resources and wildlife habitat in the area.
- Upper Tributary Watershed (5,595 potential acres): Values of critical concern are wildlife and fisheries habitat. Management limitations—maintaining and enhancing riparian resources and wildlife habitat in the area.
- Lower Tributary Watersheds (1,371 potential acres): Values of critical concern are wildlife and fisheries habitat. Management limitations—maintaining and enhancing riparian resources and wildlife habitat in the area.
- Bridger Butte (1,127 potential acres): Values of critical concern are Native American concerns, cultural and historic properties, and special status plant communities. Management limitations—limit surface uses to preserve surface and visual values.
- White-tailed Prairie Dog colonies (30,913 potential acres): Values of critical concern are white-tailed prairie dog habitats. Management limitations—limit surface disturbance to preserve prairie dog colonies, individuals, and their habitat.
- Fossil Basin (451,452 potential acres): Values of critical concern are the preservation and scientific research of the paleontological resource. Management limitations—preserve the fossil resources for scientific study and prevent destruction of the paleontological resource.
- Special status plant species habitats (907 acres currently identified): Values of critical concern are special status plant species including Trelease's Milkvetch (Astragalus racemosus var. treleasei), Entire-Leaved Peppergrass (Lepidium integrifolium var. integrifolium), Large-fruited Bladderpod (Lesquerella macrocarpa), Western Bladderpod (Lesquerella multiceps), Prostrate Bladderpod (Lesquerella prostrata), Beaver Rim Phlox (Phlox pungens), Tufted Twinpod (Physaria condensata), and Dorn's Twinpod (Physaria dornii). Use restrictions would be designed to protect the identified plant habitat and would include closure to surface activities that would remove the plant communities from the soil or alter soil chemistry. These areas are proposed for withdrawal from locatable mineral entry. Identified habitat areas will be assessed during the life of the plan for addition to the ACEC.
- Cushion Plant Communities (61 acres currently identified): Values of critical concern are uncommon and regional endemic plant species communities. Typical plant associations found in these areas include different species of phlox, twin pods, bladderpods, and many legume species. Use restrictions in the ACEC would include closure to surface activities that would remove the plant communities from the soil or alter soil chemistry. The ACEC is proposed for withdrawal from locatable mineral entry. Areas of known cushion plant communities would be assessed during the life of the plan for addition to the ACEC. The current known endemic cushion plant community that exists northeast of Kemmerer would be included in the ACEC.
- Raymond Mountain (13,926 acres): Values of critical concern are Bonneville cutthroat trout habitat and associated riparian resources. Management limitations—maintaining and enhancing riparian resources in the area.

With Alternative D (BLM Preferred Alternative), the BLM proposes to establish the Bridger Butte (727 acres); Special status plant species (907 acres); and Cushion plant community (61 acres) ACECs; and retain the Raymond Mountain ACEC (13,926 acres). More detailed management prescriptions for these areas are provided in Table 2–3 of the DRMP/DEIS.

Alternative D establishes four Special Recreation Management Areas (SMRAs): Pine Creek Canyon, Raymond Mountain, Dempsey Ridge and Oregon-California National Historic Trails. Alternative D also describes special management objectives and prescriptions for Rock Creek/Tunp and the Bear River Divide.

Under Alternative D, two rivers are determined to meet suitability factors for further consideration for inclusion in the National Wild and Scenic Rivers System. These are Huff Creek (7.31 miles) and Raymond Creek (4.10 miles). Both waterways are located within the Raymond Mountain WSA.

Alternative D opens 3,963 acres for consideration of future coal leasing. The proposed coal lease area is situated in T. 17 N., R. 117 W., Section 18, 20, 30, and 32; T. 16 N., R. 118 W., Section 2; 17 N., R. 118 W., Section 24.

The DRMP/DEIS considered oil and gas, coal, and wind energy development in support of the National Energy Policy and the Energy Policy Act of 2005 in areas with high potential for energy development.The DRMP/DEIS considers and is in conformance with the BLM's

National Fire Plan and Healthy Forest Initiative. Since the publication of the NOI in the **Federal Register**, the BLM solicited public comments and input through open houses, newsletters, a public Web site and mailings. Meetings were held to provide the public with an opportunity to gain information about the RMP revision process and to submit comments. Public meetings were held in the following Wyoming communities: Kemmerer, November 17, 2003; Evanston, November 18, 2003; and Rock Springs, November 19, 2003. During the scoping period, the BLM received over 1,000 public comments. Cooperating agencies assisting BLM in the development and preparation of the DRMP/DEIS include county governments, conservation districts, other Federal agencies and the State of Wyoming. The BLM contacted tribal governments with possible interests and offered opportunities for participation in the plan revision process. In preparation of the DRMP/DEIS, the BLM considered all comments presented throughout the process. Background information and maps used in developing the DRMP/DEIS are available for public review at the Kemmerer Field Office. The BLM welcomes your comments. To facilitate analysis of comments and information the public is encouraged to submit comments in an electronic format through either the Web site identified in this notice or through electronic mail. All comment submittals must include the commenter's name and street address. Individual respondents may request confidentiality. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

Robert A. Bennett,

State Director.

[FR Doc. E7–13702 Filed 7–12–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

Fire Management Plan, Final Environmental Impact Statement, Saguaro National Park, AZ

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of availability of a Record of Decision on the Final Environmental Impact Statement for the Fire Management Plan, Saguaro National Park.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 83 Stat. 852, 853, codified as amended at 42 U.S.C. 4332(2)(C), the National Park Service announces the availability of the Record of Decision for the Fire Management Plan, Saguaro National Park, Arizona. On April 25, 2007, the Director, Intermountain Region approved the Record of Decision for the project. As soon as practicable, the National Park Service will begin to implement the Preferred Alternative contained in the FEIS issued on October 7, 2005. The following course of action will occur under the preferred alternative, a fire management program utilizing wildland fire use fires, prescribed fire, non-fire treatments and suppression. This course of action and 2 alternatives were analyzed in the Draft and Final Environmental Impact Statements. The full range of foreseeable environmental consequences was assessed, and appropriate mitigating measures were identified.

The Record of Decision 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, and an overview of public involvement in the decision-making process.

FOR FURTHER INFORMATION CONTACT: Kristy Lund, 3693 S. Old Spanish Trail, AZ 85730, *KristyLund@nps.gov*.

SUPPLEMENTARY INFORMATION: Copies of the Record of Decision may be obtained from the contact listed above or online at *http://parkplanning.nps.gov*.

Dated: April 25, 2007.

Anthony J. Schetzsle,

Deputy Regional Director, Intermountain Region, National Park Service.

[FR Doc. 07–3288 Filed 7–6–07; 8:45 am]

BILLING CODE 4312–50–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Global Human Body Models Consortium

Notice is hereby given that, on April 25, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Global Human Body Models Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Ford Motor Company, Dearborn, MI; Peugeot Citroen Automobiles, Paris, France; and Renault s.a.s., Paris, France have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Global Human Body Models Consortium intends to file additional written notifications disclosing all changes in membership.

On January 19, 2006, Global Human Body Models Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 13, 2006 (71 FR 7578).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3410 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interchangeable Virtual Instruments Foundation, Inc.

Notice is hereby given that, on May 8, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Interchangeable Virtual Instruments Foundation, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its

membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Honeywell Technology Solutions Lab Pvt. Ltd., Bangalore, INDIA has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Interchangeable Virtual Instruments Foundation, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 29, 2001, Interchangeable Virtual Instruments Foundation, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 30, 2001 (66 FR 39336).

The last notification was filed with the Department on February 27, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 9, 2007 (72 FR 17582).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3414 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Joint Venture Under ATP Award No. 70NANB4H3027

Notice is hereby given that, on May 23, 2007, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Joint Venture under ATP Award No. 70NANB4H3027 has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Nuvonyx Inc, Bridgeton, MO, is now a wholly owned subsidiary company of ICX Technologies.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and joint venture under ATP Award No. 70NANB4H3027 intends to file additional written notifications disclosing all changes in membership.

On July 19, 2004, joint venture under ATP Award No. 70NANB4H3027 filed its original notification pursuant to section 6(a) of the Act.

The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 18, 2004 (69 FR 51328).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3419 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Centric Operations Industry Consortium, Inc.

Notice is hereby given that, on May 18, 2007, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Network Centric Operations Industry Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, TKC Communications, LLC, Fairfax, VA; Americom Government Services, McLean, VA; ANTs Software Inc., Burlingame, CA; Whitney, Bradley & Brown, Inc., Vienna, VA; Objectivity, Inc., Sunnyvale, CA; Federal Aviation Administration, Washington, DC; United States Department of Homeland Security, Science and Technology Directorate, Washington, DC; Aydin Yazlim ve Elektronik Sanayii A.S., Ankara, Turkey; Huneed Technologies, Gunpo-si, Gyeonggi-do, Republic of Korea; Meteksan Defence Industry Inc., Ankara, Turkey; Software Engineering Institute/Carnegie Mellon University, Pittsburgh, PA; and LMI Government Consulting, McLean, VA have been added as parties to this venture.

Also, Alcatel Government Solutions, Sterling, VA; Cryptek, Inc., Sterling, VA; Intel Corporation, Santa Clara, CA; Science Applications International Corporation, San Diego, CA; and Camber Corporation, Huntsville, AL have withdrawn as parties to this venture. In addition, Instrumentointi Oy has changed its name to Insta Group, Tampere, Finland and Marconi Federal, Inc. has changed its name to Ericsson Federal, Inc., Columbia, MD.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Network Centric Operations Industry Consortium, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 19, 2004, Network Centric Operations Industry Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the the Act on February 2, 2005 (70 FR 5486).

The last notification was filed with the Department on February 16, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 20, 2007 (72 FR 13125).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3409 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Devicenet Vendor Association, Inc.

Notice is hereby given that, on May 10, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Device Net Vendor Association, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Robostar Co., Ltd., Gyeonggi-do, MO; Experitec, Inc., Chesterfield, MO; WIT, St-Lauren-Du-Var, France; Metronix Corp., Daegu, Republic of Korea; Trio Motion Technology Ltd., Tewkesburg, England, United Kingdom; and JSF Co., Ltd. (formerly Japan Control Engineering Co.,

Ltd.), Aichi-ken, Japan have been added as parties to this venture.

Also, M&M Software NI Ltd., Belfast, Northern Ireland, United Kingdom; Advanced Engineering, Inc., Franklin, TN; and Avery-Weigh-Tronix; Fairmont, MN have withdrawn as parties to this venture. In addition, IVO GmbH & Co. has changed its name to Baumer IVO GmbH & Co. KG, Villingen Schwenningen, Germany.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act of February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on January 29, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 15, 2007 (72 FR 12199).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3413 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Portland Cement Association (''PCA'')

Notice is hereby given that, on May 14, 2007, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Portland Cement Association (''PCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, River Consulting, Columbus, OH has changed their company name to River.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and (''PCA'') intends to file additional written notifications disclosing all changes in membership.

On January 7, 1985, (''PCA'') filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 5, 1985 (50 FR 5015).

The last notification was filed with the Department on December 8, 2006. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 25, 2007 (72 FR 3416).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3415 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on May 30, 2007, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. specifically, Agilent, Santa Rosa, CA; and Phase Matrix, San Jose, CA have been added as parties to this venture. Also, Chroma Systems Solutions, Irvine, CA; PXIT, Inc., Lexington, MA; and Acqiris, Monroe, NY have withdrawn as parties to this venture. No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems Alliance, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on March 8, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 9, 2007 (72 FR 17583).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3417 Filed 07–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Security Work Order Collaboration

Notice is hereby given that, on April 26, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Security Work Order Collaboration (''SWOC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: BMW of North America, LLC, Woodcliff Lake, NJ; NTRU Cryptosystems, Inc., Acton, MA; TechnoCom Corporation, Encino, CA; and Telcordia Technologies, Inc., Piscataway, NJ. The general area of SWOC's planned activity is the implementation of various software security elements relating to the vehicle infrastructure integration system, a national infrastructure to enable data collection and exchange in real time between vehicles, and between vehicles and the roadway.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3411 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Semiconductor Test Consortium, Inc.

Notice is hereby given that, on June 7, 2007, pursuant to section 6(a) of the

National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Semiconductor Test consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Vicor Corporation, Andover, MA; Billy Antheunisse (individual member), Dallas, TX; Huber+Suhner AG, Herisau, Switzerland; Peter Hirschmann (individual member), Herrenberg, Germany; and Stefan Thurmaier (individual member), Bad Aibling, Germany have been added as parties to this venture. Also, Chroma ATE, Tao Yuan Hsien, Taiwan; Yasuichi Tanaka (individual member), Chiba-shi-Chiba, Japan; Dave Dowding (individual member), Loveland, CO; Carol Dowding (individual member), Loveland, CO; StatsChip Pac, Tempe, AZ; and Micro Component Tech, St. Paul, MN have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Semiconductor Test Consortium, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 27, 2003, Semiconductor Test Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 17, 2003 (68 FR 35913).

The last notification was filed with the Department on April 3, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 29, 2007 (72 FR 29549).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3418 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute: Clean Diesel IV

Notice is hereby given that, on May 14, 2007, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute Clean Diesel IV has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Siemens VDO Automotive Inc., Chatham, Ontario, Canada has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Clean Diesel IV intends to file additional written notifications disclosing all changes in membership.

On April 6, 2004, Clean Diesel IV filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 10, 2004 (69 FR 25923).

The last notification was filed with the Department on March 27, 2007. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 7, 2007 (72 FR 25782).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–3416 Filed 7–12–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request of the Resource Justification Model; Comment Request

AGENCY: Employment and Training Administration, DOL.

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 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that required 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. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the proposed extension of collection of information through the Resource Justification Model (RJM). The data collected within the RJM state submissions are used as input to the process of distributing unemployment insurance (UI) program appropriated funds among the states and inform ETA of the funding requirements states are anticipating.

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: Submit comments on or before September 11, 2007.

ADDRESSES: Send comments to Lauren C. Harrel, Room S4231, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–2992 (this is not a toll-free number). E-mail address is *harrel.lauren@dol.gov* and fax number is (202) 693–2874.

FOR FURTHER INFORMATION CONTACT: Lauren C. Harrel, Room S4231, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693–2992 (this is not a toll-free number). E-mail address is harrel.lauren@dol.gov and fax number is (202) 693–2874.

SUPPLEMENTARY INFORMATION:

I. *Background:* The collection of actual UI administrative cost data from states' accounting records and projected expenditures for upcoming years is accomplished through the RJM data collection instrument. The data collected consists of the actual, most recently completed fiscal year's program expenditures and hours broken out by functional activity and three years of projected expenditures. The actual cost data informs ETA's administrative funding allocation model so that state UI program administration funds are allocated as equitably as possible among states.

ETA is proposing to revise the RJM data collection instrument in an effort to streamline the data entry process and to eliminate the collection of unnecessary data. Specifically, the modifications to the RJM include: (1) Adding a dropdown box to allocate personal service/personnel benefits (PS/PB) and non personal services (NPS) to applicable categories in the Crosswalk worksheet, (2) no longer requiring states

to submit projected inflation rates for NPS or salaries and benefits (rather, a formula will inflate the prior year's data by 3 percent per year, and states will have the option to override the formula), and (3) requiring states to submit only two years of projected expenditures rather than three years.

II. *Desired Focus of Comments:* Currently, the Department of Labor is soliciting comments concerning the proposed extension of the RJM data collection. 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, 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 information collection on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed above in the addressee section of this notice.

III. *Current Actions:*

Type of Review: Minor Revisions and Extension for Approved Information Collection.

Agency: Employment and Training Administration.

Title: Resource Justification Model.

OMB Number: 1205–0430.

Affected Public: State Government.

Cite/Reference/Form/etc: Social Security Act, Section 303(a)(b).

Total Respondents: 53 State Workforce Agencies.

Frequency: Annually.

Total Responses: 212.

Average Time per Response: 30.75 hours.

Estimated Total Burden Hours: 6,519.

Form/activity	Total respondents	Frequency	Total responses	Average time per response (hours)	Burden (hours)
Crosswalk	53	Annually	53	108	5,724
ACCT SUM	53	Annually	53	4	212
RJM 1–6	53	Annually	53	3	159
Narrative	53	Annually	53	8	424
Totals			212		6,519

Total Burden Cost (capital/startup): There are no capital or start-up costs for RJM.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this comment request 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: July 9, 2007.

Cheryl Atkinson,

Administrator, Office of Workforce Security.

[FR Doc. E7–13554 Filed 7–12–07; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Procedures for H–2B Temporary Labor Certification in Non-Agricultural Occupations

AGENCY: Employment & Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice, also published as Training and Employment Guidance Letter (TEGL) 21–06, Change 1 (*http://wdr.doleta.gov/directives/corr_doc.cfm?docn=2456*), modifies certain procedures under TEGL 21–06 for State Workforce Agencies and ETA National Processing Centers to process H–2B labor certification applications. H–2B visas are for temporary employment in non-agricultural occupations.

SUPPLEMENTARY INFORMATION:

I. References

Immigration and Nationality Act (INA) sec. 101(a)(15)(H)(ii)(b), 20 Code of Federal Regulations (CFR) Parts 652 and 655; 8 CFR 214.2(h)(6); and Training and Employment Guidance Letter (TEGL) 21–06: Procedures for H–2B Temporary Labor Certification in Non-Agricultural Occupations.

II. Background

The H–2B non-immigrant visa program permits employers to hire foreign workers to come temporarily to the United States and perform temporary non-agricultural services or labor on a one-time, seasonal, peakload, or intermittent basis. The H–2B visa classification requires the Secretary of Homeland Security to consult with appropriate agencies before admitting H–2B non-immigrants. Homeland Security regulations require the intending employer first to apply for a temporary labor certification from the Secretary of Labor advising the Department of Homeland Security's United States Citizenship and Immigration Services (USCIS) as to whether qualified U.S. workers are available and whether the alien's employment will adversely affect the wages and working conditions of similarly employed U.S. workers, or a notice that such certification cannot be made, prior to filing an H–2B visa petition with USCIS.

On April 4, 2007, the Department issued TEGL 21–06, which updated procedures for State Workforce Agencies (SWAs) and ETA National Processing Centers (NPCs) to use in the processing of temporary labor certification applications under the H–2B program. The Department then held two public briefing sessions in Chicago and Atlanta on May 1 and May 4, 2007, respectively, to inform employers and other stakeholders of the updated processing guidance contained in TEGL 21–06. Employers and other stakeholders who attended those public briefing sessions raised important questions and concerns with regard to the effective implementation of TEGL 21–06 by the SWAs and NPCs. The purpose of this document is to outline certain modifications to TEGL 21–06 as a formal response to issues raised during the public briefing sessions and improve the processing of H–2B applications by the SWAs and NPCs.

III. Modifications to Procedures for H–2B Applications

Attachment A contains certain modifications to procedures, originally issued under TEGL 21–06, the SWAs and NPCs must use in making temporary labor certification determinations under the H–2B program. More specifically, sections IV and V of Attachment A contain modifications that remind employers and other stakeholders of the right to request review of a SWA prevailing wage determination by the NPC; provide notification that the NPCs will no longer accept incomplete applications for processing from the SWAs; establish a process for the NPC Certifying Officers to issue a Request for Information (RFI) in certain circumstances; outline the conditions under which the NPC Certifying Officers may grant a partial temporary labor certification to the employer; and advise the employer of the right to file a new application in circumstances where the NPC Certifying Officer issues a notice that a certification is denied. The modifications contained in Attachment A replace and supersede the prior corresponding operating procedures issued under TEGL 21–06.

IV. Effective Date

This guidance applies to all pending and new temporary labor certification applications received by the SWAs on or after June 1, 2007.

V. Action Required

NPC Directors and SWA Administrators are requested to provide Center and SWA staff involved in the processing of H–2B applications with a copy of these procedures.

VI. Inquiries

Questions from State Workforce Agency staff should be directed to the appropriate NPC Certifying Officer.

Signed at Washington, DC, this 9th day of July, 2007.

Emily Stover DeRocco,

Assistant Secretary, Employment & Training Administration, Labor.

Attachment A: Procedures for H–2B Certification of Temporary Non-Agricultural Occupations (Revised June 2007)

I. General Provisions

A. The regulations of the United States Citizenship and Immigration Service (USCIS), 8 CFR 214.2(h)(6), apply to employers who wish to import non-agricultural workers to perform services or labor in temporary jobs within the United States (U.S.). Section 214(c)(1) of the Immigration and Nationality Act (INA) requires the Department of Homeland Security (DHS) to consult with appropriate agencies of the government before granting H–2B petitions.

B. USCIS regulations state that employers who file H–2B petitions (except for temporary employment on Guam) must include a certification from the DOL stating that qualified workers are not available in the U.S., and the foreign worker's employment will not adversely affect the wages and working conditions of similarly employed U.S. workers.

C. The H–2B non-immigrant program permits employers to hire foreign workers to perform temporary non-agricultural work within the U.S. on a one-time occurrence, seasonal, peakload, or intermittent basis (8 CFR 214.2(h)(6)(ii)(B)).

D. The DOL regulations at 20 CFR part 655, subpart A—*Labor Certification Process for Temporary Employment in Occupations Other Than Agriculture, Logging or Registered Nurses in the United States (H–2B Workers)*, governs the labor certification process for temporary employment in the U.S. under the H–2B classification, and requires that the Regional Administrator (now National Processing Center (NPC)) Certifying Officer of the Employment and Training Administration (ETA) issue temporary labor certifications on behalf of the Secretary of Labor.

E. An H–2B temporary labor certification is advisory to USCIS and, where the employer is notified by the NPC Certifying Officer that certification is denied or cannot be made, the employer may submit countervailing evidence, according to 8 CFR part 214.2(h)(6)(iv)(E), directly to USCIS. There is no provision for reconsideration or appeal of the determination made by the DOL through the NPC Certifying Officer.

II. Standards for Determining the Temporary Nature of a Job Opportunity Under the H–2B Classification

A. A job opportunity is considered temporary under the H–2B classification if the employer's need for the duties to be performed is temporary, whether or not the underlying job is permanent or temporary. It is the nature of the employer's need, not the nature of the duties, that is controlling (Matter of Artee Corp., 18 I&N Dec. 366 (Comm. 1982)).

B. Part-time employment does not qualify as employment for temporary labor certification under the H–2B program. Only full-time employment can be certified.

C. The Federal regulations at 8 CFR 214.2(h)(6)(ii) state that the period of the petitioner's need must be a year or less, although there may be extraordinary circumstances where the temporary services or labor might last longer than one year. If there are unforeseen circumstances where the employer's need exceeds one year, a new application for temporary labor certification is required for each period beyond one year. However, an employer's seasonal or peakload need of longer than 10 months, which is of a recurring nature, will not be accepted.

D. The employer's need for temporary non-agricultural services or labor must be justified to the NPC Certifying Officer under one of the following standards: (1) A one-time occurrence, (2) a seasonal need, (3) a peakload need, or (4) an intermittent need.

1. *One-Time Occurrence.* The petitioner must establish that either (1) it has not employed workers to perform the services or labor in the past *and* that it will not need workers to perform the services or labor in the future, or (2) it has an employment situation that is otherwise permanent, but a temporary event of short duration has created the need for a temporary worker(s);

2. *Seasonal Need.* The petitioner must establish that the services or labor is traditionally tied to a season of the year by an event or pattern and is of a recurring nature. The petitioner shall specify the period(s) of time during each year in which it does not need the services or labor. The employment is not seasonal if the period during which the services or labor is not needed is unpredictable or subject to change or is considered a vacation period for the petitioner's permanent employees;

3. *Peakload Need.* The petitioner must establish that (1) it regularly employs permanent workers to perform the services or labor at the place of employment and that it needs to supplement its permanent staff at the place of employment on a temporary basis due to a seasonal or short-term demand, and (2) the temporary additions to staff will not become a part of the petitioner's regular operation; or

4. *Intermittent Need.* The petitioner must establish that it has not employed permanent or full-time workers to perform the services or labor, but occasionally or intermittently needs temporary workers to perform services or labor for short periods.

III. Application Filing Procedures

A. An employer desiring to use foreign workers for temporary non-agricultural employment must file a complete ETA Form 750, Part A, Offer

of Employment portion of the Application for Alien Employment Certification with the State Workforce Agency (SWA) serving the area of intended employment. If the application includes worksite locations within a Metropolitan Statistical Area (MSA) covering multiple SWAs, the employer may submit a single application to the SWA where the employment will begin. In those instances where the employment crosses NPC jurisdictions as well, the NPC that has jurisdiction over the SWA where the employment will begin shall process the application.

The U.S. Census Bureau maintains a current listing of all MSAs as well as maps by state at the following Web site: *http://www.census.gov/population/www/estimates/metroarea.html*.

B. An association or other organization of employers is not permitted to file master applications on behalf of its membership under the H–2B program;

C. Job contractors typically supply labor to one or more employers as part of signed work contracts or labor services agreements. The temporary or permanent nature of the work to be performed in such applications will be determined by examining the job contractor's need for such workers, rather than the needs of its employer customers;

D. Every H–2B application shall include:

1. Two (2) originals of the ETA Form 750, Part A, Offer of Employment portion of the Application for Alien Employment Certification, signed and dated by the employer. Part B, Statement of Qualifications of the Alien, is not required to be completed;

2. Documentation of any efforts to advertise and recruit U.S. workers prior to filing the application with the SWA;

3. A detailed statement explaining (a) why the job opportunity and number of workers being requested reflect a temporary need, and (b) how the employer's request for the services or labor meets one of the standards of a one-time occurrence, a seasonal need, a peakload need, or an intermittent need. This statement of temporary need must be submitted separately on the employer's letterhead with signature. A labor shortage, however severe, does not alone establish a temporary need. One of the four temporary need standards must be satisfied;

4. Supporting evidence and documentation that justifies the chosen standard of temporary need must be submitted. Examples of supportive evidence or documentation for the most common standards of seasonal and peakload need include, but are not limited to, the following:

a. Signed work contracts, letters of intent from clients, and/or monthly invoices from previous calendar year(s) clearly showing work will be performed for each month during the requested period of need on the ETA Form 750, Part A, Item 18b. This type of documentation will demonstrate the employer's need for the work to be performed is tied to a season(s) of the year and will recur next year on the same cycle;

b. Annualized and/or multi-year work contracts or work agreements supplemented with documentation specifying the actual dates when work will commence and end during each year of service and clearly showing work will be performed for each month during the requested period of need on the ETA Form 750, Part A, Item—18b.;

c. Summarized monthly payroll reports for a minimum of one previous calendar year that identifies, for each month and separately for full-time permanent and temporary employment in the requested occupation, the total number of workers or staff employed, total hours worked, and total earnings received. Such documentation must be signed by the employer attesting that the information being presented was compiled from the employer's actual accounting records or system. Employers should be prepared to provide the documents utilized to generate the summarized monthly payroll reports if requested by the NPC Certifying Officer.

Examples of insufficient documentation: Work contracts with no clear start and/or termination date and contracts with temporary workers. Applications supported solely by weather charts, event calendars, hotel occupancy rates, or annual/quarterly tax reports (e.g., IRS Form 941) will not be sufficient to prove a temporary need. Staffing charts, graphs, or other documentation, which do not correspond with the requested period of need on the ETA Form 750, Part A, Item—18b, will also not be sufficient to prove a temporary need.

E. To allow for enough time for the recruitment of U.S. workers and sufficient time for processing by the states and NPCs, the SWAs shall advise employers to file requests for temporary labor certification at least 60 days before the worker(s) is needed in order to receive a timely determination;

F. Unless the NPC Certifying Officer specifies otherwise, the SWA shall return to the employer any request for temporary labor certification filed by the employer more than 120 days before the worker(s) is needed and advise them to re-file the application no more than 120 days before the worker(s) is needed. This is necessary since the availability of temporary U.S. workers changes over short periods of time and an adequate test of the labor market cannot be made during a longer period;

G. More than one worker may be requested on the ETA Form 750, Part A, Item 18a, if they are to do the same type of work on the same terms and conditions, in the same occupation, in the same area(s) of intended employment during the same period. The total number of workers requested by the employer must also be specified in the advertisement and the job order required under Section IV of these instructions;

H. If the employer's representative files the application, the employer must sign the ''Authorization of Agent of Employer'' statement on the ETA Form 750, which authorizes the agent to act on the employer's behalf. An attorney must file a Notice of Appearance (Form G–28) naming the attorney's client(s). The employer is fully responsible for the accuracy of all representations made by the agent on the employer's behalf; and

I. When the job opportunity requires work to be done at multiple locations either within the jurisdiction of the SWA or within a MSA that covers multiple SWAs, the application must include the names and physical addresses of each location. This requirement also applies to job contractors filing H–2B applications.

IV. SWA Processing Instructions

A. The SWA shall review the job offer for completeness. A job opportunity containing a wage offer below the prevailing wage will not be accepted. The SWA shall determine the prevailing wage, guided by the regulation at 20 CFR 656.40 and in accordance with Employment and Training Administration, Prevailing Wage Determination Policy Guidance, Non-agricultural Immigration Programs, Revised May 9, 2005 (*http://www.foreignlaborcert.doleta.gov/pdf/Policy_Nonag_Progs.pdf*). In accordance with Section IV of the Prevailing Wage Determination Policy Guidance, an employer that disagrees with the prevailing wage determination is afforded one opportunity to provide supplemental information to the SWA or to request review by the NPC Certifying Officer.

B. If the application is incomplete or the job offer is less than full-time, offers to pay a wage below the prevailing wage, contains unduly restrictive job

requirements or a combination of duties not normal to the occupation, or has terms and conditions of employment which otherwise inhibit the effective recruitment and consideration of U.S. workers for the job, or is otherwise unacceptable because it does not comply with DOL policies, the SWA shall advise the employer to correct the deficiencies before commencing the recruitment.

The SWA shall communicate deficiencies in the application by fax, electronic mail, or any other means to assure expedited overnight delivery. In addition, the SWA shall advise the employer or the employer's authorized representative that failure to respond to the SWA notification, or failure to correct all of the deficiencies set forth in the notification for the application will result in the case being closed and processing discontinued.

C. When commencing recruitment, the SWA shall prepare a job order, using the information on the application, and place it into the SWA job bank system for 10 calendar days. During this period, the SWA should refer qualified applicants who contact the local offices and those in its active job files. If the application indicates that work will be performed in multiple locations within a MSA and one or more locations are outside the jurisdiction of the SWA, the SWA shall clear the job order for 10 calendar days with the appropriate state(s) where the work is to be performed and accept for referral to the employer qualified applicants from the state(s).

D. During the 10-day posting of the job order, the employer shall advertise the job opportunity in a newspaper of general circulation for 3 consecutive calendar days or in a readily available professional, trade or ethnic publication, whichever the SWA determines is most appropriate for the occupation and most likely to bring responses from U.S. workers. If the job opportunity is located in a rural area that does not have a newspaper with a daily edition, the employer shall use a daily edition with the widest circulation in the nearest urban area or such other publication as determined by the SWA.

E. The employer advertisement must:

1. Identify the employer's name, location(s) of work, and direct applicants to report or send resumes to the SWA for referral to the employer by disclosing the SWA contact information and job order number;

2. Describe the job opportunity with particularity, including duties to be performed, work hours and days, rate of pay, and the duration of the employment;

3. State the employer's minimum job requirements;

4. Offer wages, terms, and conditions of employment which are not less favorable than those offered to the alien and are consistent with the nature of the occupation, activity, and industry; and

5. State the job is ''temporary'' and include the total number of job openings the employer intends to fill.

F. The employer shall document that union and other recruitment sources, appropriate for the occupation and customary in the industry, were contacted and either unable to refer qualified U.S. workers or non-responsive to the employer's request. Such documentation must be signed by the employer.

G. The employer shall provide the SWA with copies of newspaper pages (e.g., tear sheets) or other proof of publication (e.g., affidavit of publication, invoices or other electronic verification) furnished by the newspaper for each day the advertisement was published. In addition, the employer shall submit to the SWA a written, detailed recruitment report that is signed by the employer. The written recruitment report must:

1. Identify each recruitment source by name;

2. State the name, address, and telephone number and provide resumes (if submitted to the employer) of each U.S. worker who applied for the job; and

3. Explain the lawful job-related reason(s) for not hiring each U.S. worker.

H. After the recruitment period, the SWA shall send the application, results of recruitment, prevailing wage findings, and all other supporting documentation to the appropriate NPC Certifying Officer. The NPC Certifying Officers will not accept incomplete applications for processing from the SWA even with assurances from the employer or the employer's representative that documentation will be forthcoming. The NPC Certifying Officers will remand incomplete applications back to the SWA.

I. Based on the results of the employer's and SWA recruitment efforts, the NPC Certifying Officer shall determine whether there are other appropriate sources of workers from which the employer should have recruited in order to obtain qualified U.S. workers. If further recruitment is warranted, the NPC Certifying Officer shall return the application to the SWA with specific instructions for additional recruitment.

V. NPC Temporary Labor Certification Determinations

A. The NPC Certifying Officer shall determine whether to grant or deny the temporary labor certification or to issue a notice that such certification cannot be made based on whether or not:

1. The nature of the employer's need is temporary and justified based on a one-time occurrence, seasonal, peakload, or intermittent basis. To determine this, the NPC Certifying Officer shall take into account the duration of the employment opportunity identified on the ETA Form 750, Part A, the employer's statement of temporary need, and all evidence and documentation submitted with the application intended to substantiate the chosen standard of temporary need.

2. Qualified U.S. workers are available for the temporary job opportunity.

a. To determine if a U.S. worker is available, the NPC Certifying Officer shall consider U.S. workers living or working in the area of intended employment, and may also consider U.S. workers who are willing to move from elsewhere to take the job at their own expense, or at the employer's expense, if the prevailing practice among employers who employ workers in the occupation is to pay such relocation expenses;

b. The NPC Certifying Officer shall consider a U.S. worker able and qualified for the job opportunity if the worker by education, training, experience, or a combination thereof, can perform the duties involved in the occupation as customarily performed by other U.S. workers similarly employed and is willing to accept the specific job opportunity; and

c. To determine if U.S. workers are available for job opportunities that will be performed in more than one location, workers must be available in each location on the dates specified by the employer.

3. The employment of the alien will not adversely affect the wages and working conditions of similarly employed U.S. workers. To determine this, the NPC Certifying Officer shall consider such factors as local or regional labor market information, special circumstances of the industry, organization, and/or occupation, the prevailing wage rate for the occupation in the area of intended employment, and prevailing working conditions, such as hours of work; and

4. The job opportunity contains requirements or conditions which preclude consideration of U.S. workers or which otherwise prevent their effective recruitment, such as:

a. The job opportunity is vacant because the former occupant is on strike or locked out in the course of a labor dispute involving a work stoppage or the job is at issue in a labor dispute involving a work stoppage;

b. The job opportunity's terms, conditions, and/or occupational environment are contrary to Federal, state, or local law;

c. The employer has no location within the U.S. to which domestic workers can be referred and hired for employment;

d. The employer will not pay a wage or salary for the job to be performed;

e. The job's requirements are unduly restrictive or represent a combination of duties not normal to the occupation; or

f. The employer has not recruited U.S. workers according to DOL policies and procedures.

B. In situations where the application appears to be ineligible for temporary labor certification because the employer has not met its burden of providing adequate documentation/evidence or where a specific DOL policy was not complied with by the employer, the NPC Certifying Officer has the authority to issue one Request for Information (RFI), in writing, to the employer or the employer's authorized representative. When issued by the NPC Certifying Officer, the RFI shall:

1. Specify the reason(s) why the documentation/evidence submitted is not sufficient to grant temporary labor certification;

2. Indicate the specific DOL policy(ies) with which the employer does not appear to have complied; and

3. Advise the employer that a written response must be sent within no later than seven (7) calendar days of receiving the RFI and must be transmitted by a method that ensures receipt by the Certifying Officer the next business day, which may include fax, electronic mail, or overnight delivery.

Upon receipt of a response to the RFI or expiration of the stated deadline for receipt of the response, the NPC Certifying Officer will review the existing application as well as any supplemental materials submitted by the employer or the employer's representative and issue a final determination.

C. If the NPC Certifying Officer issues a notice that a certification is denied or cannot be made, the Final Determination letter shall:

1. Detail the reasons why certification cannot be made. The Certifying Officer is not required to accept determination by the SWA concerning the acceptability of the application;

2. If applicable, address the availability of U.S. workers in the occupation as well as the prevailing wages and working conditions of similarly employed U.S. workers in the occupation;

3. Indicate the specific DOL policy(ies) with which the employer should have, but does not appear to have, complied; and

4. Advise the employer of the right to submit countervailing evidence directly to USCIS or to file a new application in accordance with specific instructions provided by the NPC Certifying Officer.

D. If the NPC Certifying Officer issues a temporary labor certification, it shall be for the entire duration of the temporary employment opportunity identified on the ETA Form 750, Part A, beginning no earlier than the date certification was granted. If extraordinary circumstances establish a need that requires the non-agricultural services or labor for more than one year, a new application must be filed for the period past one year;

E. If one or more U.S. workers were hired or unlawfully rejected by the employer *or* the employer's application and supporting documentation and/or evidence does not substantiate a temporary need for workers for the entire period of need identified on the original ETA Form 750, Part A, the NPC Certifying Officer has the authority to issue a partial certification for only those job opportunities that remain unfilled by qualified U.S. workers, and/or for only the period of need that is supported by the available documentation or evidence; and

F. The date on the temporary labor certification shall be the beginning and ending dates of certified employment with the beginning date of certified employment not earlier than the date certification was granted.

VI. Document Transmittal

A. After making a temporary labor certification determination, the NPC Certifying Officer shall notify the employer, in writing, of the final determination;

B. If certification is granted, the NPC Certifying Officer shall send the certified application containing the official temporary labor certification stamp and a Final Determination letter to the employer or, if appropriate, the employer's agent or attorney. The Final Determination letter shall direct the employer to submit all documents together with the employer's petition to the appropriate USCIS Office;

C. If a notice is issued that certification has been denied or cannot be made, the NPC Certifying Officer shall return one copy of the Application for Alien Employment Certification, ETA Form 750, supporting documents, and the Final Determination letter to the employer, or, if appropriate, to the employer's agent or attorney.

VII. Appeal of Notice that a Certification Cannot be Made

A. The finding by the NPC Certifying Officer, that a certification cannot be made, is the final decision of the Secretary of Labor and is advisory to the USCIS. There is no provision for reconsideration or appeal of the decision within DOL;

B. In accordance with the USCIS regulations at 8 CFR 214.2(h)(6)(iv)(E), the employer may submit countervailing evidence directly to the USCIS that qualified persons in the U.S. are not available, that the employer's need for the duties to be performed is represented as temporary, that wages and working conditions of U.S. workers will not be adversely affected, and that the DOL's employment policies were observed.

VIII. Validity of Temporary Labor Certifications

A temporary labor certification is valid only for the number of aliens, the area of intended employment, the specific occupation and duties, the period of time, and the employer specified on the Application for Alien Employment Certification, ETA Form 750.

[FR Doc. E7–13656 Filed 7–12–07; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health; Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Maritime Advisory Committee for Occupational Safety and Health; notice of meeting.

SUMMARY: The Maritime Advisory Committee for Occupational Safety and Health (''MACOSH'' or ''Committee'') was established to advise the Assistant Secretary of Labor for OSHA on issues relating to occupational safety and health in the maritime industries. The purpose of this **Federal Register** notice is to announce the MACOSH and workgroup meetings scheduled for July 31 through August 1, 2007.

DATES: The workgroups will meet on July 31, 2007, from 8 a.m. to 4 p.m. MACOSH will meet on August 1, 2007, from 8:30 a.m. until approximately 5 p.m.

ADDRESSES: The Committee and workgroups will meet at the Elihu Harris State Office Building, 1515 Clay Street, Oakland, CA 94612. Building security requires that attendees have photographic identification (e.g., a valid driver's license) and pass through a screening device. Mail comments, views, or statements in response to this notice to David Wallis, Acting Director, Office of Maritime, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; phone (202) 693–2086; FAX: (202) 693–1663.

FOR FURTHER INFORMATION CONTACT: For general information about MACOSH and this meeting contact: David Wallis, Acting Director, Office of Maritime, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; phone: (202) 693–2086. Individuals with disabilities wishing to attend the meeting should contact Vanessa L. Welch at (202) 693–2086 no later than July 20, 2007, to obtain appropriate accommodations.

SUPPLEMENTARY INFORMATION: All MACOSH meetings, including workgroup meetings, are open to the public. All interested persons are invited to attend the MACOSH meetings at the times and place listed above. The Committee has five workgroups that have identified various topics for discussion. Each workgroup may discuss one or more of the topics listed for that workgroup as time permits.

The Health workgroup discussions will include: Radiation exposure at maritime terminals from cargo screening devices, an update of the NIOSH maritime hearing-protection study, and a briefing on the NIOSH National Occupational Research Agenda (''NORA'') process.

The Longshoring workgroup discussions will include: Crane-operator radio communications, traffic safety, roll-on roll-off cargo guidance, and the International Maritime Organization's (IMO) initiative on cargo-lashing safety.

The Cranes and Falls workgroup discussions will include working on or under suspended loads.

The Shipyards workgroup discussions may include: Spray paint standards, hot work on coatings, aerial work platforms, ship module placement, review of shipbreaking guidance product, and review of Safety and Health Injury Prevention Sheets.

The Outreach and Safety Culture workgroup discussions may include: Leading indicators, root cause analysis (SCA data effort), substance abuse, OSHA/Coast Guard coordination, e-tools, Hispanic worker issues, new technology and safety, updating the OSHA Training Institute shipyard and longshoring courses, training requirements guidance products, and industry pocket guides.

MACOSH agenda: The agenda will include: an OSHA update, reports from each workgroup, a discussion of working on or under suspended loads, pandemic planning in the maritime industry, crane-operator radio communications, traffic safety, roll-on roll-off container safety, IMO initiative on cargo-lashing safety, an update on the nine recommendations from the previous committee meeting, and presentation on the Athena 106 accident.

Public Participation: Written data, views, or comments for consideration by MACOSH on the various agenda items listed above should be submitted to Vanessa L. Welch at the address listed above. Submissions received by July 20, 2007 will be provided to Committee members and will be included in the record of the meeting. Requests to make oral presentations to the Committee may be granted as time permits. Anyone wishing to make an oral presentation to the Committee on any of the agenda items listed above should notify Vanessa L. Welch by July 20, 2007. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Authority: Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by Sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), Secretary of Labor's Order 5–2007 (72 FR 31159), and 29 CFR part 1912.

Signed at Washington, DC, on July 10, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E7–13617 Filed 7–12–07; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Sunshine Act Notice; Meeting of the Performance Reviews Committee of the Legal Services Corporation's Board of Directors

TIME AND DATE: The Performance Reviews Committee of the Legal Services Corporation's Board of Directors will meet at 10 a.m. Central Daylight Time on July 19, 2007.

LOCATION: The American Bar Association, 321 North Clark Street, 15th Floor, in the Journal Conference Room, Chicago, Illinois.

STATUS OF MEETING: Open, except as noted below. A verbatim written transcript of the session will be made. The transcript of any portions of the closed session falling within the relevant provision of the Government in Sunshine Act, 5 U.S.C. 552b(c)(6), and LSC's implementing regulation, 45 CFR 1622.5(e), will not be available for public inspection. The transcript of any portions not falling within either of these provisions will be available for public inspection.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Consider and act on whether to go into closed session for agenda item number 3.

Closed Session

3. Consider and act on the recommendation to make to the full Board on the annual performance review of the LSC Inspector General.

Open Session

4. Consider and act on other business.
5. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Manager of Board Operations, at (202) 295–1500.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia D. Batie, at (202) 295–1500.

Dated: July 11, 2007.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 07–3454 Filed 7–11–07; 2:15 pm]

BILLING CODE 7050–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Notice; submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 72 FR 23854, and no comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. 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: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 - 17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 295, Arlington, VA 22230, or by e-mail to *splimpton@nsf.gov.* 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 703–292–7556.

NSF 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.

Under OMB regulations, the agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

ADDRESSES: Submit written comments to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 295, Arlington, VA 22230, or by e-mail to *splimpton@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Call or write, Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Room 295, Arlington, VA 22230, or by e-mail to *splimpton@nsf.gov* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: Antarctic emergency response plan and environmental protection information.

OMB Approval Number: 3145–0180.

Abstract: The NSF, pursuant to the Antarctic Conservation Act of 1978 (16 U.S.C. 2401 *et seq.*) (''ACA'') regulates certain non-governmental activities in Antarctica. The ACA was amended in 1996 by the Antarctic Science, Tourism, and Conservation Act. On September 7, 2001, NSF published a final rule in the **Federal Register** (66 FR 46739) implementing certain of these statutory amendments. The rule requires non-governmental Antarctic expeditions using non-U.S. flagged vessels to ensure that the vessel owner has an emergency response plan. The rule also requires persons organizing a non-governmental expedition to provide expedition members with information on their environmental protection obligations under the Antarctic Conservation Act.

Expected Respondents. Respondents may include non-profit organizations and small and large businesses. The majority of respondents are anticipated to be U.S. tour operators, currently estimated to number twelve.

Burden on the Public. The Foundation estimates that a one-time paperwork and recordkeeping burden of 40 hours or less, at a cost of $500 to $1400 per respondent, will result from the emergency response plan requirement contained in the rule. Presently, all respondents have been providing expedition members with a copy of the Guidance for Visitors to the Antarctic (prepared and adopted at the Eighteenth Antarctic Treaty Consultative Meeting as Recommendation XVIII–1). Because this Antarctic Treaty System document satisfies the environmental protection information requirements of the rule, no additional burden shall result from the environmental information requirements in the proposed rule.

Dated: July 9, 2007.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 07–3423 Filed 7–12–07; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–259]

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Unit 1; Notice of Consideration of Issuance of Amendment to Renewed Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an amendment to Renewed Facility Operating License No. DPR–33 issued to the Tennessee Valley Authority (the licensee) for operation of the Browns Ferry Nuclear Plant, Unit 1, located in Limestone County, Alabama.

The proposed amendment would allow deletion of License Condition 2.G.(2) regarding the performance of power uprate large transient testing. In addition, it was requested that this proposed amendment be handled as an exigent request consistent with Title 10 to the *Code of Federal Regulations* (10 CFR), § 50.91(a)(6). The Commission has reviewed this request and determined that the circumstances presented by the licensee do not support an exigent review and abbreviated public comment period.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a

margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The requested licensing action would eliminate the current license condition schedule requirement to perform a full power turbine generator load reject transient test. No other changes are proposed. This proposed licensing action will not affect any system, structure, or component designed for the mitigation of previously analyzed events. Therefore, the proposed change does not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The requested licensing action would eliminate the current schedule requirement to perform a full power turbine generator load reject transient test. No other changes are proposed. Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Performance of the full power load reject transient test is not necessary to ensure acceptable plant operation at the high thermal power level. Simple, integrated system tests have been performed, and a turbine trip from a high power and a main steam isolation valve transient test from full power have been experienced. In addition, other testing has been performed which demonstrated the satisfactory performance of individual components and subsytems. Thus, the proposed elimination of the load reject transient test will not significantly reduce any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestors/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, *HEARINGDOCKET@NRC.GOV;* or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415–1101, verification number is (301) 415–1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

For further details with respect to this action, see the application for amendment dated June 25, 2007, and supplemental letter dated July 3, 2007, which are available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 9th day of July 2007.

For the Nuclear Regulatory Commission.

Eva A. Brown,

Project Manager, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–13611 Filed 7–12–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–09415]

Notice of Environmental Assessment Related to the Issuance of a License Amendment to Byproduct Material License No. 24–15595–01, for Unrestricted Release of a Former Facility for Aptuit, Inc., Kansas City, MO

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of environmental assessment and finding of no significant impact for license amendment.

FOR FURTHER INFORMATION CONTACT: Peter J. Lee, Ph.D., CHP, Health Physicist, Decommissioning Branch, Division of Nuclear Materials Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532; telephone: (630) 829–9870; fax number: (630) 515–1259; or by e-mail at *pjl2@nrc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an amendment to NRC Byproduct Materials License No. 24–15595–01, which is held by Aptuit, Inc. (licensee). The amendment would authorize the unrestricted release of the licensee's Building L, which is located at 10245 Hickman Mills Drive, Kansas City, Missouri (the facility). The licensee ceased all use of licensed radioactive materials in the facility. The licensee will continue using licensed materials in other facilities under its license. The NRC has prepared an Environmental Assessment in support of this action in accordance with the requirements of 10 CFR Part 51. Based on the Environmental Assessment, the NRC has determined that a Finding of No Significant Impact is appropriate. The amendment to Aptuit, Inc.'s license will be issued following the publication of this Environmental Assessment and Finding of No Significant Impact.

I. Environmental Assessment

Identification of Proposed Action

The proposed action would approve Aptuit, Inc.'s request to amend its license and release the facility for unrestricted use in accordance with 10 CFR part 20, Subpart E. The proposed action is in accordance with Aptuit, Inc.'s request to the U.S. Nuclear Regulatory Commission (NRC) to amend its NRC Byproduct Material License by letters dated January 5, 2007 (ADAMS Accession No. ML070080417), and May 2, 2007 (ADAMS Accession No. ML071230265). Aptuit, Inc. was first licensed to use byproduct materials on May 23, 1973. The licensee is authorized to use byproduct materials for research and development as defined in 10 CFR 30.4. The primary isotopes used in the facility were hydrogen-3 and carbon-14. On October 1, 2006, Aptuit, Inc. completed removal of licensed radioactive material from the facility.

The licensee conducted surveys of the facility and provided this information to the NRC to demonstrate that the radiological condition of the facility is consistent with radiological criteria for unrestricted use in 10 CFR part 20, subpart E. No radiological remediation activities are required to complete the proposed action.

Need for the Proposed Action

The licensee is requesting this license amendment because it has discontinued licensed activities in the facility. The NRC is fulfilling its responsibilities under the Atomic Energy Act to make a decision on the proposed action for decommissioning that ensures that residual radioactivity is reduced to a level that is protective of the public health and safety and the environment,

and allows the facility to be released for unrestricted use.

Environmental Impacts of the Proposed Action

The NRC staff reviewed the information provided and surveys performed by the licensee to demonstrate that the release of the facility is consistent with the radiological criteria for unrestricted use specified in 10 CFR 20.1402. Based on its review, the staff determined that there were no radiological impacts associated with the proposed action because no radiological remediation activities were required to complete the proposed action, and that the radiological criteria for unrestricted use in § 20.1402 have been met.

Based on its review, the staff determined that the radiological environmental impacts from the proposed action for the Building L facility are bounded by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496). Additionally, no non-radiological or cumulative impacts were identified. Therefore, the NRC has determined that the proposed action will not have a significant effect on the quality of the human environment.

Alternatives to the Proposed Action

The only alternative to the proposed action is to take no action. Under the no-action alternative, the licensee's facility would remain under an NRC license and would not be released for unrestricted use. Denial of the license amendment request would result in no change to current conditions at the Building L facility. The no-action alternative is not acceptable because it is inconsistent with 10 CFR 30.36, which requires licensees who have ceased licensed activities in a particular building to begin decommissioning activities or submit a decommissioning plan, which upon approval, will be used to conduct decommissioning activities. This alternative would impose an unnecessary regulatory burden in controlling access to the former Building L facility, and limit potential benefits from the future use of the facility.

Conclusion

The NRC staff concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

The NRC staff has determined that the proposed action will not affect listed species or critical habitats. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. Likewise, the NRC staff has determined that the proposed action is not a type of activity that has potential to cause effect on historic properties. Therefore, consultation under Section 106 of the National Historic Preservation Act is not required.

The NRC consulted with Mr. Keith Henke, Planner, Division of Community and Public Health, Office of Emergency Coordination, Department of Health and Senior Services. Mr. Henke was provided the draft EA for comment on June 27, 2007. Mr. Henke responded to the NRC by e-mail on July 2, 2007, indicating that the State had no additional comments for the Aptiut, Inc. NRC Environmental Assessment for the release of the licensee's Building L.

II. Finding of No Significant Impact

On the basis of the EA in support of the proposed license amendment to release the facility for unrestricted use, the NRC has determined that the proposed action will not have a significant effect on the quality of the human environment. Thus, the NRC has not prepared an environmental impact statement for the proposed action.

III. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at: *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. 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 1–800–397–4209, 301–415–4737, or by e-mail to: *pdr@nrc.gov.* The documents and ADAMS accession numbers related to this notice are:

1. Pam Barton, Aptuit, Inc., letter to Kevin Null, U.S. Nuclear Regulatory Commission, January 5, 2007 (ADAMS Accession No. ML070080417).
2. Pam Barton, Aptuit, Inc., letter to Mike McCann, U.S. Nuclear Regulatory Commission, May 2, 2007 (ADAMS Accession No. ML071230265).
3. U.S. Nuclear Regulatory Commission, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs,'' NUREG–1748, August 2003.
4. U.S. Nuclear Regulatory Commission, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities,'' NUREG–1496, August 1994.
5. NRC, NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volumes 1–3, September 2003.

Documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 3rd day of July 2007.

For the Nuclear Regulatory Commission.

Patrick L. Louden,

Chief, Decommissioning Branch, Division of Nuclear Materials Safety, Region III.

[FR Doc. E7–13685 Filed 7–12–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Public Availability of Fiscal Year 2006 Agency Inventories Under the Federal Activities Inventory Reform Act

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of Public Availability of Agency Inventory of Activities That Are Not Inherently Governmental and of Activities That Are Inherently Governmental.

SUMMARY: The Federal Activities Inventory Reform (FAIR) Act, Public Law 105–270, requires agencies to develop inventories each year of activities performed by their employees that are not inherently governmental—i.e., inventories of commercial activities. The FAIR Act further requires OMB to review the inventories in consultation with the agencies and publish a notice of public availability in the **Federal Register** after the consultation process is completed. In accordance with the FAIR Act, OMB is publishing this notice to announce the availability of inventories from the agencies listed below. These inventories identify both commercial activities and activities that are inherently governmental.

This is the second release of the FAIR Act inventories for FY 2006. Interested parties who disagree with the agency's initial judgment may challenge the inclusion or the omission of an activity on the list of activities that are not inherently governmental within 30 working days and, if not satisfied with this review, may appeal to a higher level within the agency.

The Office of Federal Procurement Policy has made available a FAIR Act User's Guide through its Internet site: *http://www.whitehouse.gov/omb/procurement/fair-index.html.* This User's Guide will help interested parties review FY 2006 FAIR Act inventories.

Rob Portman,

Director, Office of Management and Budget.

ATTACHMENT—SECOND FAIR ACT RELEASE FY 2006

Department of Agriculture	Ms. Ava Lee, (202) 720–1179,*http://www.usda.gov/ocfo.*
Department of Agriculture OIG	Mr. Rod DeSmet, (202) 720–6979, *http://www.usda.gov/oig/rptsbulletins.htm.*
Department of Homeland Security	Mr. David Childs, (202) 447–5266, *http://www.dhs.gov/dhspublic/interapp/editorial/editorial_0504.xml.*
Department of State	Ms. Valerie Dumas, (703) 516–1506,*http://www.state.gov.*
Department of Veterans Affairs	Ms. Julie Plush, (202) 273–5048, *http://www.va.gov/op3/.*
Equal Employment Opportunity Commission	Mr. Jeffrey Smith, (202) 663–4200, *http://www.eeoc.gov/abouteeoc/plan/.*
Federal Election Commission	Ms. Tina VanBrakle, (202) 694–1006, *http://www.fec.gov/pages/fair.shtml.*
Federal Maritime Commission	Mr. Bruce Dombrowski, (202) 523–5800, *http://www.fmc.gov/reading/FairActSubmissionIntro.asp.*
General Services Administration	Mr. Paul Boyle, (202) 501–0324, *http://www.gsa.gov.*
Merit Systems Protection Board	Mr. Wade Douglas, (202) 653–6772 x1118, *http://www.mspb.gov.*
Nuclear Regulatory Commission	Ms. Mary Lynn Scott, (301) 415–7305, *http://www.nrc.gov/who-we-are/contracting.html.*
Nuclear Regulatory Commission OIG	Mr. David Lee, (301) 415–5930, *http://www.nrc.gov/insp-gen/fairact-inventory.html.*
Office of Personnel Management	Mr. Ronald C. Flom, (202) 606–3207, *http://www.opm.gov/procure/fairactinventory/.*
Office of the U.S. Trade Representative	Ms. Susan Buck, (202) 395–9412, *http://www.ustr.gov.*
Smithsonian Institution	Ms. Alice Maroni, (202) 275–2020, *http://www.si.edu.*

[FR Doc. E7–13562 Filed 7–12–07; 8:45 am]

BILLING CODE 3110–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium for Single-Employer Plans; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in July 2007. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in August 2007. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the third quarter (July through September) of 2007.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. Pursuant to the Pension Protection Act of 2006, for premium payment years beginning in 2006 or 2007, the required interest rate is the ''applicable percentage'' of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year'').

On February 2, 2007 (at 72 FR 4955), the Internal Revenue Service (IRS) published final regulations containing updated mortality tables for determining current liability under section 412(l)(7) of the Code and section 302(d)(7) of ERISA for plan years beginning on or after January 1, 2007. As a result, in accordance with section 4006(a)(3)(E)(iii)(II) of ERISA, the ''applicable percentage'' to be used in determining the required interest rate for plan years beginning in 2007 is 100 percent.

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in July 2007 is 6.32 percent (*i.e.,* 100 percent of the 6.32 percent composite corporate bond rate for June 2007 as determined by the Treasury).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between August 2006 and July 2007.

For premium payment years beginning in:	The required interest rate is:
August 2006	5.36
September 2006	5.19
October 2006	5.06
November 2006	5.05
December 2006	4.90
January 2007	5.75
February 2007	5.89
March 2007	5.85
April 2007	5.84
May 2007	5.98
June 2007	6.01
July 2007	6.32

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, 4062.7 of the PBGC's regulation on Liability for Termination of Single-Employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the third quarter (July through September) of 2007, as announced by the IRS, is 8 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From	Through	Interest rate (percent)
7/1/01	12/31/01	7
1/1/02	12/31/02	6
1/1/03	9/30/03	5
10/1/03	3/31/04	4
4/1/04	6/30/04	5
7/1/04	9/30/04	4
10/1/04	3/31/05	5
4/1/05	9/30/05	6
10/1/05	6/30/06	7
7/1/06	9/30/07	8

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (''Selected Interest Rates''). The rate for the third quarter (July through September) of 2007 (*i.e.*, the rate reported for June 15, 2007) is 8.25 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From	Through	Interest rate (percent)
7/1/01	9/30/01	7.00
10/1/01	12/31/01	6.50
1/1/02	12/31/02	4.75
1/1/03	9/30/03	4.25
10/1/03	9/30/04	4.00
10/1/04	12/31/04	4.50
1/1/05	3/31/05	5.25
4/1/05	6/30/05	5.50
7/1/05	9/30/05	6.00
10/1/05	12/31/05	6.50
1/1/06	3/31/06	7.25
4/1/06	6/30/06	7.50
7/1/06	9/30/06	8.00
10/1/06	9/30/07	8.25

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in August 2007 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 9th day of July 2007.

Vincent K. Snowbarger,

Deputy Director, Pension Benefit Guaranty Corporation.

[FR Doc. E7–13595 Filed 7–12–07; 8:45 am]

BILLING CODE 7709–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) for the following collection of information: 3220–0136, Public Service Pension Questionnaires. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

Public Law 95–216 amended the Social Security Act of 1977 by providing, in part, that spouse or survivor benefits may be reduced when the beneficiary is in receipt of a pension based on employment with a Federal, State, or local governmental unit. Initially, the reduction was equal to the full amount of the government pension.

Public Law 98–21 changed the reduction to two-thirds of the amount of the government pension. Public Law 108–203 amended the Social Security Act by changing the requirement for exemption to public service offset, that Federal Insurance Contributions Act (FICA) taxes be deducted from the public service wages for the last 60 months of public service employment, rather than just the last day of public service employment.

Sections 4(a)(1) and 4(f)(1) of the Railroad Retirement Act (RRA) provides that a spouse or survivor annuity should be equal in amount to what the

annuitant would receive if entitled to a like benefit from the Social Security Administration. Therefore, the public service pension (PSP) provisions apply to RRA annuities.

RRB Regulations pertaining to the collection of evidence relating to public service pensions or worker's compensation paid to spouse or survivor applicants or annuitants are found in 20 CFR 219.64c.

The RRB utilizes Form G–208, Public Service Pension Questionnaire, and Form G–212, Public Service Monitoring Questionnaire, to obtain information used to determine whether an annuity reduction is in order. The RRB proposes no changes to Form G–208. Non-burden impacting editorial and formatting changes are proposed to Form G–212. The RRB estimates the completion time for RRB Form G–208 at 16 minutes and G–212 at 15 minutes.

Our ICR describes the information we seek to collect from the public. If a respondent fails to complete the form(s), the RRB may be unable to pay them benefits. One response is required from a respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (72 FR 14628 on March 28, 2007) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Public Service Pension Questionnaires.

OMB Control Number: 3220–0136

Form(s) submitted: G–208, Public Service Pension Questionnaire; G–212, Public Service Monitoring Questionnaire.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or households.

Abstract: A spouse or survivor annuity under the Railroad Retirement Act may be subjected to a reduction for a public service pension. The questionnaires obtain information needed to determine if the reduction applies and the amount of such reduction.

Changes Proposed: The RRB proposes no changes to Form G–208 and minor, non-burden impacting editorial changes to Form G–212.

The burden estimate for the ICR is as follows:

Estimated annual number of respondents: 1,170.

Total annual responses: 1,170.

Total annual reporting hours: 294.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E7–13689 Filed 7–12–07; 8:45 am]

BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) for the following collection of information: 3220–0196, Investigation of Claim for Possible Days of Employment. Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

Under Section 1(k) of the Railroad Unemployment Insurance Act (RUIA), unemployment and sickness benefits are not payable for any day with respect to which remuneration is payable or accrues to the claimant. Also Section 4(a–1) of the RUIA provides that unemployment or sickness benefits are not payable for any day the claimant receives the same benefits under any law other than the RUIA. Under Railroad Retirement Board (RRB) regulations, 20 CFR 322.4(a), a claimant's certification or statement on an RRB provided claim form that he or she did not work on any day claimed and did not receive income such as vacation pay or pay for time lost shall constitute sufficient evidence unless there is conflicting evidence. Further, under 20 CFR 322.4(b), when there is a question raised as to whether or not remuneration is payable or has accrued to a claimant with respect to a claimed day or days, investigation shall be made with a view to obtaining information sufficient for a finding.

The RRB utilizes Form ID–5S(SUP), Report of Cases for Which All Days Were Claimed During a Month Credited Per an Adjustment Report, to collect information about compensation credited to an employee during a period when the employee claimed either unemployment or sickness benefits from a railroad employer. The request is generated as a result of a computer match that compares data which is maintained in the RRB's RUIA Benefit Payment file with data maintained in the RRB's records of service. The ID–5S(SUP) is generated annually when the computer match indicates that an employee(s) of the railroad employer was paid unemployment or sickness benefits for every day in one or more months for which creditable compensation was adjusted due to the receipt of a report of creditable compensation adjustment (RRB FORM BA–4, OMB Approved 3220–0008) from their railroad employer.

The computer generated Form ID–5S(SUP) includes pertinent identifying information, the BA–4 adjustment process date and the claimed months in question. Space is provided on the report for the employer's use in supplying the information requested in the computer generated transmittal letter, Form ID–5S, which accompanies the report. To our knowledge no other agency uses forms similar to Form ID–5S(SUP). Completion is voluntary. One response is requested of each respondent. The RRB estimates that 80 responses are received annually and that the estimated completion time is 10 minutes for each response.

The RRB proposes non-burden impacting editorial changes to Form ID–5S(SUP) and Form ID–5S.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (72 FR 8206–8207 on February 23, 2007) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request Details (ICR)

Title: Investigation of Claim for Possible Days of Employment.

OMB Control Number: 3220–0196.

Form(s) submitted: ID–5S(SUP).

Type of request: Revision of a currently approved collection.

Affected public: Business or other for-profit.

Abstract: Under the Railroad Unemployment Insurance Act, unemployment or sickness benefits are not payable for any day in which remuneration is payable or accrues to the claimant. The collection obtains information about compensation credited to an employee during a period when the employee claimed unemployment or sickness benefits from their railroad employer.

Changes Proposed: The RRB proposes minor editorial and formatting changes to Form ID–5S(SUP) and its accompanying transmittal letter Form ID–5S.

The burden estimate for the ICR is as follows:

Estimated annual number of respondents: 80.

Total annual responses: 80.

Total annual reporting hours: 13.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E7–13690 Filed 7–12–07; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56032; File No. SR–Amex–2007–66]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Quarterly Options Series Pilot Program

July 9, 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 28, 2007, the American Stock Exchange LLC (''Exchange'' or ''Amex'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change 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 seeks a one-year extension of the pilot program allowing the listing and trading of options series that expire at the close of business on the last business day of a calendar quarter (''Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.amex.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Pilot Program, which began in July 2006, allows the Amex to list and trade options series that expire at the close of business on the last business day of a calendar quarter (''Quarterly Options Series'').[5] The Exchange is proposing to extend the Pilot Program from July 10, 2007, through and including July 10, 2008.

The Exchange also proposes to incorporate certain changes to its rules regarding Quarterly Options Series as recently filed by the other options Exchanges and approved by the Commission.[6] In this regard, the Exchange proposes to amend Rule 903C, Series of Stock Index Options, to provide that the strike price of each Quarterly Options Series will be fixed at a price per share, with at least two, but not more than five, strike prices above, and two, but not more than five, strike prices below the value of the underlying security at the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange further proposes to eliminate the restriction that it may only list strike prices for a Quarterly Options Series based on an underlying index that are within $5 from the closing price of the underlying index on the preceding day. In place of this restriction, the Exchange proposes to include language in Rule 903C that would allow the Exchange to open additional strike prices of a Quarterly Options Series that are above (below) the value of the underlying index, provided that the total number of strike prices above (below) the value of the underlying index, including the additional strike prices, is no greater than five. The Exchange believes that so limiting the number of Quarterly Options Series based on an underlying index that may be opened ensures that the addition of the new series through this Pilot Program would have only a negligible impact on the Exchange's and Option Price Reporting Authority's (''OPRA'') quoting capacity. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 54137 (July 12, 2006), 71 FR 41283 (July 20, 2006) (''Pilot Program Release'').

[6] *See* Exchange Act Release No. 54762 (November 16, 2006), 71 FR 67663 (November 22, 2006) (SR–CBOE–2006–93) (Order approving proposed rule change); *see also* Exchange Act Release No. 55301 (February 15, 2007), 72 FR 8238 (February 23, 2007) (SR–Phlx–2007–08) (Notice of filing and immediate effectiveness of proposed rule change).

opening of any new Quarterly Options Series shall not affect the series of options of the same class previously opened.

The Pilot Program report (''Report''), which is attached as Exhibit 3 to the Form 19b–4 filed with the Commission, provides data regarding the Pilot Program as required in the Pilot Program Release. Under the terms of the Pilot Program, the Exchange may select five (5) option classes on which Quarterly Options Series may be opened on any Quarterly Options Opening Date. Also under the terms of the Pilot Program, the Exchange may list Quarterly Options Series on any option class that is selected by another securities exchange with a similar Pilot Program under its rules. As noted in the Report, the five classes which the Exchange is currently trading were all selected by another securities exchange. The Exchange has not selected any additional classes of quarterly options for the Pilot at this time.

As the data in the Report indicates, the Amex volume trends in Quarterly Options as compared to all options in the Pilot securities shows higher utilization rates throughout the year. Specifically, for the last 3 months of the Pilot, from March to May 2007, the five (5) option classes selected by the Amex for Quarterly Options accounted for 10.4% of total options volume, as compared to 3.8% for the first three months. Furthermore, a look at open interest reveals that, on average, Quarterly Options account for 13.4% of total open interest in the Pilot Program classes. The open interest in Quarterly Options has generally trended higher during the time period evaluated. In January 2007, open interest in Quarterly Options totaled 1,620,610, a figure which grew to 3,574,263 in May. These numbers give further proof of increased investor use of the Quarterly Options. Accordingly, the Exchange believes that an extension of the Pilot Program for one-year through July 10, 2008, is warranted in order to satisfy the institutional demand for such options and to provide additional flexibility as well as an additional risk management tool to investors.

The Exchange notes that it possesses adequate systems capacity to support the trading of Quarterly Options Series.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act[8] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.[11]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption.[12] Therefore, the Commission designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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–Amex–2007–66 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–2007–66. 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 Commissions 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

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days before doing so.

[12] 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. *See* 15 U.S.C. 78c(f).

[13] As set forth in the Pilot Program Release, if the Exchange were to propose an extension, an expansion, or permanent approval of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the program, a report that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of the Exchange, OPRA, and market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program. *See* Pilot Program Release, *supra* note 5.

Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2007–66 and should be submitted on or before August 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13598 Filed 7–12–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56026; File No. SR–CBOE–2007–72]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Fees

July 6, 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 29, 2007, Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its Fees Schedule to: (i) Adopt a surcharge fee for transactions in options on the CBOE Volatility Index (''VIX''); and (ii) clarify the assessment of the Sales Value Fee. The text of the proposed rule change is available at: *http://www.cboe.org/legal,* the Exchange's principal office, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

VIX Options Surcharge Fee

The Exchange proposes to adopt a $0.04 per contract surcharge fee on all non-public-customer transactions in VIX options to help the Exchange recoup license fees the Exchange pays to Standard and Poor's for its license to trade the VIX product. The proposed surcharge fee is identical to the surcharge fee currently assessed on non-public-customer transactions in options on the S&P 100 Index (''OEX'' and ''XEO'') and options on the S&P 500 Index (''SPX''). The Exchange intends to implement this fee on July 2, 2007.

Sales Value Fee

Section 6 of the CBOE Fees Schedule describes the Sales Value Fee and how the fee is assessed. The Sales Value Fee is defined as the fee assessed by CBOE to each member for sales of securities on CBOE with respect to which CBOE is obligated to pay a fee to the Commission under Section 31 of the Act.[3] Section 6 of the CBOE Fees Schedule also applies to trading on the CBOE Stock Exchange, LLC (''CBSX'').

The Sales Value Fee is applied not only to sales executed on CBOE and CBSX, but also to sell orders that originate at CBSX and are routed to other trading centers pursuant to CBOE Rule 52.10 (Order Routing to Other Trading Centers). Accordingly, the Exchange proposes to amend section 6 of the Fees Schedule to clarify that the Sales Value Fee is also assessed by CBOE to each member for orders to sell securities that originate at CBSX and are routed to and executed on another trading center.

The Exchange has entered into an arrangement with the National Securities Clearing Corporation (''NSCC'') whereby NSCC will collect the Sales Value Fee (among other fees) with respect to non-options sales on behalf of CBSX from CBSX members through their clearing firms and remit the fees to CBSX. The Exchange proposes to amend section 6 of the Fees Schedule to reflect this new fee collection procedure.[4]

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act,[5] in general, and furthers the objectives of section 6(b)(4) of the Act,[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[14] 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. 78ee.

[4] Prior to Regulation NMS, the Sales Value Fee was assessed by CBOE to each CBSX member for orders to sell securities that originated at CBSX and were routed via the Intermarket Trading System (''ITS'') to, and executed on, another exchange. Pursuant to arrangements between CBOE and other ITS participant exchanges, CBOE paid to the exchange on which the covered sale occurred the Sales Value Fee collected by CBOE from the CBSX member that originated the sell order. In the current Regulation NMS environment, CBOE now routes orders to other trading centers via a private linkage pursuant to an agreement between CBSX and a third-party technology provider (''Routing Firm''). CBSX's Routing Firm is assessed a fee by an away trading center for covered sales resulting from sell orders originating on CBSX and routed to and executed by the Routing Firm on that trading center. CBOE collects the Sales Value Fee from the CBSX member that originated the sell order but instead of passing the fee to an away exchange, CBOE now passes the fee to the Routing Firm to reimburse the Routing Firm for the fee it paid to the away trading center. *See* E-mail from Jamie Galvan, Assistant Secretary, CBOE, to David Michehl, Special Counsel, Division of Market Regulation, Commission dated July 6, 2007.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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)(3)(A)(ii) of the Act [7] and Rule 19b–4(f)(2) thereunder,[8] because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to: *rule-comments@sec.gov*. Please include File Number SR–CBOE–2007–72 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–CBOE–2007–72. 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 CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–72 and should be submitted on or before August 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13592 Filed 7–12–07; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56031; File No. SR–ISE–2007–53]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Quarterly Options Series Pilot Program

July 9, 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 27, 2007, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend, until July 10, 2008, its quarterly options pilot program (''Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to extend, until July 10, 2008, an ISE pilot program (''Pilot Program'') to list options series that would expire at the close of business on the last business day of a calendar quarter (''Quarterly Options Series'').[5] The Pilot Program is currently set to expire on July 10, 2007. Under the Pilot Program, the Exchange is allowed to open Quarterly Options Series on up to five (5) currently listed options classes that are either index options or options on ETFs. The Exchange also is allowed to list Quarterly Options Series on any options class that is selected by other securities exchanges that employ a similar pilot program under their respective rules. The Exchange has selected the following five options classes to participate in the Pilot Program: the Standard & Poor's Depositary Receipts® (SPY); Nasdaq-100® Shares (QQQQ); Diamonds® Trust Series 1 (DIA); iShares Russell 2000®

[5] *See* Exchange Act Release No. 54113 (July 7, 2006), 71 FR 39694 (July 13, 2006) (File No. SR–ISE–2006–24) (''Approval Order'').

Index Fund (IWM); and Select Sector SPDR®—Energy (XLE). The ISE believes the Pilot Program has been successful and well received by its members and the investing public. Thus, the ISE proposes to extend the Pilot Program until July 10, 2008.

In support of this proposed rule change, and as required by the Approval Order, the Exchange is submitting to the Commission a report (''Pilot Program Report''), attached as Exhibit 3 to the Form 19b–4 filed with the Commission, detailing the Exchange's experience with the Pilot Program. Specifically, the Pilot Program Report contains data and written analysis regarding the five options classes included in the Quarterly Options Pilot Program for the period from July 10, 2006 through December 29, 2006. The Exchange believes there is sufficient investor interest and demand to extend the Pilot Program for another year. The Exchange further believes that the Pilot Program has provided investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Finally, the Exchange has not detected any material proliferation of illiquid options series resulting from the introduction of the Pilot Program.

Additionally, the Exchange proposes to amend ISE Rule 2009, Supplementary Material .02 to: (1) Limit the number of strike prices that the Exchange may initially open for Quarterly Options Series to five strike prices above or below the value of the underlying index; (2) clarify that the Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems such action necessary to maintain an orderly market or meet customer demand, provided that the additional series priced above (below) the value of the underlying index do not cause there to be more than five strike prices above (below) the value of the underlying index; and (3) clarify that the opening of any new Quarterly Options Series will not affect the previously opened series of options of the same class.[6]

Finally, the Exchange represents that it has the necessary systems capacity to support new options series that result from the continued listing and trading of Quarterly Options Series.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(5) of the Act[8] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extension of the Pilot Program will result in a continuing benefit to investors, by allowing them to more closely tailor their investment decisions, and will allow the Exchange to further study investor interest in quarterly options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that 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

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10] The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.[11]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption.[12] Therefore, the Commission designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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–2007–53 on the subject line.

[6] The Commission recently approved a similar change to the rules of the Chicago Board Options Exchange and the Philadelphia Stock Exchange. *See* Securities Exchange Act Releases No. 54762 (November 16, 2006), 71 FR 67663 (November 22, 2006) (Notice of Filing and Order Granting Accelerated Approval of File No. SR–CBOE–2006–93) and 55301 (February 15, 2007), 72 FR 8238 (February 23, 2007) (Notice of Filing and Immediate Effectiveness of File No. SR–Phlx–2007–08).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days before doing so.

[12] 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. *See* 15 U.S.C. 78c(f).

[13] As set forth in the Approval Order, if the Exchange were to propose an extension, an expansion, or permanent approval of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the program, a report that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Option Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of the Exchange, OPRA, and market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program. *See* Approval Order, *supra* note 5.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2007–53. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2007–53 and should be submitted on or before August 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13601 Filed 7–12–07; 8:45 am]

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[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56028; File No. SR–NASDAQ–2007–031]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change Relating to Three-Characters Ticker Symbols

July 9, 2007.

I. Introduction

On March 29, 2007, The NASDAQ Stock Market LLC (''Nasdaq'') 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 allow an issuer with a three-character ticker symbol that transfers its listing to Nasdaq from another listing market to continue using its three-character ticker symbol on Nasdaq. The proposed rule change was published for comment in the **Federal Register** on April 4, 2007.[3]

The Commission received 24 comment letters on the proposal.[4] On May 1, 2007, Nasdaq filed a response to the comment letters.[5] This order approves the proposed rule change.

II. Description of the Proposal

Historically, it has been the practice of NYSE, Amex, and the regional exchanges to list securities using three-character ticker symbols, and of Nasdaq to list securities using four- and five-character symbols.[6] Nasdaq recently submitted a proposed rule change to begin listing Delta Financial Corp., a security that transferred its listing from Amex, while retaining its three-character symbol (''DFC'').[7]

Nasdaq now proposes to allow any issuer with a three-character ticker symbol that transfers its listing to Nasdaq from another domestic listing market to continue using its three-character ticker symbol on Nasdaq.

III. Summary of Comments

Four commenters expressed support for Nasdaq's proposal; [8] the remaining 20 commenters, including 16 issuers listed on NYSE, objected to Nasdaq listing transferred securities with their three-character ticker symbols.[9]

The commenters objecting to the proposal generally argued that the proposal would violate the long-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55563 (March 30, 2007), 72 FR 16391.

[4] *See* letters from Edward J. Resch, Executive Vice President, Chief Financial Officer and Treasurer, State Street Corporation, dated May 21, 2007 (''State Street Letter''); Larry A. Mizel, Chairman and Chief Executive Officer, M.D.C. Holdings, Inc. (''MDC Letter''), dated May 17, 2007; Jack R. Hartung, Chief Finance and Development Officer, Chipotle Mexican Grill, dated May 15, 2007 (''Chipotle Letter''); Carol R. Kaufman, Sr. Vice President Legal Affairs, The Cooper Companies, Inc., dated May 14, 2007 (''Cooper Companies Letter''); Farooq Kathwari, Chairman, President and CEO, Ethan Allen Interiors, Inc., dated May 9, 2007 (''Ethan Allen Letter''); James J. Angel, Associate Professor of Finance, McDonough School of Business, Georgetown University, dated May 9, 2007 (''Angel Letter''); Jack Sennott, Senior Vice President and Chief Financial Officer, Darwin Professional Underwriters, Inc., dated May 8, 2007 (''Darwin Letter''); Bart J. Ward, Chief Executive Officer, Ward & Company, dated May 8, 2007 (''Ward Letter''); Craig D. Mallick, Corporate Secretary, United States Steel Corporation, dated May 4, 2007 (''United States Steel Letter''); Michael Tenenbaum, Trustee, Strategic Technologies Employees Pension Fund Trust, dated May 2, 2007 (''Strategic Technologies Letter''); Carrie E. Dwyer, General Counsel and Executive Vice President Corporate Oversight, The Charles Schwab Corporation (''Schwab''), dated April 27, 2007 (''Schwab Letter''); Mary Yeager, Assistant Secretary, New York Stock Exchange LLC (''NYSE''), dated April 25, 2007 (''NYSE Letter''); Patrick J. Healy, Issuer Advisory Group, dated April 24, 2007 (''Issuer Advisory Group Letter''); Neal L. Wolkoff, Chairman and Chief Executive Officer, American Stock Exchange LLC (''Amex''), dated April 16, 2007 (''Amex Letter''); Eric W. Nodiff, Sr. V.P. and General Counsel, Cantel Medical Corp., dated April 9, 2007 (''Cantel Medical Letter''); Dave Patch, dated April 6, 2007 (''Patch Letter''); Steve S. Fishman, Chairman and Chief Executive Officer, Big Lots, Inc., dated April 4, 2007 (''Big Lots Letter''); David M. Brain, President and CEO, Entertainment Properties Trust, dated April 3, 2007 (''Entertainment Properties Trust Letter''); Cathy Burzik, President and Chief Executive Officer, Kinetic Concepts, Inc., dated March 30, 2007 (''Kinetic Concepts Letter''); Edward W. Moore, Vice President, General Counsel & Secretary, RPM International Inc., dated March 29, 2007 (''RPM Letter''); Leo Liebowitz, Chairman and Chief Executive Officer, Getty Realty Corp., dated March 29, 2007 (''Getty Realty Letter''); Timothy J. O'Donovan, Chairman of the Board and Chief Executive Officer, Wolverine World Wide, Inc., dated March 28, 2007 (''Wolverine World Wide Letter''); Jason Korstange, SVP, Director of Corporate Communications, TCF Financial Corporation, dated March 28, 2007 (''TCF Financial Letter''); and Edward F. Tancer, Vice President & General Counsel, FPL Group, Inc., dated March 28, 2007 (''FPL Group Letter'').

[5] *See* letter from Joan C. Conley, Senior Vice President and Corporate Secretary, Nasdaq, to Nancy M. Morris, Secretary, Commission, dated May 1, 2007 (''Nasdaq Response Letter'').

[6] It has also been the practice of NYSE, Amex, and the regional exchanges to list securities using two-character ticker symbols. In addition, NYSE lists securities with one-character ticker symbols.

[7] *See* Securities Exchange Act Release No. 55519 (March 26, 2007), 72 FR 15737 (April 2, 2007) (SR–NASDAQ–2007–025).

[8] *See* Angel Letter, Schwab Letter, Issuer Advisory Group Letter, and Patch Letter.

[9] *See* State Street Letter, MDC Letter, Chipotle Letter, Cooper Companies Letter, Ethan Allen Letter, Darwin Letter, Ward Letter, United States Steel Letter, Strategic Technologies Letter, NYSE Letter, Amex Letter, Cantel Medical Letter, Big Lots Letter, Entertainment Properties Trust Letter, Kinetic Concepts Letter, RPM Letter, Getty Realty Letter, Wolverine World Wide Letter, TCF Financial Letter, and FPL Group Letter.

standing practice of allowing only NYSE-listed securities to use three-character ticker symbols,[10] cause confusion in the marketplace,[11] and circumvent the ongoing efforts of self-regulatory organizations (''SROs'') to develop a national market system plan for the selection and reservation of securities ticker symbols.[12] In addition, two commenters argued that the proposal could cause a shortage of one-, two-, or three-character ticker symbols.[13]

In support of the proposal, some commenters asserted that the proposal would enhance competition among markets and reduce the potential for investor confusion.[14] In its letter, Nasdaq responded to the commenters, stating that it believed that many of the commenters opposing the proposal misunderstood its proposal and the current use of symbols by the securities markets, and reiterated its belief that the proposal would reduce investor confusion and promote competition among exchanges.[15]

IV. Discussion

After a careful review of the proposed rule change, the comment letters, and the Nasdaq Response Letter, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[17] which requires that the rules of a national securities 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, and Section 6(b)(8) of the Act,[18] which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the Act.

A. Competition Among the Listing Markets

The Commission notes that national securities exchanges often allow issuers to retain the ticker symbols that identify their securities when such issuers transfer their listings to another exchange, other than Nasdaq.[19] This proposal would allow Nasdaq to participate in this existing practice, along with all other national securities exchanges, for issuers with three-character ticker symbols.[20]

Nasdaq and the commenters supporting the proposal asserted that the proposed rule change would allow publicly-listed issuers to choose their marketplace based on objective factors such as trading quality, costs, and branding, and not based on symbol portability.[21] Currently, an issuer deciding whether to transfer its listing to Nasdaq must consider, among other factors, the fact that it would need to change its ticker symbol. For example, the Schwab Letter stated that, when it considered transferring its listing to Nasdaq, the prospect of changing its symbol was a negative factor in its analysis regarding whether to transfer its listing. Schwab noted that the change in its ticker symbol, resulting from the transferring of its listing to Nasdaq, necessitated operational and systems changes at Schwab and industry-wide at other financial services firms and required the expenditure of other resources to inform its investors of that change.

The Commission notes that when an issuer is seeking to transfer its listing to an exchange other than Nasdaq, such issuer's analysis is not typically encumbered by considerations of changing its symbol and the attending administrative and other costs associated with that process. The proposed rule change would eliminate the considerations associated with changing its ticker symbol from the decision by an issuer identified by a three-character symbol to transfer its listing to Nasdaq.[22] Thus, the Commission believes that the proposed rule change, by allowing issuers to retain their three-character ticker symbols upon transferring their listings to Nasdaq, would remove a burden on competition not necessary or appropriate in furtherance of the purposes of the Act and would thereby enhance competition between Nasdaq and the other exchanges in the business of providing a listing venue.

B. Investor Confusion

The Commission also believes that allowing an issuer to retain the three-character ticker symbol that identifies its security upon transferring its listing to Nasdaq does not increase, and may reduce, the potential for confusion in the marketplace by an issuer changing its ticker symbol. Commenters supporting the proposal asserted that changing an issuer's ticker symbol often results in investor confusion and costly investment mistakes.[23] In its letter, Schwab stated that its ticker symbol change required it to expend time and resources to combat the confusion that the change would have caused among its individual stockholders who had come to identify it with its three-character symbol. The Commission notes that issuers transferring their listings to exchanges other than Nasdaq typically avoid such confusion by retaining their ticker symbols.[24]

The commenters objecting to the proposal, however, asserted that the proposed rule change, for various reasons, would cause confusion in the marketplace. The majority of such commenters argued that three-character ticker symbols are a hallmark of NYSE-listed securities[25] and that, consequently, expanding the use of three-character ticker symbols to Nasdaq-listed securities would result in investor confusion.[26] The Commission notes, however, that all of the

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[10] *Id.*

[11] *See* Ward Letter, NYSE Letter, Amex Letter, Big Lots Letter, and Wolverine World Wide Letter.

[12] *See* Ward Letter, NYSE Letter, Amex Letter, and RPM Letter.

[13] *See* NYSE Letter and Amex Letter. The Amex Letter, among other comment letters, expressed views on Nasdaq listing one- and two-character ticker symbols; however, this proposed rule change relates only to the transfer of three-character ticker symbol listings.

[14] *See* Angel Letter, Schwab Letter, and Issuer Advisory Group Letter.

[15] *See* Nasdaq Response Letter.

[16] In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(8).

[19] *See, e.g.*, Darwin Professional Underwriters (on April 18, 2007, moved from NYSE Arca to NYSE and retaining its symbol DR) and Yamana Gold Inc. (on January 12, 2007, moved from Amex to NYSE and retaining its symbol AUY).

[20] Some of the commenters expressed views on Nasdaq listing one- and two-character ticker symbols; however, these considerations are beyond the scope of this proposed rule change, which covers only the transfer of three-character ticker symbols.

[21] *See* Issuer Advisory Group Letter and Nasdaq Response Letter.

[22] Of course, an issuer could request a new ticker symbol if it so desired.

[23] *See* Angel Letter, Issuer Advisory Group Letter, and Schwab Letter.

[24] The Nasdaq Response Letter stated that, of the 200 issuers transfers of existing three-character symbols since August 2001, all but one of those issuers have retained their symbols upon their transfer to a new exchange.

[25] Based on this premise, these commenters also argued that three-character ticker symbols signal NYSE's high qualitative listing standards and that allowing Nasdaq to list securities with three-character ticker symbols would blur the distinction between NYSE-listed and other exchange-listed securities and diminish the branding of NYSE-listed securities.

[26] *See* Strategic Technologies Letter, NYSE Letter, Cantel Medical Letter, Big Lots Letter, Kinetic Concepts Letter, RPM Letter, Getty Realty Letter, Wolverine World Wide Letter, TCF Financial Letter, and FPL Group Letter.

exchanges, except Nasdaq,[27] may list securities using three-character ticker symbols.[28] Unlike one-character symbols, three-character symbols are not associated by investors with any one market. The Commission also notes that the transfer of securities listings with three-character ticker symbols typically occur among other exchanges without any discernable confusion or disruption to the marketplace.[29]

Another commenter asserted that three-character symbols are exclusive indicators of securities trading on NYSE's and Amex's specialist-based markets, and that it would cause confusion if such symbols were used on Nasdaq's dealer market.[30] However, as the Commission noted above, exchanges other than NYSE and Amex may list securities with three-character symbols.[31]

C. National Market System Plan Process

Some of the commenters have expressed concern that the proposed rule change would disrupt or circumvent ongoing efforts by the SROs to develop a national market system plan.[32] The Commission recently received two proposed national market system plans for the selection and reservation of ticker symbols submitted by two separate groups of SROs.[33] The Commission is currently considering these plans and intends to publish the proposed plans for public comment.[34] The Commission believes that its approval of the proposed rule change is independent of its consideration of these plans. The Commission under Rule 608(b)(2) may declare effective any national market system plan or plans for the selection and reservation of ticker symbols that is consistent with the requirements of the Act. Participants in any such plan would be required to comply with its requirements, which could necessitate changes to SRO rules.[35]

D. Symbol Shortage

Two commenters argued that the proposal could create a shortage of available three-character ticker symbols.[36] Nasdaq's proposal, however, would only permit it to list securities with three-character ticker symbols when such issuer transfers its listing from another exchange; the proposal would not permit Nasdaq to list new securities with three-character ticker symbols. The Commission, therefore, does not believe Nasdaq's proposal would have a negative impact on the availability of three-character ticker symbols.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–NASDAQ–2007–031) be, and hereby is, approved.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13578 Filed 7–12–07; 8:45 am]

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[27] With the exception of the transfer of the DFC listing, Nasdaq currently only lists securities of companies using four- or five-character symbols. *See supra* note 7 and accompanying text.

[28] For example, as noted in the Angel Letter, the NAIC Growth Fund lists on the Chicago Stock Exchange, Inc. with the ticker symbol ''GRF''.

[29] Nasdaq has also represented that its recent listing of DFC occurred without any trading problems. The Amex Letter tacitly agreed with this view, but argued that the lack of trading problems associated with DFC is not the best proxy for other companies that may transfer their listings to Nasdaq because it believed that DFC is a microcap company. The Nasdaq Response Letter, however, disputed this argument and the Amex Letter's labeling of DFC as a ''microcap company,'' citing the fact that DFC has a market capitalization of over $230 million, a figure that it contends is nearly triple the $67 million market capitalization of the median Amex issuer.

[30] *See* Amex Letter.

[31] For example, NYSE Arca lists three-character symbols. *See also* supra note 27.

[32] *See* Ward Letter, NYSE Letter, Amex Letter, and RPM Letter.

[33] *See* Proposed NMS Plan for the Selection and Reservation of Securities Symbols by the Chicago Stock Exchange, Inc., Nasdaq, National Association of Securities Dealers, Inc., National Stock Exchange, Inc. and Philadelphia Stock Exchange, Inc. (available at *http://www.sec.gov/rules/sro/4–533revised.pdf*) and Proposed NMS Plan for the Selection and Reservation of Securities Symbols by Amex, NYSE and NYSE Arca (available at *http://www.sec.gov/rules/sro/4–534.pdf*).

[34] *See* Press Release, Commission, SEC Announces Process for Proposals on Securities 'Ticker' Symbols (April 5, 2007) (available at *http://www.sec.gov/news/press/2007/2007–63.htm*).

[35] *See* 15 U.S.C. 78k–1(a)(3) and 17 CFR 242.608(b) and (c). The NYSE Letter referenced a ''Symbol Reservation Plan,'' which it stated has operated to allocate and reserve symbols for over 30 years. The Commission notes, however, that no such plan has been approved by the Commission.

[36] *See* NYSE Letter and Amex Letter.

[37] 15 U.S.C. 78s(b)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56029; File No. SR–NASD–2007–038]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Customer and the Industry Codes of Arbitration Procedure To Clarify NASD's Jurisdiction Concerning Members of Other Self-Regulatory Organizations

July 9, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2007 the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution'') 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 NASD Dispute Resolution. NASD has designated the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization under Section 19(b)(3)(A)(i) of the Act [3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by 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

NASD Dispute Resolution is proposing to amend NASD Rules 12100 and 13100 of the NASD Codes of Arbitration Procedure for Customer Disputes (''Customer Code'') and for Industry Disputes (''Industry Code'') (together, the ''Codes'') to clarify that, for purposes of the Codes, the term ''member'' includes any broker or dealer admitted to membership in a self-regulatory organization that, with NASD consent, has required its members to arbitrate pursuant to the Codes and/or to be treated as members of NASD for purposes of the Codes. Below is the text

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

of the proposed rule change. Proposed new language is in italics.

* * * * *

Customer Code

12100. Definitions

Unless otherwise defined in the Code, terms used in the Code and interpretive material, if defined in the NASD By-Laws, shall have the meaning as defined in the NASD By-Laws.

Paragraphs (a) through (n) unchanged.

(o) Member

For purposes of the Code, the term ''member'' means any broker or dealer admitted to membership in NASD, whether or not the membership has been terminated or cancelled*; and any broker or dealer admitted to membership in a self-regulatory organization that, with NASD consent, has required its members to arbitrate pursuant to the Code and/or to be treated as members of NASD for purposes of the Code, whether or not the membership has been terminated or cancelled*.

Remainder unchanged.

* * * * *

Industry Code

13100. Definitions

Unless otherwise defined in the Code, terms used in the Code and interpretive material, if defined in the NASD By-Laws, shall have the meaning as defined in the NASD By-Laws.

Paragraphs (a) through (n) unchanged.

(o) Member

For purposes of the Code, the term ''member'' means any broker or dealer admitted to membership in NASD, whether or not the membership has been terminated or cancelled*; and any broker or dealer admitted to membership in a self-regulatory organization that, with NASD consent, has required its members to arbitrate pursuant to the Code and/or to be treated as members of NASD for purposes of the Code, whether or not the membership has been terminated or cancelled*.

Remainder unchanged.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD 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

NASD is amending Rule 12100(o) of its Customer Code and Rule 13100(o) of its Industry Code to clarify that, for purposes of the Codes, the term ''member'' includes any broker or dealer admitted to membership in a self-regulatory organization that, with NASD consent, has required its members to arbitrate pursuant to the Codes and/or to be treated as members of NASD for purposes of the Codes. Such members would, like NASD members, be treated as members whether or not their membership has been terminated or cancelled.

The proposed rule change will codify current practice under which NASD has assumed, by agreement, the arbitration and mediation functions of several self-regulatory organizations that closed their dispute resolution forums.[5]

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[6] which requires, among other things, that NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change is consistent with the provisions of the Act noted above because it will make explicit NASD's jurisdiction with respect to members of other self-regulatory organizations that, with NASD consent, have required their members to arbitrate pursuant to the Codes and/or to be treated as members of NASD for purposes of the Codes. The proposed rule change also will clarify that one set of arbitration rules and administration procedures will apply to these other self-regulatory organizations.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received by NASD.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (f)(1) of Rule 19b–4 thereunder, because it constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[5] The Codes apply not only to NASD members and their associated persons, but also to members and associated persons of the Municipal Securities Rulemaking Board (''MSRB''), the Philadelphia Stock Exchange (''Phlx''), the American Stock Exchange (''Amex''), International Securities Exchange (''ISE''), and The Nasdaq Stock Market LLC (''Nasdaq''), pursuant to agreements under which members of those self-regulatory organizations for which the NASD administers the arbitration process will be treated as ''members'' of the NASD for purposes of the Codes. *See* Securities Exchange Act Release No. 39378 (Dec. 1, 1997), 62 FR 64417 (Dec. 5, 1997) (SR–MSRB–97–4) (MSRB approval order); Securities Exchange Act Release No. 40517 (Oct. 1, 1998), 63 FR 54177 (Oct. 8, 1998) (SR–Phlx–98–28) (Phlx approval order); Securities Exchange Act Release No. 40622 (Oct. 30, 1998), 63 FR 59819 (Nov. 5, 1998) (SR–Amex–98–32) (Amex approval order); Securities Exchange Act Release 45094 (Nov. 21, 2001), 66 FR 60230 (Dec. 3, 2001) (File No. SR–ISE–00–17) (ISE approval order); and Securities Exchange Act Release No. 53128 (Jan. 13, 2006), 71 FR 3550 (Jan. 23, 2006) (File No. 10–131) (Nasdaq approval order). *See also* Securities Exchange Act Release No. 55818 (May 25, 2007), 72 FR 30898 (June 4, 2007) (SR–NYSE–2007–048) (the New York Stock Exchange LLC's proposed rule change to provide guidance regarding new and pending arbitrations in light of the consolidation of NYSE Regulation's arbitration department with that of NASD DisputeResolution.).

[6] 15 U.S.C. 78o–3(b)(6).

[7] 17 CFR 240.19b–4(f)(1).

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–NASD–2007–038 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–NASD–2007–038. 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 NASD. 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–NASD–2007–038 and should be submitted on or before August 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13599 Filed 7–12–07; 8:45 am]

BILLING CODE 8010–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56024; File No. SR–NYSE–2007–61]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Rule 97, Limitation on Members' Trading Because of Block Positioning

July 6, 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 July 6, 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 substantially prepared by the Exchange. The Exchange has designated the proposed rule change as a ''non-controversial'' rule change pursuant to section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 97 to permit members or member organizations that hold long positions as a result of block transactions with customers to send proprietary buy intermarket sweep orders (''ISOs'') in the course of facilitating another customer's buy or sell order. The text of the proposed rule change is available on the NYSE's Web site (*http://www.nyse.com*), at the NYSE, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend NYSE Rule 97 in order to permit member organizations that hold long positions as a result of a block transaction with a customer to execute proprietary ISOs on a plus tick during the last 20 minutes of the trading day if they are required under Regulation NMS[5] to send a buy ISO in the course of facilitating another customer's buy or sell order during that time period.

NYSE Rule 97 governs block facilitation transactions by NYSE member organizations on behalf of customers. The rule states that if, as a result of facilitating one or more customer sell order(s) in a stock during the trading day, a member organization ends up holding a long position in the stock in a proprietary account, then during the last 20 minutes of trading, the member organization is prohibited from buying such stock as principal on a ''plus tick'' if the transaction would take place at a price above the lowest price at which it acquired the long position. The Exchange states that the underlying purpose of Rule 97 was to address concerns that a member firm might engage in manipulative practices by attempting to ''mark-up'' the price of a stock to enable the position acquired in the course of block positioning to be liquidated at a profit, or to maintain the market at the price at which the position was acquired.

Under Regulation NMS, member organizations may not trade through a protected quotation in another market, but may satisfy their obligation to the protected order by sending ISOs to the protected market at the same time that they send orders to the inferior-priced market. Depending on the size of the block that is being facilitated and the size of the protected quotes, block customers may—pursuant to Rules 600(b)(30)(ii) and 611(b)(6) of Regulation NMS[6]—decline to take and process better priced executions that result from the sending of the ISO orders. This may occur, for example, where the ISO amounts are de minimis in relation to the size of the block being facilitated. In those situations, the firm would be required—based on the customer's instructions—to print 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] 17 CFR 242.600 *et seq.*

[6] 17 CFR 242.600(b)(30)(ii) and 17 CFR 242.611(b)(6).

block at the inferior price and send the ISOs, which would be marked and booked as principal (rather than as agent).

The aforementioned may result in a conflict between NYSE Rule 97 and Regulation NMS. That is, if, during the last 20 minutes of trading, a member organization facilitates a customer order that trades through protected bids or offers, and in compliance with Rules 600(b)(30)(ii) and 611(b)(6) of Regulation NMS, the member firm simultaneously routes proprietary ISOs to execute against the full displayed size of any protected quotation in that security (''ISO facilitation''), the ISO facilitation could violate Rule 97 if the ISO orders would trade on a plus tick at a price above the lowest facilitation price. In essence, the implementation of Regulation NMS requires firms to choose between violating Regulation NMS or violating Rule 97.

To resolve this potential conflict, the Exchange proposes adding an exemption to Rule 97 so that when facilitating a customer order that would otherwise require the firm to either violate Rule 97 or trade through protected quotations, member organizations can comply with their Regulation NMS obligations without also violating Rule 97.[7] This exemption would be available only when: (1) The firm has acquired a proprietary position as a result of a previous block facilitation for a customer; (2) the facilitation trade during the last 20 minutes of trading would cause the firm to trade through a better priced offer on another market, such that the firm is obligated by Rule 611 of Regulation NMS to send proprietary ISOs when it facilitates the customer's order; (3) the customer has declined better-priced ISO executions; and (4) the better-priced offers in away markets are such that NYSE Rule 97 would prohibit the firm from sending a proprietary buy order. In such cases, the firm would be permitted to send the proprietary buy ISOs, provided that the ISOs were limited in quantity to the aggregate size of better priced protected quotations in other markets. For purposes of this amendment, the Exchange further proposes adopting the definitions of Regulation NMS in connection with the terms ''protected quotation'' and ''intermarket sweep order.'' [8] The Exchange notes that the firm would still be subject to the anti-manipulation provisions of the NYSE and Commission rules and regulations.

The Exchange believes that the exemption is appropriate in view of the pending compliance date for Regulation NMS and the fact that a firm's intention in these situations is not to manipulate the market or to mark up its long position, but rather to facilitate a legitimate customer order. Under these circumstances, the Exchange believes that the amendment is in the public interest, since it would facilitate Regulation NMS compliance.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [9] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The rule proposal was developed in response to concerns expressed by certain member organizations and the Securities Industry and Financial Markets Association (''SIFMA''), an industry organization that represents the interests of more than 650 securities firms, banks and asset managers. During the drafting of the rule filing and proposed rule, SIFMA, on behalf of its members, submitted materials for the NYSE's consideration in connection with the relief requested. The Exchange has incorporated these comments into the final rule proposal, but the Exchange has neither solicited nor received written comments on the final proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [12] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would facilitate member compliance with their respective intermarket sweep order routing obligations under Rule 611 of Regulation NMS.[14] For these reasons, the Commission designates that the proposed rule change become operative immediately.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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

[7] A similar issue arises under NYSE Rule 92, which can also conflict with Regulation NMS Rule 611. *See* Securities Exchange Act Release No. 56017 (July 5, 2007) (SR–NYSE–2007–21).

[8] *See* 17 CFR 242.600(b)(58) and (30).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). Pursuant to Rule 19b–4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied the five-day pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] 17 CFR 242.611(b)(6).

[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).

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–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–NYSE–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, 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–2007–61 and should be submitted on or before August 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13593 Filed 7–12–07; 8:45 am]

BILLING CODE 8010–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56030; File No. SR–Phlx–2007–42]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Quarterly Options Series Pilot Program

July 9, 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 27, 2007, the Philadelphia Stock Exchange, Inc. (''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rules 1012 (Series of Options Open for Trading) and 1101A (Terms of Option Contracts) in order to extend for a period of about one year an Exchange pilot program (the ''Phlx Pilot'') to permit the listing and trading of options series that may be opened for trading on any business day and that expire at the close of business on the last business day of a calendar quarter (''Quarterly Options'' or ''Quarterly Options Series''). The Phlx Pilot continues through July 24, 2007.[5]

The text of the proposed rule change is available at the Exchange, at the Commission's Public Reference Room, and at the Exchange's Web site at *http://www.Phlx.com/exchange/phlx-rule-fil.html.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 55301 (February 15, 2007), 72 FR 8238 (February 23, 2007) (File No. SR–Phlx–2007–08) (''Pilot Program Release''). The American Stock Exchange LLC, Chicago Board Options Exchange, the International Stock Exchange, Inc., and NYSE Arca, Inc. (f/k/a the Pacific Stock Exchange, Inc.) have similar Quarterly Options pilot programs that likewise continue through July 2007.

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

In February 2007, the Exchange filed a proposed rule change for immediate effectiveness that allows the listing and trading of Quarterly Options on the Exchange under the Phlx Pilot.[6] The Exchange now proposes to extend the Phlx Pilot for a period of about one year so that the Exchange can continue to list and trade Quarterly Options, within the parameters specified in its Rules 1012 and 1101A, through July 10, 2008. The terms of the Phlx Pilot will remain unchanged.

In the Pilot Program Release, the Commission indicated that if the Exchange seeks extension, expansion, or permanent approval of the Phlx Pilot, it must submit a Phlx Pilot Report (the ''Report'').[7] In connection with this proposed rule change, the Exchange has submitted a Report covering the period February 21, 2007, through April 30, 2007. The Report reviews the Exchange's experience with the Phlx Pilot and clearly supports the Exchange's belief that extension of the Phlx Pilot is proper. Among other

[6] *See id.*

[7] *See* Pilot Program Release, *supra* note 5. The Pilot Program Release indicates that the Report must include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Option Series were opened; (2) an assessment of the appropriateness of the options classes selected for the Phlx Pilot; (3) an assessment of the impact of the Phlx Pilot on the capacity of the Exchange, OPRA, and on market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Phlx Pilot and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Phlx Pilot and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Phlx Pilot.

things, the Report shows the strength and efficacy of the Phlx Pilot on the Exchange as reflected by the strong volume of Quarterly Options traded on Phlx since the pilot's inception in February 2007. The Report establishes that the Phlx Pilot has not created, and in the future should not create, capacity problems for the Exchange or the OPRA (Options Price Reporting Authority) system. Moreover, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of Quarterly Options Series.

The Exchange believes that extending the Phlx Pilot would continue to provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts.

2. Statutory Basis

The Exchange believes that the proposed rule change is 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 promote just and equitable principles of trade, to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposal would achieve this by allowing continued listing of Quarterly Options, thereby stimulating customer interest in such options and creating greater trading opportunities and flexibility and providing customers with the ability to more closely tailor their investment strategies.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11] The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become effective prior to the 30th day after filing.[12]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption.[13] Therefore, the Commission designates the proposal operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the 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.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days before doing so.

[13] 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. *See* 15 U.S.C. 78c(f).

[14] As set forth in the Commission's original release providing notice of the Pilot Program, if the Exchange were to propose an extension, an expansion, or permanent approval of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the program, a report that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The report would include, at a minimum, the information set forth in note 7, *supra*. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program. *See* Pilot Program Release, *supra* note 5.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Phlx–2007–42 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–Phlx–2007–42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2007–42 and should be submitted on or before August 3, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13600 Filed 7–12–07; 8:45 am]

BILLING CODE 8010–01–P

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10921 and # 10922]

California Disaster # CA–00056

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of CALIFORNIA dated 07/05/2007.

Incident: Angora Fire.

Incident Period: 06/24/2007 and Continuing.

Effective Date: 07/05/2007.

Physical Loan Application Deadline Date: 09/04/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 04/07/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

El Dorado.

Contiguous Counties:

California: Alpine, Amador, Placer, Sacramento.

Nevada: Douglas.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere:	5.750.
Homeowners Without Credit Available Elsewhere:	2.875.
Businesses With Credit Available Elsewhere:	8.000.
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere:	4.000.
Other (Including Non-Profit Organizations) With Credit Available Elsewhere:	5.250.
Businesses And Non-Profit Organizations Without Credit Available Elsewhere:	4.000.

The number assigned to this disaster for physical damage is 109215 and for economic injury is 109220. The States which received an EIDL Declaration # are California, Nevada.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: July 5, 2007.

Steven Preston,

Administrator.

[FR Doc. E7–13674 Filed 7–12–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10866 and #10867]

Kansas Disaster Number KS–00018

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 8.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1699–DR), dated 05/06/2007.

Incident: Severe storms, tornadoes, and flooding.

Incident Period: 05/04/2007 through 05/18/2007.

Effective Date: 06/30/2007.

Physical Loan Application Deadline Date: 08/06/2007.

EIDL Loan Application Deadline Date: 02/06/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of KANSAS, dated 05/06/2007 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 08/06/2007.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–13647 Filed 7–12–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10923 and #10924]

Kansas Disaster #KS–00022

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1711–DR), dated 07/05/2007.

Incident: Severe Storms and Flooding.

Incident Period: 06/26/2007 and continuing.

Effective Date: 07/05/2007.

Physical Loan Application Deadline Date: 09/04/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 04/07/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/05/2007, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Elk, Miami, Montgomery, Neosho, and Wilson.

Contiguous Counties (Economic Injury Loans Only):

Kansas: Allen, Anderson, Bourbon, Butler, Chautauqua, Cowley, Crawford, Douglas, Franklin, Greenwood, Johnson, Labette, Linn, and Woodson.

Missouri: Bates, and Cass.

Oklahoma: Nowata, and Washington.

The Interest Rates Are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250

	Percent
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 109236 and for economic injury is 109240.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–13668 Filed 7–12–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10926]

Kansas Disaster #KS–00021

AGENCY: U.S. Small Business Administration.

ACTION: Notice

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of KANSAS (FEMA–1711–DR), dated 07/02/2007.

Incident: Severe Storms and Flooding.

Incident Period: 06/26/2007 and Continuing.

Effective Date: 07/02/2007.

Physical Loan Application Deadline Date: 08/31/2007.

ADDRESSES: Submit Completed Loan Applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/02/2007, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Elk, Franklin, Linn, Miami, Montgomery, Neosho, Osage, Wilson, Woodson.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere:	5.250.
Businesses and Non-Profit Organizations Without Credit Available Elsewhere:	4.000.

The Number Assigned to this Disaster for Physical Damage is 10926.

(Catalog Of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–13671 Filed 7–12–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10893]

Nebraska Disaster Number NE–00013

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA–1706–DR), dated 06/06/2007.

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 05/04/2007 through 05/19/2007.

Effective Date: 07/06/2007.

Physical Loan Application Deadline Date: 08/06/2007.

ADDRESSES: Submit completed loan applications to:U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of NEBRASKA, dated 06/06/2007, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Thomas.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–13666 Filed 7–12–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10925]

New York Disaster #NY–00046

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New York (FEMA–1710–DR), dated 07/02/2007.

Incident: Severe Storms and Flooding.

Incident Period: 06/19/2007.

Effective Date: 07/02/2007.

Physical Loan Application Deadline Date: 08/31/2007.

ADDRESSES: Submit Completed Loan Applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/02/2007, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Delaware, Sullivan.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10925.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–13673 Filed 7–12–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #10927 and #10928]

Oklahoma Disaster #OK–00012

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA–1712–DR), dated 07/07/2007.

Incident: Severe Storms, Flooding, and Tornadoes.

Incident Period: 06/10/2007 and continuing.

Effective Date: 07/07/2007.

Physical Loan Application Deadline Date: 09/05/2007.

Economic Injury (EIDL) Loan Application Deadline Date: 04/07/2008.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road,Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/07/2007, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):
Ottawa, and Washington.

Contiguous Counties (Economic Injury Loans Only):
Oklahoma: Craig, Delaware, Nowata, Osage, Rogers, and Tulsa.
Kansas: Chautauqua, Cherokee, and Montgomery.
Missouri: McDonald, and Newton.

The Interest Rates Are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 109276 and for economic injury is 109280.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–13669 Filed 7–12–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IV North Florida District Advisory Council Public Meeting

Pursuant to the Federal Advisory Committee Act, Appendix 2 of Title 5, United States Code, Public Law 92–463, notice is hereby given that the U.S. Small Business Administration (SBA) North Florida District Advisory Council will host a pubic meeting on Thursday, July 26, 2007 at 12 p.m. EST. The meeting will be held at the Banco Popular located at 2 South Orange Avenue, 6th Floor, Orlando, FL 32801.

The purpose of the meeting is to discuss the status for FY 2007 SBA loan reports and goals, and will include a presentation (speaker TBD) as well as matters of the SBA. Anyone wishing to make an oral presentation to the Board must contact Wilfredo J. Gonzalez, District Director, in writing by letter or fax no later than Thursday, July 19, 2007, in order to be placed on the agenda. Wilfredo J. Gonzalez, District Director,U.S. Small Business Administration, 7825 Baymeadows Way; Suite 100B, Jacksonville, FL 32256, (904) 443–1900 or FAX (904) 443–1980.

Matthew Teague,

Committee Management Officer.

[FR Doc. E7–13648 Filed 7–12–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Delegation of Authority 303]

Delegation by Henrietta Fore to Richard Greene of Foreign Assistance Authorities Normally Vested in the Director of Foreign Assistance

By virtue of the authority vested in the Secretary of State, including Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), and delegated to me by the Secretary of State in Delegation of Authority 301 and Delegation of Authority 293–1, I hereby delegate to Richard Greene, Acting Deputy Director of U.S. Foreign Assistance, to the extent authorized by law, all authorities and functions vested in me in Delegation of Authority 293–1, as well as all authorities and functions vested in me in future iterations of that delegation.

This delegation of authority shall expire upon the designation of an individual to serve as the Director of Foreign Assistance.

Notwithstanding this delegation of authority, I may exercise any function or authority delegated by this Delegation.

This delegation of authority shall be published in the **Federal Register**.

Dated: June 27, 2007.

Henrietta H. Fore,

Acting Director of Foreign Assistance, Department of State.

[FR Doc. E7–13658 Filed 7–12–07; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for waiver of Aeronautical Land-Use Assurance; Evansville Regional Airport, Evansville, IN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the lease of the airport property. The 97.10-acre parcel is located in the northeast quadrant of the airport. Currently, the land is not being used for aeronautical purposes. The land was acquired under FAA FAAP Project Nos. 9–12–023–C309 and FAAP 9–12–023–C510. There are no adverse impacts to the airport by allowing the airport to lease the property; and the associated fair market

rental income will significantly increase the airport's available operational budget. Approval does not constitute a commitment by the FAA to financially assist in the lease of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the lease of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before August 13, 2007.

ADDRESSES: Written comments on the Sponsor's request must be delivered or mailed to: Sandra A. Lyman, Airports Engineer, 2300 East Devon, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Sandra A. Lyman, Airports Engineer, 2300 East Devon, Des Plaines, Illinois 60018. Telephone Number (847) 294–7525, FAX Number (847) 294–7046. Documents reflecting this FAA action may be reviewed at this same location or at Evansville Regional Airport, Evansville, Indiana.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Evansville, Vanderburgh County, Indiana, and described as follows:

Part of Section 34, Township 6 South, Range 10 West, Vanderburgh County, Indiana, described as follows:

Commencing at the southeast corner of said Section 34; thence North 01 degree 11 minutes 26 seconds East 2139.92 feet along the East line of said Section; thence parallel with the South line of the Southeast Quarter of said Section, North 88 degrees 39 minutes 44 seconds West 1548.55 feet to the Point of Beginning; thence South 05 degrees 08 minutes 47 seconds West 373.72 feet; thence southerly 363.64 feet along an arc to the right and having a radius of 1415.11 feet and subtended by a long chord having a bearing of South 12 degrees 43 minutes 01 seconds West and a length of 362.64 feet; thence southwesterly 1209.36 feet along an arc to the right having a radius of 1258.00 feet and subtended by a long chord having a bearing of South 44 degrees 20 minutes 55 seconds West and a length of 1163.32 feet; thence South 83 degrees 59 minutes 51 seconds West 164.75 feet; thence westerly 195.17 feet along an arc to the right having a radius of 735.92 feet and subtended by a long chord having a bearing of South 85 degrees 34 minutes 56 seconds West and a length of 194.60 feet; thence North 89 degrees 35 minutes 37 seconds West 26.71 feet; thence South 89 degrees 37 minutes 03 seconds West 331.65 feet; thence South 86 degrees 11 minutes 09 seconds West 61.41 feet; thence South 90 degrees 00 minutes 00 seconds West 263.76 feet; thence South 88 degrees 21 minutes 05 seconds West 226.14 feet; thence easterly and northeasterly 39.71 feet along a non-tangent arc to the left having a radius of 32.00 feet and subtended by a long chord having a bearing of North 49 degrees 46 minutes 49 seconds East and a length of 37.21 feet; thence North 11 degrees 33 minutes 06 seconds East 228.77 feet; thence North 17 degrees 22 minutes 34 seconds East 100.72 feet; thence North 10 degrees 32 minutes 00 seconds East 108.51 feet; thence northerly and northeasterly 285.63 feet along an arc to the right having a radius of 524.54 feet and subtended by a long chord having a bearing of North 26 degrees 29 minutes 04 seconds East and a length of 282.11 feet; thence North 38 degrees 21 minutes 06 seconds East 9.70 feet; thence South 85 degrees 44 minutes 50 seconds West 695.25 feet; thence North 01 degrees 30 minutes 26 seconds East 103.96 feet; thence North 38 degrees 21 minutes 19 seconds East 1741.56 feet; thence South 51 degrees 38 minutes 54 seconds East 357.14 feet; thence North 38 degrees 21 minutes 06 seconds East 1064.81 feet; thence South 51 degrees 38 minutes 54 seconds East 154.09 feet; thence South 04 degrees 13 minutes 04 seconds East 388.74 feet; thence North 86 degrees 33 minutes 33 seconds East 173.86 feet; thence South 04 degrees 19 minutes 52 seconds East 16.94 feet; thence southerly 174.71 feet along an arc to the left having a radius of 349.60 feet and subtended by a long chord having a bearing of South 18 degrees 38 minutes 53 seconds East and a length of 172.90 feet; thence South 31 degrees 27 minutes 19 seconds East 344.16 feet; thence southeasterly and southerly 201.70 feet along an arc to the right having a radius of 330.00 feet and subtended by a long chord having a bearing of South 13 degrees 56 minutes 42 seconds East and a length of 198.58 feet to the point of beginning, and containing 97.10 acres, more or less.

Issued in Des Plaines, Illinois on June 29, 2007.

Jack Delaney,

Acting Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 07–3405 Filed 7–12–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Noise Compatibility Program Notice; Laredo International Airport; Laredo, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the City of Laredo under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On September 22, 2005, the FAA determined that the noise exposure maps submitted by the City of Laredo under Part 150 were in compliance with applicable requirements. On June 22, 2007, the FAA approved the Laredo International Airport noise compatibility program. Most of the recommendations of the program were approved. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operator.

DATES: Effective Date: The effective date of the FAA's approval of the Laredo International Airport noise compatibility program is June 22, 2007.

FOR FURTHER INFORMATION CONTACT: (Mr. Paul E. Blackford, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193–0650, (817) 222–5607.) Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Laredo International Airport, effective June 22, 2007.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible

land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in:

Part 150 and the act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA regional office in For Worth, Texas.

The City of Laredo submitted to the FAA on February 28, 2007, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from October 27, 2004, through December 18, 2006. The Laredo International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 22, 2005. Notice of this determination was published in the **Federal Register** on September 30, 2005.

The Laredo International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from January 4, 2007 beyond the year 2010. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 47504 of the Act. The FAA began its review of the program on February 28, 2007, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained seven proposed actions for noise mitigation off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the FAA effective June 22, 2007.

Outright approval was granted for five of the specific program elements. One element was disapproved and one element was approved in part. The disapproved Element proposed to offer fee simple acquisition, or the purchase of an avigation easement from owners of vacant land in the squared off 65 DNL contour.

Vacant land is considered a compatible land use and the City of Laredo has adequate controls in place to prevent noncompatible land use development. The disapprove in part element proposed to replace the noise contours in city Ordinance No. 94–0–012 with worst-case scenario contours developed by the City. Replacement of the contours included in the City Ordinance with the contours shown in the *2010 Future Condition Noise Exposure Map With Program Implementation* was approved. Replacement of Ordinance Contours with the worst-case scenario contours was disapproved for purposes of Part 150. Three elements proposed fee simple acquisition, sound insulation, or purchase of an avigation easement in separate geographical areas around the airport. The three measures were approved. One of the remaining two elements proposed coordination with the Texas Real Estate Commission to gain approval of a modification to the Seller's Disclosure form. The revision would require depiction of the property location within the boundaries of the Noise Exposure Map. The remaining element proposed an update to the Noise Exposure Maps and Noise Compatibility Program should noise levels significantly increase or decrease. Both elements were approved.

These determinations are set forth-in detail in a Record of Approval signed by the Southwest Region, Airports Division Manager on June 22, 2007. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Laredo International Airport. The Record of Approval also will be available on-line at *http://www.faa.gov/arp/environmental/14cfr150/index14.cfm.*

Issued in Fort Worth, Texas, July 3, 2007.

Kelvin L. Solco,

Manager, Airports Division.

[FR Doc. 07–3407 Filed 7–12–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Compatibility Program Notice; Shreveport Regional Airport, Shreveport, LA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Shreveport Regional Airport Authority under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On January 12, 2007 the

FAA determined that the noise exposure maps submitted by the Shreveport Regional Airport under Part 150 were in compliance with applicable requirements. On May 24, 2007, the FAA approved the Shreveport Regional Airport noise compatibility program. Four of the six recommendations of the program were approved in full, one was approved in part, and one was disapproved.

DATES: *Effective dates:* The effective date of the FAA's approval of the Shreveport Regional Airport noise compatibility program is May 24, 2007.

FOR FURTHER INFORMATION CONTACT: Tim Tandy, Federal Aviation Administration, ASW–640, Fort Worth, TX 76193–0640 at (817) 222–5644. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Shreveport Regional Airport, effective May 24, 2007.

Under section 47504 of the Act, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproved of FAR Part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA regional office in Fort Worth, Texas.

The Shreveport Regional Airport Authority submitted to the FAA on December 7, 2006 the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from 2004 through 2006. The Shreveport Regional Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on January 12, 2007. Notice of this determination was published in the **Federal Register** on January 22, 2007.

The Shreveport Regional Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from 2007 to beyond the year 2012. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 47504 of the Act. The FAA began its review of the program on January 12, 2007 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained six proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the FAA effective May 24, 2007.

Outright approval was granted for four of the specific program elements. Program Recommendation 1, designating a nose heading for all aircraft undergoing engine run-up exercises at the Continental Airlines Maintenance facility was disapproved, since the analysis neither identifies significant noise impacts associated with engine run-ups nor indicates that the proposed action would appreciably affect the Yearly Day/Night Average Sound (DNL) 65 and greater noise contours. Program Recommendation 3, involving acquisition of non-compatible properties and vacant lots located east of the airport was approved in part. Acquisition of vacant lots north of Hollywood Avenue not directly associated with residential properties to be purchased under this NCP was disapproved pending further documentation justifying their acquisition for improved marketability purposes or prevention of imminent noncompatible development. The following program recommendations were approved in full: Program Recommendation 2, involving soundproofing and/or sales assistance for noncompatible properties located north of the airport; Program Recommendation 4, involving soundproofing and/or sales assistance for noncompatible properties located south of the airport; Program Recommendation 5, involving fee simple acquisition of 22 noncompatible properties, and soundproofing and sales assistance for other noncompatible properties located south of the airport; and Program Recommendation 6, involving hiring a consultant to conduct and oversee the continued implementation of the non-expenditure land use management measures of the 1992 NCP, which form the basis for the current NCP update.

These determinations are set forth in detail in a Record of Approval signed by the FAA Southwest Region Airports Division Manager on May 24, 2007. The Record of Approval, as well as other

evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Shreveport Regional Airport Authority. The Record of Approval also will be available on-line at *http://www.faa.gov/arp/environmental/14cfr150/index14.cfm.*

Issued in fort Worth, Texas, July 3, 2007.

Kelvin L. Solco,

Manager, Airports Division.

[FR Doc. 07–3406 Filed 7–12–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21022] [1]

Callen Hotard—Acquisition—Hotard Coaches, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: Callen Hotard (Applicant), a noncarrier individual, who is owner and president of Calco Travel, Inc. (Calco) (MC–161117), a motor passenger carrier, has filed an application under 49 U.S.C. 14303 to acquire control of Hotard Coaches, Inc. (Coaches) (MC–143881), a motor passenger carrier, from Greyhound Lines, Inc. (Greyhound) (a regulated passenger carrier). Greyhound is a subsidiary of Laidlaw Transportation Holdings, Inc. (LTHI) (a noncarrier). Applicant proposes to acquire control via a stock purchase by Hotard Travel, Inc. (Hotard Travel) (a noncarrier), a corporation formed by Applicant and Szeszycki Hospitality, L.L.C. (Szeszycki) (a noncarrier).[2] Coaches would continue to hold its Federal Motor Carrier Safety Administration motor passenger carrier operating license. Persons wishing to oppose this application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by August 27, 2007. Applicant may file a reply by September 11, 2007. If no comments are filed by August 27, 2007, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–21022 to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, send one copy of comments to Applicant's representative: Kenneth Siegel, Strasburger & Price, LLP, 1800 K Street, NW., Suite 301, Washington, DC 20006–2225.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 245–0359. [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Applicant is owner and president of Calco, a subchapter S corporation incorporated under the laws of the State of Louisiana. Calco operates as a charter bus company providing both local and nationwide charter bus service. Hotard Travel is a Louisiana corporation formed by Applicant and Szeszycki for the purposes of completing this stock purchase transaction. Coaches is a Mississippi corporation that provides charter service in Mississippi and Louisiana. LTHI owns ten federally registered motor passenger carrier subsidiaries, including Greyhound and Coaches.[3] Applicant states that Greyhound and its affiliates had gross revenues exceeding $2 million in during the 12-month period preceding the date of this application.

The parties finalized a stock purchase agreement on June 7, 2007. The shares of Coaches will be transferred to an independent voting trust pending final Board approval to avoid unauthorized control. The Board's Secretary provided the parties an informal, non-binding, opinion on the voting trust agreement in letters dated June 25, 2007, and July 6, 2007.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

Applicant has submitted information, as required by 49 CFR 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b). Applicant states that the proposed transaction will improve the adequacy of transportation services available to the public, that the proposed transaction will not have an adverse effect on total fixed charges, and that the interests of employees of Coaches will not be adversely impacted. Additional information, including a copy of the application, may be obtained from Applicant's representative.

On the basis of the application, we find that the proposed acquisition is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at: *http://www.stb.dot.gov*.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The motion to substitute Hotard Travel, Inc., in place of Callen Hotard as the named applicant in this proceeding is denied.

2. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

3. If timely opposing comments are filed, the findings made in this notice will be deemed as having been vacated.

4. This notice will be effective on August 27, 2007, unless timely opposing comments are filed.

5. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Dated: July 6, 2007.

[1] A request for interim approval under 49 U.S.C. 14303(i) was included in this filing (STB Docket No. MC–F–21022 TA). In a decision served on June 25, 2007, temporary approval was granted, effective on the service date of the decision.

[2] The verified application and request for interim approval was originally filed by Applicant. However, on June 26, 2007, Applicant filed a petition requesting that Hotard Travel, a Louisiana corporation formed by Applicant and Szeszycki (which does not require Board approval for this transaction because it will have minority control of Coaches), be permitted to substitute for Applicant as the purchasing party in this proceeding. Hotard Travel, as a noncarrier that does not control another carrier, does not require Board authority for this transaction. However, Applicant, who also controls Calco, requires Board approval to control Coaches (indirectly) through his control of Hotard Travel (by virtue of his majority interest in Hotard Travel). Accordingly, there is no need to substitute parties in this transaction. However, the notice reflects that the sale of Coaches' stock will be made to Hotard Travel, and not directly to Applicant.

[3] *See Laidlaw Inc.-Intra-Corporate Family Transaction Exemption*, STB Docket No. MC–F–20998 (STB served Feb. 21, 2003).

By the Board, Chairman Nottingham, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams,

Secretary.

[FR Doc. E7–13533 Filed 7–12–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21021]

FirstGroup plc—Acquisition—Cognisa Transportation, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: On June 13, 2007, FirstGroup plc (FirstGroup), a noncarrier in control of one or more motor carriers of passengers, filed an application under 49 U.S.C. 14303 to acquire Board authorization of its indirect purchase of the properties of Cognisa Transportation, Inc. (Cognisa). Persons wishing to oppose this application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by August 27, 2007. Applicant may file a reply by September 11, 2007. If no comments are filed by August 27, 2007, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–21021 to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, send one copy of comments to applicant's representative: Fritz R. Kahn, 1920 N Street, NW., 8th Floor, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Julia Farr (202) 245–0359 [Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339].

SUPPLEMENTARY INFORMATION: FirstGroup is a public limited company organized under the laws of Scotland, U.K. FirstGroup states that it has three North American operating divisions: (1) First Student, Inc., (2) First Transit, Inc., and (3) First Services, Inc. FirstGroup America, Inc., a wholly owned subsidiary of FirstGroup USA, Inc., controls First Student, Inc. and First Transit, Inc. (First Transit). First Services, Inc., a wholly owned subsidiary of FirstGroup USA, Inc., controls First Vehicle Services, Inc. and First Support Services, Inc.[1]

According to FirstGroup, First Transit (MC 576222) purchased the properties of Cognisa, effective January 1, 2007, without the advice of commerce counsel or the approval of the Board. The Board informed FirstGroup that it must file a complete application under 49 CFR 1182 seeking authorization for First Transit's acquisition of Cognisa.[2] We will consider the application here.

Cognisa (MC–548215) was a motor common carrier of passengers rendering special and charter operations, primarily in the airport, university, and corporate passenger shuttle market.

The gross operating revenues of FirstGroup and Cognisa exceed $2 million annually. Through the transaction, First Transit acquired the buses, assignable contracts, customer lists, and good will of Cognisa. All of these assets have been merged into First Transit. Cognisa remains a corporate entity but without transportation assets.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

FirstGroup has submitted information, as required by 49 CFR 1182.2, including the information to demonstrate that the transaction is consistent with public interest under 49 U.S.C. 14303(b). Applicant has shown that the transaction has had no adverse impact on the adequacy of transportation services available to the public, that the transaction has not had an adverse effect on the total fixed charges, and that the interests of employees of Cognisa were not adversely impacted. Additional information, including a copy of the application, may be obtained from the applicant's representative.

On the basis of the application, we find that the acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at: *http://www.stb.dot.gov.*

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this notice will be deemed as having been vacated.

3. This notice will be effective August 27, 2007, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Dated: July 5, 2007.

By the Board, Chairman Nottingham, Vice Chairman Buttrey, and Commissioner Mulvey.

Vernon A. Williams,

Secretary.

[FR Doc. E7–13540 Filed 7–12–07; 8:45 am]

BILLING CODE 4915–01–P

[1] FirstGroup's corporate organization chart is attached as Exhibit 1 to its application.

[2] *See FirstGroup plc—Acquisition—Laidlaw International, Inc.*, STB Docket No. MC–F–21020 (STB served Apr. 5, 2007).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35059]

The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc.

Pursuant to a written draft trackage rights agreement, CSX Transportation, Inc. (CSXT) has agreed to grant limited overhead trackage rights to The Indiana Rail Road Company (INRD) over CSXT's line of railroad known as the CE&D Subdivision, between CSXT's connection with INRD's trackage at approximately CSXT milepost OZA 181.70 at Belt Junction, Terre Haute, IN, and at approximately CSXT milepost 204.20 at Sullivan, IN, a distance of approximately 22.5 miles.[1]

[1] Pursuant to 49 CFR 1180.6(a)(7)(ii), INRD states that it will file the executed trackage rights agreement with the Board within 10 days of the date of its execution.

The transaction is scheduled to be consummated on July 29, 2007. The trackage rights are necessary, for economy and efficiency of operation, to permit CSXT and INRD to interchange at Terre Haute unit coal trains and empty hopper trains moving to and from Ameren Energy Generating Company at Lis, IL, on INRD's line of railroad west of Sullivan, using its own trains (locomotives or cars) with its own crews.[2]

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by July 20, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35059, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John Broadley, 1054 31st Street, NW., Suite 200, Washington, DC 20007.

Board decisions and notices are available on our Web site at: *http://www.stb.dot.gov.*

Dated: July 6, 2007.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–13524 Filed 7–12–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35058]

CSX Transportation, Inc.—Trackage Rights Exemption—The Indiana Rail Road Company

Pursuant to a written trackage rights agreement, The Indiana Rail Road Company (INRD) has agreed to grant limited overhead trackage rights to CSX Transportation, Inc. (CSXT), over a line of railroad known as INRD's Chicago Subdivision, between the connection of CSXT and INRD trackage at ConMil at approximate INRD milepost 175.5 and the connection of CSXT and INRD trackage at approximate INRD milepost 181.7, a distance of 6.2 miles, all in Terre Haute, Vigo County, IN.

This transaction is scheduled to be consummated on July 29, 2007, the effective date of the exemption (30 days after the exemption was filed).

This transaction is related to a concurrently filed notice of exemption in STB Finance Docket No. 35059, *The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc.,* wherein INRD seeks to acquire and operate over 22.5 miles of rail line over CSXT's CE&D Subdivision, between the connection of CSXT and INRD trackage at Belt Junction, Terre Haute, at approximate milepost OZA 181.70, and the connection of CSXT and INRD trackage at Sullivan, IN, at approximate milepost OZA 204.20.

The purpose of the trackage rights is to enable CSXT crews to operate trains in overhead movements between points on CSXT's CE&D Subdivision, south of Terre Haute, and points on CSXT's St. Louis Line Subdivision, west of Terre Haute, in order to improve traffic flow (including reduction of railroad and vehicular congestion) and further improve the safety of CSXT operations in and around Terre Haute.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by July 20, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35058, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Steven C. Armbrust, Esq., CSX Transportation, Inc., 500 Water Street, J–150, Jacksonville, FL 32202.

Board decisions and notices are available on our Web site at: *http://www.stb.dot.gov.*

Decided: July 5, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–13330 Filed 7–12–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35056]

John C. Nolan, Penn Eastern Rail Lines, Inc., and East Penn Railways, Inc.–Corporate Family Transaction Exemption

John C. Nolan, a noncarrier individual (Mr. Nolan), Penn Eastern Rail Lines, Inc. (PRL), and East Penn Railways, Inc. (EPRY), jointly have filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a transaction within a corporate family. Mr. Nolan currently controls PRL and EPRY, which are Class III rail carriers operating in Pennsylvania and Delaware.[1] As part of the proposed transaction, Mr. Nolan will merge PRL and EPRY into East Penn Railroad, LLC (EPLLC), which he also controls, with EPLLC being the surviving corporation.

The transaction is scheduled to be consummated on or shortly after July 27, 2007, the effective date of the exemption.

The purpose of the transaction is to simplify the corporate structure of Mr. Nolan's railroads and eliminate costs associated with separate accounting, tax, bookkeeping, and reporting functions.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for

[2] INRD states that it is contemplating rehabilitating its own line or railroad between Terre Haute and Sullivan within the next 5 years so that it can operate the Ameren trains entirely via lines of INRD between Terre Haute and Lis.

[1] *See John C. Nolan-Control Exemption-Penn Eastern Rail Lines, Inc.*, STB Finance Docket No 34322 (STB served July 22, 2002).

transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay must be filed no later than July 20, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35056, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at: *http://www.stb.dot.gov.*

Decided: July 3, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–13355 Filed 7–12–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Announcement 2004–46

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Announcement 2004–4, Son of Boss Settlement Initiative.

DATES: Written comments should be received on or before September 11, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to: R. Joseph Durbala, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to: Larnice Mack at Internal Revenue Service, Room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at: (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Son of Boss Settlement Initiative.

OMB Number: 1545–1885.

Notice Number: Announcement 2004–46.

Abstract: Announcement 2004–46 offers settlement to certain taxpayers that participated in the transaction for efficient tax administration reasons and to avoid prolonged litigation.

Current Actions: There are no changes being made to the announcement at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals.

Estimated Number of Respondents: 1000.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 5000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 2, 2007.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E7–13625 Filed 7–12–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–88–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–88–90 (TD 8530), Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change; Special Rule for Value of a loss Corporation Under the Jurisdiction of a Court in a Title 11 Case (Section 1.382–9).

DATES: Written comments should be received on or before September 11, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111Constitution Avenue NW., Washington, DC 20224, or at (202)622–3179, or through the Internet at *Larnice.Mack@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Limitation on Net Operating Loss Carryforwards and Certain Built-In

Losses Following Ownership Change; Special Rule for Value of a Loss Corporation Under the Jurisdiction of a Court in a Title 11 Case.

OMB Number: 1545–1324. Regulation Project Number: CO–88–90.

Abstract: This regulation provides guidance on determining the value of a loss corporation following an ownership change to which section 382(1)(6) of the Internal Revenue Code applies. Under Code sections 382 and 383, the value of the loss corporation, together with certain other factors, determines the rate at which certain pre-change tax attributes may be used to offset post-change income and tax liability.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,250.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 813.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 2, 2007.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E7–13641 Filed 7–12–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–89–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–89–91 (TD 8622), Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer (§§ 52.4682–2(b), 52.4682–2(d), 52.4682–5(d), and 52.4682–5(f).

DATES: Written comments should be received on or before September 11, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer.

OMB Number: 1545–1361.

Regulation Project Number: PS–89–91.

Abstract: This regulation provides reporting and recordkeeping rules relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilants or propellants in metered-dose inhalers, and floor stocks taxes on ODCs. The rules affect persons who manufacture, import, export, sell, or use ODCs.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Recordkeepers: 705.

Estimated Time per Recordkeeper: 12 minutes.

Estimated Total Annual Recordkeeping Burden Hours: 141.

Estimated Number of Respondents: 600.

Estimated Time per Respondent: 6 minutes.

Estimated Total Annual Reporting Burden Hours: 60.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 2, 2007.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E7–13642 Filed 7–12–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2004–56

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2004–56, Model 457 Plan Provisions.

DATES: Written comments should be received on or before September 11, 2007 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedures should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Model 457 Plan Provisions.

OMB Number: 1545–1904.

Revenue Procedure Number: Rev. Proc. 2004–56.

Abstract: Revenue Procedure 2004–56 contains model amendments to be used by section 457(b) plans (deferred compensation plans) of state or local governments.

Current Actions: There are no changes being made to the revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments, and not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 10,260.

Estimated Annual Average Time per Respondent/Recordkeeper: 4 hours.

Estimated Total Annual Reporting/Recordkeeping Hours: 41,040.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 2, 2007.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. E7–13643 Filed 7–12–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Health Services Research and Development Service Merit Review Board; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463, Federal Advisory Committee Act, that a meeting of the Health Services Research and Development Service Merit Review Board will be held August 21–23, 2007, at the Palmer House Hilton, 17 E. Monroe Street, Chicago, IL. Various subcommittees of the Board will meet during that period. Each subcommittee meeting of the Merit Review Board will be open to the public on the first day for approximately one half-hour from 8 a.m. until 8:30 a.m. to cover administrative matters and to discuss the general status of the program. The remaining portion of each meeting will be closed. The closed portion of each meeting will involve discussion, examination, reference to, and oral review of the research proposals and critiques.

The purpose of the Board is to review research and development applications concerned with the measurement and evaluation of health care services, the testing of new methods of health care delivery and management, and nursing research. Applications are reviewed for scientific and technical merit. Recommendations regarding funding are submitted to the Chief Research and Development Officer.

On Tuesday, August 21, the subcommittee on Nursing Research Initiative (NRI) will convene from 8 a.m. to 5 p.m. On Wednesday, August 22, six subcommittees will convene from 8 a.m. to 5 p.m. Those subcommittees are Chronic Disease Management, Equity and Women's Health, General Health Services Research, Implementation and Management Research Science, Long Term Care and Aging, and Mental Health and Deployment Health. On Thursday, August 23, six subcommittees will convene from 8 a.m. to 5 p.m. Those subcommittees are Chronic Disease Management (continuation), Equity and Women's Health (continuation), General Health Services Research (continuation), Implementation and Management Research Science (continuation), Long Term Care Aging (continuation), and Mental Health and Deployment Health (continuation),

After the subcommittees meet there will be a debriefing provided to members of Health Services Research and Development Service Scientific Merit Review Board. This debriefing, by teleconference, will be to discuss the outcomes of the review sessions and to ensure the integrity and consistency of the review process.

During the closed portion of the meetings on August 21–23, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would be likely to compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Those who plan to attend the open session should contact the Scientific Merit Review Program Manager (124R), Health Services Research and Development Service, Department of Veterans Affairs, 1722 Eye Street, NW., Washington DC 20006 at least five days before the meeting. For further information, call (202) 254–0207.

By Direction of the Secretary:

Dated: July 9, 2007.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–3426 Filed 7–12–07; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Friday,
July 13, 2007

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Service

42 CFR Parts 435, 436, 440, et al.
Medicaid Program; Citizenship Documentation Requirements; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 435, 436, 440, 441, 457, and 483

[CMS–2257–F]

RIN 0938–AO51

Medicaid Program; Citizenship Documentation Requirements

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends Medicaid regulations to implement the provision of the Deficit Reduction Act that requires States to obtain satisfactory documentary evidence of an applicant's or recipient's citizenship and identity in order to receive Federal financial participation. It also incorporates changes made to these requirements through section 405(c)(1)(A) of Division B of the Tax Relief and Health Care Act (TRHCA), Pub. L. 109–432, enacted December 20, 2006. This regulation provides States with guidance on the types of documentary evidence that may be accepted, including alternative forms of documentary evidence in addition to those described in the statute and the conditions under which this documentary evidence can be accepted to establish the applicant's citizenship.

DATES: *Effective Date:* July 13, 2007.

FOR FURTHER INFORMATION CONTACT: Molly Smith (410) 786–8354.

SUPPLEMENTARY INFORMATION:

I. Background

Since enactment of the Immigration Reform and Control Act of 1986 (Pub. L. 99–163, enacted on November 6, 1986), Medicaid applicants and recipients have been required by section 1137(d) of the Social Security Act (the Act) to declare under penalty of perjury whether the applicant or recipient is a citizen or national of the United States, and if not a citizen or national, that the individual is an alien in a satisfactory immigration status. (For purposes of this regulation, the term ''citizenship'' (or reference to citizen) includes status as a ''national of the United States,'' as defined in 8 U.S.C. 1101(a)(22)). Aliens who declare they are in a satisfactory immigration status have been required by section 1137(d) of the Act to present documentation of satisfactory immigration status since the declarations of citizenship or immigration status were first required. Individuals who declared they were citizens did not have to do anything else under Federal law to support that claim, although some States did require documentary evidence of this claim. Section 6036 of the Deficit Reduction Act of 2005 (DRA) (Pub. L. 109–171, enacted on February 8, 2006) effectively requires that the State obtain satisfactory documentation of citizenship and identity. Self-attestation of citizenship and identity is no longer an acceptable practice. The provisions of section 6036 of the DRA do not affect individuals who have declared they are aliens in a satisfactory immigration status. As with other Medicaid program requirements, States must implement an effective process for assuring compliance with documentation of citizenship and identity in order to obtain Federal matching funds, and effective compliance will be part of Medicaid program integrity monitoring.

Section 6036 of the DRA created a new section 1903(x) of the Act that prohibits Federal financial participation (FFP) in State expenditures for medical assistance with respect to an individual who has declared under section 1137(d)(1)(A) of the Act to be a citizen or national of the United States unless the State obtains satisfactory documentary evidence of citizenship and identity or a statutory exemption applies. For new Medicaid applicants or for currently enrolled individuals, the State must obtain evidence of citizenship and identity at the time of application or at the time of the first redetermination occurring on or after July 1, 2006. Presentation of documentary evidence of citizenship and identity is a one-time activity; once a person's citizenship and identity have been documented and recorded in the case file or database, subsequent changes in eligibility should not require repeating the documentation unless later evidence raises a question of a person's citizenship or identity. The State need only check its databases to verify that the individual already established his or her citizenship and identity.

CMS continues to support States through ongoing outreach and technical assistance. CMS is monitoring States for compliance and has not initiated any action to disallow FFP.

Basic Features of the Provision

On July 12, 2006, we published in the **Federal Register** the interim final rule titled ''Medicaid Program; Citizenship Documentation Requirements'' (CMS–2257–IFC) (71 FR 39214). In this interim final rule with comment period, we outlined the policy and guidelines States are required to follow to receive Federal financial participation (FFP) for medical care expenditures for Medicaid-eligible individuals with respect to the new section 1903(x) of the Act. We explained the types of documents that may be used including additional documents that may be accepted. We established a hierarchy of reliability of citizenship documents and specified when a document of lesser reliability may be accepted by the State.

Implementation Conditions/ Considerations

As we stated in the interim final rule with comment period, the State must obtain satisfactory documentary evidence of citizenship and identity for all Medicaid applicants who have declared that they are citizens or nationals of the United States. This requirement applies to all recipients who declared at the time of application to be citizens or nationals of the United States unless an exemption applies. Section 1903(x)(2) of the Act provides several exemptions.

In the interim final rule, we discussed a clear drafting error in section 6036 of the DRA, under which Congress provided an exemption such that aliens would not be required to present satisfactory documentary evidence of citizenship and identity in certain circumstances. (See 71 FR 39215 for a full discussion of the issue.) However, since publication of the DRA, section 405(c)(1)(A) of Division B of the TRHCA corrected the error by replacing the word ''alien'' with ''individual declaring to be a citizen or national of the United States.'' Congress made this correction effective as if included in the DRA.

This correction does not alter the policy as described in the interim final rule. Therefore, the policy continues to be that individuals declaring to be citizens or nationals of the United States who are receiving SSI or who are enrolled in any part of Medicare are exempt from these requirements.

The TRHCA also amended section 1903(x)(2) to exempt additional groups of individuals from the provisions requiring presentation of satisfactory documentary evidence of citizenship and identity. These groups are:

- All individuals receiving SSI (the DRA only exempted individuals receiving Medicaid by virtue of receiving SSI);
- Individuals receiving disability insurance benefits under section 223 of the Act or monthly benefits under section 202 of the Act based on such individual's disability (as defined in section 223(d) of the Act); and

• Individuals who are in foster care and who are assisted under Title IV–B of the Act and individuals who are recipients of foster care maintenance or adoption assistance payments under Title IV–E of the Act.

The above changes were made effective as if included in the DRA. CMS sent guidance to the States regarding these changes in a State Medicaid Director letter dated February 22, 2007.

The TRHCA corrected another error included in section 6036 of the DRA by replacing the cross-reference to the non-existent ''subsection (i)(23)'' with the relevant subsection (i)(22). This correction does not change the policy as described in the interim final rule.

In addition to the above exemptions, the statute gives the Secretary authority to exempt individuals who declare themselves to be citizens or nationals from the documentation requirements if satisfactory documentary evidence of citizenship or nationality has been previously presented. If we become aware of an appropriate instance to exercise this authority, we will do so by regulation.

Individuals who are receiving Medicaid benefits under a section 1115 demonstration project approved under title XI authority are subject to this provision. This includes individuals who are treated as eligible for matching purposes by virtue of the authority granted under section 1115(a)(2) of the Act (expansion populations), including individuals covered under section 1115 demonstrations and family planning demonstrations.

Under section 1902(e)(4) of the Act and 42 CFR 435.117, a Medicaid agency must provide Medicaid eligibility to a United States citizen child born to a woman who has applied for, has been determined eligible and is receiving Medicaid on the date of the child's birth. We discuss CMS policy with respect to this population in more detail in the Analysis of and Responses to Public Comment section below.

Individuals who receive Medicaid because of a determination by a qualified provider, or entity, under sections 1920, 1920A, or 1920B of the Act (presumptive eligibility) are not subject to the documentation requirements until they file an application and declare on the application that they are citizens or nationals. States may receive FFP for the services provided to these individuals notwithstanding any other provision of title XIX, including the requirements of section 1903(x) of the Act. However, when these individuals file an application for Medicaid and declare on the application that they are citizens or nationals, these regulations would apply for periods in which they receive services as eligible for Medicaid.

At the time of application or redetermination, the State must give an applicant or recipient who has signed a declaration required by section 1137(d) of the Act and claims to be a citizen a reasonable opportunity to present documents establishing U.S. citizenship or nationality and identity. Individuals who are Medicaid recipients will remain eligible until determined ineligible as required by Federal regulations at § 435.930. A determination terminating eligibility may be made after the recipient has been given a reasonable opportunity to present evidence of citizenship or the State determines the individual has not made a good faith effort to present satisfactory documentary evidence of citizenship. By contrast, applicants for Medicaid (who are not currently receiving Medicaid) should not be made eligible until they have presented the required evidence. This is no different than current policy regarding information which an applicant must submit in order for the State to make an eligibility determination.

As discussed in the interim final rule with comment period, the ''reasonable opportunity period'' should be consistent with the State's administrative requirements such that the State does not exceed the time limits established in Federal regulations for timely determination of eligibility in § 435.911. The regulations permit exceptions from the time limits when an applicant or recipient in good faith tries to present documentation, but is unable to do so because the documents are not available or a third party fails to reply to a timely request. In these cases, the State must assist the individual in securing evidence of citizenship.

States are permitted to accept documentary evidence without requiring the applicant or recipient to appear in person. States may accept original documents in person, by mail, or by a guardian or authorized representative. States, at their option, may also use matches with vital statistics agencies in place of a birth certificate to assist applicants or recipients to meet the requirements of the law.

Although States may continue to use application procedures that do not include an interview with an applicant, the States must assure that the information received about the identity and citizenship of the applicant or recipient is accurate.

All documents must be either originals or copies certified by the issuing agency. Uncertified copies or notarized copies will not be accepted.

The enactment of section 6036 of the DRA does not change any of our policies regarding the taking and processing of applications for Medicaid except the new requirement for presentation of documentary evidence of citizenship. Before the enactment of section 6036 of the DRA, States, although not required by law or regulation to document citizenship, were required to assure that eligibility determinations were accurate. Therefore, most States would request documentation of citizenship only if the applicant's citizenship was believed to be questionable. Likewise, the regulations at § 435.902, § 435.910(e), § 435.912, § 435.919 and § 435.920 continue to apply when securing documentary evidence of citizenship and identity from applicants and recipients. Thus, States are not obligated to make or keep eligible any individual who fails to cooperate with the requirement to present documentary evidence of citizenship and identity. Failure to provide this information is no different than the failure to provide any other information which is material to the eligibility determination.

An applicant or recipient who fails to cooperate with the State in presenting documentary evidence of citizenship may be denied or terminated. Failure to cooperate consists of failure by an applicant or recipient, or that individual's representative, after being notified, to present the required evidence or explain why it is not possible to present such evidence of citizenship or identity. Notice and appeal rights must be given to the applicant or recipient if the State denies or terminates an individual for failure to cooperate with the requirement to provide documentary evidence of citizenship or identity in accordance with the regulations at § 431.210 or § 431.211 as appropriate.

Federal Financial Participation (FFP) for Administrative Expenditures

FFP is available for State expenditures to carry out the provisions of section 1903(x) of the Act at the match rate for program administration.

Compliance

FFP is not available for State expenditures for medical assistance if a State does not require applicants and recipients to provide satisfactory documentary evidence of citizenship, or does not secure this documentary evidence which includes the responsibility to accept only authentic documents on or after July 1, 2006. As part of the standard review and audit

procedures under subpart C of 42 CFR Part 430, we will review implementation of section 6036 of the DRA to determine whether claims for FFP for services provided to citizens should be deferred or disallowed. As part of these reviews, we will monitor the extent to which the State is obtaining the most reliable evidence.

In the conduct of determining or re-determining eligibility for Medicaid, State Medicaid agencies may uncover instances of suspected fraud. In these instances, State agencies would refer cases of suspected fraud to an appropriate enforcement agency according to the requirements of § 455.13(c) and § 455.15(b).

HHS recognizes that in cases where the appropriate enforcement agency is a Federal entity, the Privacy Act of 1974 applies to United States citizens and permanent resident aliens, and privacy protections afforded by law and in accordance with Federal policy will be addressed.

II. Provisions of the Interim Final Rule With Comment Period

We amended 42 CFR chapter IV as follows:

We amended § 435.406 and § 436.406 to require that States obtain a Declaration signed under penalty of perjury from every applicant for Medicaid that the applicant is a citizen or national of the United States or an alien in a satisfactory immigration status, and require the individual to provide documentary evidence to verify the declaration. The types and forms of acceptable documentation of citizenship are specified in § 435.407 and § 436.407. The requirement to sign a Declaration of citizenship or satisfactory immigration status was added by the Immigration Reform and Control Act of 1986 and was effective upon enactment.

At the time section 1137(d) of the Act was enacted, aliens declaring themselves to be in a satisfactory immigration status were the only applicants required to present to the State documentary evidence of satisfactory status. Beginning in 1987, States were also required to verify the documents submitted by aliens claiming satisfactory immigration status with the Immigration and Naturalization Service (INS) (now the U.S. Citizenship and Immigration Services in the Department of Homeland Security) using the Systematic Alien Verification for Entitlements (SAVE) Program.

The regulation requires the State to also obtain satisfactory documentary evidence establishing identity and citizenship from all Medicaid applicants who, under the DRA amendments, are required to file the Declaration. In addition, for current Medicaid recipients, States are required to obtain satisfactory documentary evidence establishing citizenship and identity at the time of the first redetermination of eligibility that occurs on or after July 1, 2006.

We also amended § 435.406 and § 436.406 to define ''Satisfactory immigration status as a Qualified Alien'' as described in 8 U.S.C. 1641(b). We amended § 435.406 and § 436.406 to remove paragraphs (b) and (d), as well as paragraphs (a)(3) and (a)(4). These provisions have ceased to have any force or effect because the eligibility status provided to individuals who received Lawful Temporary Residence under the Immigration and Reform and Control Act (IRCA) of 1986 has expired or been superseded by the terms of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (Pub. L. 104–193, enacted on August 22, 1996). Lawful Temporary Resident Status was granted for a limited time to individuals who applied for the legalization authorized by IRCA. Most individuals receiving this status would have achieved lawful permanent resident status by 1996 when PRWORA was enacted. PRWORA declared that ''notwithstanding any other law'' individuals who did not have status as a qualified alien as defined in 8 U.S.C. 1641 are not eligible for any Federal public benefit. That term includes Medicaid.

We added a new § 435.407 and a new § 436.407 describing the documents and processes States may use to document an applicant's or recipient's declaration that the individual is a citizen of the United States. The documents include all the documents listed in section 6036 of the DRA plus additional documents. We noted that the State Medicaid agency determinations of citizenship are not binding on other Federal or State agencies for any other purposes. We employed a hierarchy of reliability when securing documentary evidence of citizenship and identity to assure that evidence submitted is the most reliable evidence available to establish a claim of citizenship and identity. To establish U.S. citizenship, the document must show: a U.S. place of birth, or that the person is a U.S. citizen. Children born in the U.S. to foreign sovereigns or diplomatic officers are not U.S. citizens because they are not subject to the jurisdiction of the United States. To establish identity, a document must show the most current identifying information that relates the presenting individual to the person named on the document.

We divided evidence of citizenship into groups based on the respective reliability of the evidence. The first group of documents is described in section 6036 of the DRA and is specified in § 435.407(a) and § 436.407(a) as primary evidence of citizenship and identity because it is established by statute. If an individual presents documents from this section, no other information is required. Primary evidence of citizenship and identity is documentary evidence of the highest reliability that conclusively establishes that the person is a U.S. citizen. The statute provides that these documents can be used to establish both the citizenship and identity of an individual. In general, a State should attempt to obtain primary evidence of citizenship and identity before using secondary evidence. We permitted States to use the State Data Exchange (SDX) database provided by SSA to all States that reflects actions taken by SSA to determine eligibility of applicants for the Supplemental Security Income (SSI) program. Since all individuals in receipt of SSI are now exempt from these requirements, this provision is irrelevant and has been removed from the regulations text. However, States may still use the SDX to confirm whether an individual is exempt from the provision based on receipt of SSI. Similarly, State may use SSA's Beneficiary Data Exchange (BENDEX) data base to confirm whether an individual is exempt from the provision based on receipt of SSDI.

Secondary Evidence of Citizenship

In the interim final rule with comment period, we stated that secondary evidence of citizenship is documentary evidence of satisfactory reliability that is used when primary evidence of citizenship is not available. In addition, the statute requires that a second document establishing identity must also be presented. See § 435.407(e) and § 436.407(e). Available evidence is evidence that exists and can be obtained within a State's reasonable opportunity period. The State must accept any of the documents listed in paragraph (b) if the document meets the listed criteria and there is nothing indicating the person is not a U.S. citizen. We stated that applicants or recipients born outside the U.S. who were not citizens at birth must submit a document listed under primary evidence of U.S. citizenship, but that children born outside the United States and adopted by U.S. citizens may establish citizenship using the process established by the Child Citizenship Act of 2000 (Pub. L. 106–395, enacted on October 30, 2000). However, as we

explain in further detail in the response to comments below, States may now verify citizenship for naturalized citizens using the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program, subject to DHS SAVE program requirements, including but not limited to a Memorandum of Understanding (MOU) authorizing the use of SAVE for naturalization verification purposes. This data verification will be considered secondary evidence of citizenship and must be accompanied by a document to verify the individual's identity. Therefore, it is appropriate to permit individuals born outside the U.S. who were not citizens at birth to submit either primary or secondary evidence of citizenship. We have also modified the affidavit process to permit naturalized citizens to submit an affidavit verifying their citizenship status in rare circumstances. The remaining documents in the third and fourth tiers will not be applicable to naturalized citizens because they require that the document show a U.S. place of birth. Similarly, citizens born in the U.S. will not be able to use several documents such as the Certificate of Naturalization or a data verification with the SAVE Program.

The second group of documents consists of a mix of documents listed in section 6036 of the DRA and additional documents that only establish citizenship. This group includes a U.S. birth certificate. The birth record document may be recorded by the State, Commonwealth, Territory or local jurisdiction. It must have been recorded before the person was 5 years of age. A delayed birth record document that is recorded at or after 5 years of age is considered fourth level evidence of citizenship.

If the document shows the individual was born in Puerto Rico, the Virgin Islands of the U.S., or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen. Collective naturalization occurred on certain dates for each of the territories and can be found in the July 12, 2006 interim final rule with comment period.

Third Level of Evidence of Citizenship

In the July 12, 2006 interim final rule with comment period, we stated that third level evidence of U.S. citizenship is documentary evidence of satisfactory reliability that is used when neither primary nor secondary evidence of citizenship is available, and the applicant or recipient alleges birth in the U.S. In addition, a second document establishing identity must be presented as described in paragraph (e), ''Evidence of identity.''

A State must accept any of the documents listed in paragraph (c) as third level evidence of U.S. citizenship if the document meets the listed criteria, the applicant alleges birth in the U.S., and there is nothing indicating the person is not a U.S. citizen (for example, lost U.S. citizenship).

Third level evidence is generally a non-government document established for a reason other than to establish U.S. citizenship and showing a U.S. place of birth. The place of birth on the non-government document and the application must be consistent.

Fourth Level of Evidence of Citizenship

In the interim final rule with comment period, we stated that fourth level evidence of U.S. citizenship is documentary evidence of the lowest reliability. Fourth level evidence should only be used in the rarest of circumstances. This level of evidence is used only when primary, secondary and third level evidence are not available. In addition, a second document establishing identity must be presented as described in paragraph (e), ''Evidence of identity.'' Available evidence is evidence that can be obtained within the State's reasonable opportunity period as discussed below.

A State must accept any of the documents listed in paragraph (d) as fourth level evidence of U.S. citizenship if the document meets the listed criteria, the applicant alleges U.S. citizenship, and there is nothing indicating the person is not a U.S. citizen (for example, lost U.S. citizenship). With the exception of the affidavit, fourth level evidence consists of documents established for a reason other than to establish U.S. citizenship that show a U.S. place of birth. The U.S. place of birth on the document and the application must be consistent. The written affidavit described in this section may be used only when the State is unable to secure evidence of citizenship listed in any other groups.

In the interim final rule with comment period, we also explained the affidavit process. We stated that affidavits should ONLY be used in rare circumstances and by individuals declaring to have been born in the United States. As discussed in more detail below in the response to comments, we have modified the policy with respect to naturalized citizens. We have modified the policy to permit naturalized citizens to utilize the affidavit process. While we believe that electronic verifications with the SAVE Program will eliminate the need for many naturalized citizens to utilize the affidavit process, we believe that such individuals should have a recourse available to them when their information cannot be located in the SAVE database. States should recognize that the inability of SAVE to verify U.S. citizenship does not necessarily mean that the individual is not a U.S. citizen; SAVE may be unable to determine that certain naturalized citizens, including those who naturalized more than thirty years ago, those who changed their names, or those who no longer remember their alien registration number, are naturalized citizens. In such cases, States should explore other alternatives included in these regulations to determining citizenship.

If the documentation requirement needs to be met through affidavits, the following rules apply: There must be at least two affidavits by individuals who have personal knowledge of the event(s) establishing the applicant's or recipient's claim of citizenship (the two affidavits could be combined in a joint affidavit). At least one of the individuals making the affidavit cannot be related to the applicant or recipient and cannot be the applicant or recipient. In order for the affidavit to be acceptable, the persons making them must be able to provide proof of their own citizenship and identity. If the individual(s) making the affidavit has (have) information which explains why documentary evidence establishing the applicant's claim or citizenship is not available, the affidavit should contain this information as well. The State must obtain a separate affidavit from the applicant/recipient or other knowledgeable individual (guardian or representative) explaining why the evidence is unavailable. The affidavits must be signed under penalty of perjury.

We added a paragraph (e) that consists of documents establishing identity. These are a mix of documents included in section 6036 of the DRA as evidence of identity, such as drivers' licenses and State identity cards. It also includes Native American Tribal enrollment documents, such as the Certificate of Degree of Indian Blood.

These documents, when coupled with satisfactory documentary evidence of citizenship from lists (b) through (d), meet the statutory requirements of section 6036 of the DRA.

We included a paragraph (f) that describes special rules for individuals under the age of 16. Because children often do not have identification documents with photographs and a child's appearance changes significantly until adulthood, we permit parents or

guardians to sign an affidavit as to the identity of the child. This affidavit does not establish citizenship and should not be confused with the affidavit permitted in rare situations to establish citizenship.

In the final regulations we added a new paragraph (g) that describes the use of identity affidavits for disabled individuals in residential care facilities.

We also added a new paragraph (h) (formerly (g)) that describes rules for States to address special populations who need additional assistance. For example, if an individual is homeless, an amnesia victim, mentally impaired, or physically incapacitated and lacks someone who can act for the individual, and cannot provide evidence of U.S. citizenship or identity, the State must assist the applicant or recipient to document U.S. citizenship and identity.

We added a paragraph (i) (formerly (h)) that describes documentary evidence. We specified that the State can only review originals or copies certified by the issuing agency. Copies or notarized copies may not be accepted for submission. The State, however, must keep copies of documentation for its files. States must maintain copies in the case record or its database. The copies maintained in the case file may be electronic records of matches, or other electronic methods of storing information.

Moreover, we specified that individuals may submit documents by mail or other means without appearing in person to submit the documents. If, however, the documents submitted appear inconsistent with pre-existing information, are counterfeit or altered, States should investigate the matter for potential fraud and abuse. States are encouraged to utilize cross matches and other fraud prevention techniques to ensure identity is confirmed.

We specified in paragraph (j) (formerly (i)) that once a person's citizenship is documented and recorded in the individual's permanent case file, subsequent changes in eligibility should not ordinarily require repeating the documentation of citizenship unless later evidence raises a question of the person's citizenship, or there is a gap of more than 3 years between the individual's last period of eligibility and a subsequent application for Medicaid. We use a record retention period of 3 years throughout the Medicaid program as provided in 45 CFR 74.53. To require a longer retention period would be an unreasonable imposition on State resources.

Lastly, in paragraph (k) (formerly (j)), we described the reasonable opportunity to submit satisfactory documentary evidence of citizenship and identity. We specified that a reasonable opportunity must meet the competing goals of providing sufficient time for applicants or recipients to secure documentary evidence and the requirements placed on States to determine, or redetermine eligibility promptly. These goals derive from sections 1902(a)(19) and 1902(a)(8) of the Act respectively. For example, States may use the reasonable period they provide to all applicants and recipients claiming satisfactory immigration on the Declaration required by section 1137(d) of the Act.

We solicited comments and suggestions on several areas of the new regulations. We asked the public to identify additional documents that are a reliable form of evidence of citizenship or a reliable form of identity that have not been included in this regulation. We also solicited comments as to whether the number of documents accepted for proof of citizenship and identity should be limited. Finally, we solicited comments as to whether individuals would have difficulty proving citizenship and identity if only primary or secondary level documents were permitted. Many commenters responded to this request. Our responses and final policies are included in this preamble.

III. Analysis of and Responses to Public Comment

We received over 1,400 timely items of correspondence that raised many different issues. Many commenters represented State agencies, medical societies, advocacy groups, hospital associations, and law firms. The remaining comments were from private citizens. A summary of the major issues and our responses follow:

Comment: Many commenters acknowledged their agreement with the requirement that only citizens and specific immigrant populations be eligible for Federal public benefits, including Medicaid. However, one commenter requested that CMS clarify that the policies set forth in the July 12, 2006 interim final rule did not change Medicaid-eligibility requirements but rather added a requirement that States verify citizenship. The commenter noted that he has witnessed significant confusion within the immigrant community. He stated that many non-citizen Medicaid recipients who fall into one of the eligible immigration statuses believe that they are no longer eligible for Medicaid.

Response: We agree with the commenter. The rule did not change Medicaid eligibility requirements. As we stated in the interim final rule with comment period, this new provision effectively requires that the State obtain satisfactory documentation of a declaration of citizenship (see 71 FR 39215).

We noted from several of the commenters' letters that many individuals are unclear about whether these new requirements apply only to citizens or to citizens and individuals in a satisfactory immigration status. We would like to clarify that these requirements only impact individuals who declare themselves to be U.S. citizens. Individuals who declare themselves to be aliens in satisfactory immigration status follow the procedures under § 435.406(a)(2).

Comment: Many commenters suggested that CMS revise the regulations to permit applicants and recipients to submit copies of the required documents. The commenters noted that it is often difficult, expensive, and time-consuming to get originals or certified copies of many of the required documents. One commenter noted that individuals would not be able to mail in certain documents. The commenter gave the example that an individual could not mail in a driver's license and continue to legally drive. In addition, many commenters expressed concern that the process of procuring original documents would be exceptionally difficult for semi-literate and non-English speaking applicants, potentially resulting in many eligible individuals choosing not to apply or reapply for Medicaid.

One commenter stated that requiring originals or certified copies violates the 2006 edition of the Federal Civil Judicial Procedure and Rules, which states that duplicates are admissible to the same extent as an original unless there is a genuine question raised as to the authenticity of the original.

The commenters also stated that requiring original documents contradicts CMS' stated position that States should ease application processes by allowing and encouraging mail- and phone-in applications. Most commenters noted that if required to submit original documents, applicants or recipients would make unnecessary visits to the State Medicaid Agency office to reduce the risk of losing original documents in the mail or during the handling process. The commenters noted that these trips could be difficult for applicants and recipients to make due to employment, transportation, and financial constraints. Several commenters remarked that this was of particular concern in States with large rural areas where many applicants and recipients

live exceptionally far distances from any State Medicaid office. The commenters stated this would be an unnecessary burden and one that could be avoided by permitting individuals to submit copies of the necessary documents. The commenters suggested giving eligibility workers the option of requiring original versions of the documents if they believe the copies submitted are questionable.

In contrast, one commenter stated that it is important that documents be originals or copies certified by the issuing agency. The commenter stated that originals and certified copies better ensure an applicant's citizenship because these documents are more difficult to falsify.

Response: We understand from the commenters that requiring applicants and recipients to submit original or certified copies of documents is more cumbersome than accepting copies. However, we do not agree that this additional burden outweighs the importance of States being able to verify that these documents are valid. We note that it is easier for an individual to falsely manufacture a document if it is not required to come from the issuing agency, and therefore, requiring originals or certified copies helps protect the integrity of the Medicaid program. In addition, we note that Medicaid coverage represents a value of thousands of dollars for a covered family. We do not believe the burden described by the commenters is unreasonable for determining eligibility for such a benefit.

In addition, Federal agencies generally require original or certified copies of documents to establish eligibility for benefits. For instance, the Social Security Administration requires original documents or certified copies prior to establishing eligibility for benefits (see GN 00301.015 Acceptance of Evidence of the SSA's Program Operations Manual System (POMS)); the Department of State requires original documents or certified copies prior to issuing a passport.

While we recognize that many individuals are hesitant to submit these documents through the mail, we note that they are still permitted to submit them in person to be photocopied by the State Medicaid Agency. State Medicaid Agencies often outstation workers to various points in the community, such as in hospitals and clinics. These eligibility workers are permitted to accept citizenship and identity documentation which they can then send to the State for approval. In addition, States are encouraged to utilize electronic data matching, which may obviate the need for an applicant/recipient to submit paper documentation.

In response to the commenter who stated that this requirement violates the Federal Civil Judicial Procedure and Rules, we are not certain whether the commenter was referring to the Federal Rules of Civil Procedure or the Federal Rules of Evidence. In any case, both sets of rules apply to courts of law and are not applicable in this instance.

Comment: Many commenters agreed with CMS' policy to allow States to cross-match data on public benefit recipients. Some commenters requested that CMS delineate the process by which an individual who has already provided proof of citizenship in one State should be precluded from providing this information again in another State.

Response: Ultimately, each State is responsible for having verified the citizenship of individuals receiving coverage under its State plan. In keeping with current policy for applications, when a person moves to another State, he or she must submit an application for Medicaid in that State and meet all eligibility requirements. States may establish partnerships with each other that allow them to share citizenship data. However, States must be able to produce a copy, electronic copy or other conclusive evidence of the original documentation used to determine an individual's citizenship. Therefore, if a State accepts evidence of citizenship or identity from another State, it should request a copy or electronic copy of the documentation reviewed by another State to keep in its own files. We note that a determination made by one State is not binding on another. Each State is responsible for the accuracy of its eligibility determinations. If a State is not confident that the information provided by another State is accurate, it must request that the individual resubmit the necessary documentation.

Comment: Several commenters recommended that CMS work with States to establish an electronic system to record and cross-check citizenship information. One commenter requested that this system be available via the internet. The commenters also requested that CMS not require States to print paper copies of electronic matches in order to minimize the burden of creating and maintaining additional paperwork. One commenter also stressed that CMS must ensure privacy and confidentiality protections to applicants/recipients.

Response: While we are very interested in this suggestion, we currently do not have such a system developed for use. However, several Federal agencies, including CMS, are working with the National Association for Public Health Statistics and Information Systems (NAPHSIS) on the Electronic Verification of Vital Events (EVVE) databank. EVVE contains birth record information for all participating States. States would be able to electronically verify birth information for births in their own State and within other States. If and when this databank becomes available, we will consider its application to these requirements. In the meantime, we strongly encourage States to develop methods of working together to achieve efficient, effective ways of verifying citizenship and identity.

In response to the request that CMS not mandate States to print paper copies of electronic matches, we emphasize that while States must be able to produce a copy of the documentation used to determine an individual's citizenship, the copy may be in electronic format.

We also note that applicants and recipients will receive all privacy and confidentiality protections required under the law (see 42 CFR 431 subpart F).

Comment: Several commenters requested that CMS make the following databases available for data matches or verifications: Public Assistance Recipient Information System (PARIS), U.S. Department of Veterans Affairs data files, Social Security Administration's SS5 database (Numident), SAVE database, Indian Health Services databases, and the State Attorney General's databases. One commenter requested that CMS permit States to use any governmental database that verifies citizenship to match against a birth certificate in order to verify citizenship.

Several commenters suggested that CMS require State Medicaid agencies to cross-match data with the State mental health authority since individuals with serious mental illnesses may have difficulty obtaining the necessary documents. One commenter requested that CMS allow States to verify citizenship by cross-referencing with State agencies that handle food stamps, child support, corrections, juvenile detention, motor vehicle, or child protective services.

Response: After reviewing the databases above, we have determined that States may, with DHS approval, utilize SAVE to verify citizenship for naturalized citizens. A verification with the SAVE Program will be considered secondary evidence of citizenship. Since SAVE does not maintain photographs, States will be required to supplement a data verification with

SAVE with a form of identity listed under the regulations at § 435.407(e).

In general, the databases recommended by commenters did not contain information that could reliably establish citizenship. For instance, the Child Support program does not maintain citizen information and section 454(26) of the Act requires State Child Support programs to have in effect safeguards on access to and use of information that is collected. Other statutory language restricts what authorized information can be provided to what authorized program for what authorized purpose (*i.e.*, sections 453 and 463 of the Act). In addition, neither the Department of Veterans Affairs databases nor the IHS Data Warehouse necessarily store citizenship information. PARIS reports on what public benefits an individual receives for purposes of identifying cases of duplicate coverage of benefits. The only information in PARIS that could be of use is data on SSI enrollment. However, since States have access to SSA's State Data Exchange system to check for SSI enrollment, PARIS would be unnecessary for data matches.

SSA currently makes available to States through the Numident database information on whether a particular social security number is valid and issued to the person named on it. This is not sufficient evidence of citizenship since non-citizens may have a social security number and the information provided does not personally identify the individual. Although the Numident database may contain additional information for individuals with a social security number that establishes citizenship, this information is not generally available to States. While States may be able to negotiate with the SSA for what information they are granted access to, CMS does not have the authority to grant access to additional fields in SSA's Numident database.

Although several commenters requested that we approve State Attorney General's databases, we were not able to determine exactly what these databases are or what information they contain. Therefore, we are not approving their use at this time. However, these databases may meet the requirements for verifying identity through a cross match with a Federal or State governmental, public assistance, law enforcement, or correction agency's data system under § 435.407(e) and § 436.407(e).

As for matches with the Food Stamps database, the Food Stamps program does not collect citizenship information as a condition of eligibility. The Food Stamp program issued a letter to its regional directors on May 12, 2006 reiterating Food Stamp policy that the Food Stamp program does not require verification of citizenship except when a client's statement of United States citizenship is questionable or when a State has mandated verification of citizenship. Therefore, the food stamps database does not contain sufficient evidence of citizenship. However, as stated in the interim final rule with comment period and per the regulations at § 435.407(e)(2) (formerly § 435.407(e)(10)), States may use cross matches with the food stamps database to verify the identity of an individual.

With respect to data matches with the department of motor vehicles, as stated in the regulations at § 435.407(a)(4) and § 436.407(a)(4), a State may utilize data matches with the department of motor vehicles if the State requires proof of U.S. citizenship prior to the issuance of a driver's license or obtains a social security number from the applicant and verifies before issuance of the license that the number is valid and assigned to the applicant who is a citizen. At this time, we are not aware of any State that makes providing evidence of citizenship a condition of issuing a driver's license and includes evidence that the license holder is a citizen on the license or in a system of records available to the Medicaid agency. As stated in the regulations, CMS will monitor compliance of States implementing this provision. We note that the process the State uses to verify citizenship must comply with the statutory provision in section 6036 of the DRA.

Child support, corrections, juvenile detention, or child protective services databases may be used to verify identity but cannot be used to verify citizenship. We cannot ensure that the owners of these systems either (1) verify citizenship, or (2) verify citizenship using comparable criteria to this rule. Therefore, we are unable to approve their use at this time.

Comment: One commenter stated that requiring States to match files for individuals who only have third or fourth levels of evidence as a check against fraud is contrary to the requirement that this be a one-time activity. One commenter specifically stated that States should not be required to double-check SSNs. They stated that since they already require SSNs on the application to verify income eligibility, any non-matches would already have been caught in this process.

Response: After considering the commenters' concerns, we believe that several commenters may have misunderstood the requirement. We did not change the regulations to require States to match SSNs for applicants and recipients who submitted third and fourth tier documents. We agree that this would duplicate another part of the application process. We intended for States to utilize new electronic means of verifying citizenship and identity as they become available. We stated that we encourage States to use automated capabilities to verify citizenship and identity of Medicaid applicants and that when these capabilities become available, States will be required to match files for individuals who used third or fourth tier documents to verify citizenship and documents to verify identity. We also stated that CMS will make available to States necessary information in this regard when such capabilities become available. We emphasize that this only applies to new applicants. It is not necessary for States to electronically verify the citizenship of recipients who used third and fourth tier documents in the past. We note that this provision is unlikely to apply to recipients submitting documentation at redetermination since this provision is a one-time action and all redeterminations affected by this provision should be complete by July 1, 2007. Since CMS has not issued instructions to States requiring States to utilize specific electronic databases and does not expect to do so prior to July 1, 2007, we do not believe this requirement will have any effect on recipients required to submit documentation at redetermination.

Comment: One commenter requested that CMS require States to utilize electronic data matches to increase efficiency and lessen the burden on Medicaid recipients and applicants. One commenter asked that States be required to utilize all available electronic matching data before asking an individual to submit original versions of paper documents.

Response: Most States have already implemented data matching or verification as a method of verifying citizenship and identity and many others have expressed an interest in doing so. We encourage States to utilize electronic matching; however, each State is best suited to understand its own capabilities for data matching and we do not believe it is appropriate for us to require States to use electronic data matching prior to asking for paper documents. There exists variation in the resources and technical capabilities available to each State, and some electronic matching may require additional State resources and expenditures that are not currently available to the State.

Comment: One commenter requested that CMS defer to the States on how long each State should retain the citizenship documentation records. One commenter requested that State Medicaid agencies retain this information indefinitely.

Response: We agree with the commenter who stated that CMS should defer to the States on how long citizenship documentation records should be maintained, as long as that time period is at least 3 years, consistent with the regulations at § 431.17 and 45 CFR 74.53. However, we do not agree that we should require States to maintain this information indefinitely. States are in a better position to decide what record retention schedule works best with their systems and resources.

Comment: One commenter requested that CMS permit States to use any information already in possession of the State Medicaid office that verifies citizenship. The commenter stated that there would have been no incentive in the past for an individual to submit fraudulent information on citizenship and, therefore, the determination should be considered valid even if the office cannot document how the information was obtained.

Response: As we stated in the interim final rule with comment period, States are responsible for verifying the authenticity of the documents used to establish citizenship and identity. States may use information already contained in the Medicaid file if the State can verify that an original or certified copy of the documentation was originally reviewed and a reproduction of the document is in the file. There should be evidence in the file that the eligibility worker reviewed an original or certified copy. A State is at risk for losing FFP if it cannot provide sufficient evidence to assure that originals or certified copies were reviewed.

Comment: Many commenters agreed with CMS' policy to allow presumptively eligible individuals to maintain Medicaid coverage while they locate and submit the required documentation. However, several commenters requested that CMS clarify in the final rule which groups are considered presumptively eligible and which are not. One commenter requested that CMS consider presumptively eligible individuals recipients of Medicaid and, thus, delay citizenship verification until the next period of redetermination. The commenter noted that these groups are in need of expedited critical services and therefore should not risk facing any delay in coverage.

Response: Individuals who receive Medicaid because of a determination by a qualified provider under sections 1920, 1920A, or 1920B of the Act are considered presumptively eligible if the State has elected to include that option in its State plan. Section 1920 refers to pregnant women; section 1920A refers to children; and section 1920B refers to certain breast or cervical cancer patients. However, within a certain time period, presumptively eligible individuals are required to apply for regular Medicaid under sections 1920(c)(3), 1920A(c)(3), and 1920B(c)(3) of the Act, respectively. Once this application occurs the standard eligibility rules apply, including the requirement that the individual verify a declaration of U.S. citizenship.

Comment: Many commenters requested that CMS modify its policy to allow otherwise-eligible applicants to receive benefits once they declare they are a citizen. The commenters did not agree with allowing current recipients an opportunity to produce the documents while still being covered by Medicaid when otherwise-eligible applicants are required to produce documentation before the start of coverage. Instead, the commenters suggested that CMS allow applicants who meet all other criteria for Medicaid eligibility to receive coverage during the reasonable opportunity period. If the applicant is unable to produce the documents within the defined period, the State could then rescind Medicaid coverage.

Commenters noted that by not providing new applicants with a ''grace period'' for submitting the required documentation, CMS will create significant delays for those seeking health care coverage. Several commenters noted that the gaps in coverage caused by these delays may have consequences that are more costly, such as affected individuals seeking care in hospital emergency departments. The commenters emphasized that the cost of emergency care always exceeds the cost of preventive care.

In addition, several commenters stated that treating Medicaid recipients and Medicaid applicants differently was prohibited by Federal Medicaid law. One commenter stated that because this provision could inhibit an eligible U.S. citizen from receiving coverage under Medicaid, CMS was violating a provision of the Medicaid statute that prohibits CMS from approving State Medicaid plans that impose ''any citizenship requirement which excludes any citizen of the United States'' as a condition of eligibility for the program (see 42 U.S.C. 1396a(b)(3)). One commenter stated that this regulation violated Federal law by contradicting section 1137(d)(4) of the Act.

The commenters urged CMS to reconsider the new regulations as they pertain to new applicants, especially in the case of pregnant women, children, parents, and persons with disabilities. As an alternative, one commenter recommended that CMS permit States that administer separate State Children's Health Insurance Programs (SCHIP) to be expressly permitted to enroll children in the separate programs pending submission of necessary documentation.

Response: In response to the commenters who urged CMS to reconsider applying this provision to pregnant women, children, parents, and persons with disabilities, we note that Congress exempted many groups from these requirements. CMS does not have the authority to exempt additional groups. As stated earlier, however, in some cases, presumptive eligibility might apply to pregnant women and children. Persons with disabilities may be eligible for either Medicare or disability benefits under sections 223 or 202 of the Act, and by virtue of receiving such benefits, would be exempt from the citizenship documentation requirements.

In response to the commenters who stated that CMS may not treat applicants and recipients differently, we note that Congress specifically stated in section 1903(i)(22) of the Act that the Federal share of Medicaid will not be available to States unless they can obtain documentation of citizenship consistent with section 1903(x) of the Act. Thus, because a State would not be entitled to receive Federal Financial Participation (FFP) for their expenditures unless documentation on the applicant is received, a State is not required to provide Medicaid to an individual who has failed to provide documentation of citizenship or nationality. (See *Harris* v. *McRae,* 448 U.S. 297 (1980)). We also note that section 6036(b) of the DRA addressed how the statute would apply to initial applicants versus those seeking redeterminations of eligibility on or after the effective date of the requirements (July 1, 2006).

We do not believe the regulations violate section 1903(b)(3) of the Act. First, Congress has required documentation of citizenship in sections 1903(i)(22) and 1903(x) of the Act, and these provisions must be read in concert with the remainder of Title XIX. Second, the citizenship documentation requirements are better viewed as procedural requirements, rather than as substantive limitations.

The documentation requirement does not place any substantive limit on the classes or types of citizens that may receive Medicaid.

Section 1137(d)(4) is not applicable, because it applies only to individuals who are not citizens or nationals of the United States who declare satisfactory immigration status. The citizenship documentation requirements under section 6036 of the DRA apply to citizens and nationals of the United States, and not to individuals declaring to be in a satisfactory immigration status.

In order to ensure that unnecessary delays do not occur, the State should ensure that applicants are aware of these requirements at the time of application along with any other documentation requirements and ensure them a reasonable opportunity to produce the documents just as applicants must do to establish other factors of eligibility such as proof of income or resources. States must make applicants aware that once they have been determined to be eligible and have provided documentation verifying citizenship, Medicaid eligibility is granted back to the date of application or to the beginning of the month in which the application was received. In addition, under section 1902(a)(34) of the Act and 42 CFR 435.914, if an individual would have been eligible for State Medicaid assistance at the time care and services were furnished (or —at State option— during the month in which care and services were furnished), retroactive coverage may be made available beginning with the third month prior to the month of application. In other words, once the individual has proven his or her citizenship, eligibility will be conferred on that individual retroactive to up to 3 months before the month of application, if the individual is found to be eligible during that prior period or part thereof.

Under Title XXI, the State cannot make eligible for SCHIP an individual who is potentially eligible for Medicaid. Under the regulations at 42 CFR 457.350(f)(1), a child who is potentially eligible for Medicaid cannot be found eligible for SCHIP unless and until a completed Medicaid application for that child is denied, or the child's circumstances change. A Medicaid application is not complete without submission of all documentation, including documentary evidence of citizenship and identity. An incomplete application may be denied; however, because the application was incomplete, this denial does not meet the criteria that a completed Medicaid application for the child is denied. Therefore, it is not permissible under the regulations to enroll a potentially Medicaid-eligible child into a separate SCHIP program pending submission of citizenship and identity documents necessary to complete the Medicaid application process.

Comment: Several commenters requested that the reasonable opportunity period be at least 90 days in length. One commenter stated that many of the required documents take at least 6 weeks to receive, including a U.S. Passport, and that it is unreasonable to require applicants and recipients to produce these documents in less time than it regularly takes to receive the documents.

Response: We specified in the interim final rule with comment period that the reasonable opportunity period should be consistent with the State's standing administrative requirements such that the State does not exceed the time limits established in Federal regulations for timely determination of eligibility in § 435.911. The regulations permit extensions to the time limits when an applicant or recipient in good faith tries to present documentation, but is unable to do so because the documents are not available. We note that there are many ways a State can ensure documentation of citizenship and identity, including cross matches with other government agency databases.

Comment: Several commenters suggested that CMS clarify that existing retroactive eligibility is not impacted by the new regulations. They noted that retroactive eligibility determinations ensure that both children and providers are protected while eligible individuals await documentation of citizenship.

Response: We agree with the commenters who stated that the retroactive eligibility rules are not impacted by the new regulations. Once a State has determined that an individual is eligible for Medicaid, including having verified citizenship, Medicaid eligibility is granted back to the date the application was filed or to the beginning of the month in which the application was filed. The date of application is the date the individual submits the application. If further documentation is required beyond what is initially submitted, the date of application remains the initial date of filing. Under authority at section 1902(a)(34) of the Act, States must provide retroactive eligibility for up to a 3-month period prior to the month of application, for those who are determined eligible during that period or a part thereof.

Comment: One commenter requested that CMS permit individuals to make declarations of name changes. The commenter stated that many married or formerly married women will have different names on their birth certificates and identity documents. The commenter stated that requiring additional documentation, such as a marriage license, would adversely affect female recipients or applicants.

Response: The State is responsible for ensuring it has authentic documentation. The State may accept the citizenship and identity documents from a woman whose last name has changed due to marriage if the documentation matches in every way with the exception of the last name. If the State is not confident that the two documents belong to the individual, it may request that the woman produce the marriage license, divorce decree or other official document verifying the change. The State may also accept other available documentation that does not differ in the name of the individual. We do not want to cause undue burden if it is clear that the two documents belong to and describe the individual.

However, individuals who have changed both their first and last names under other circumstances must produce documentation from a court or governing agency documenting the official change.

Comment: One commenter requested that CMS clarify what documentation is required of individual members of a household when eligibility is determined on a family or household basis. The commenter recommended that CMS only require documentation for one adult member of the family or household.

Response: When eligibility is determined on a family or household basis, per section 1137(d)(1)(A) of the Act, the individual applicant often makes a declaration of citizenship for all members of the household. Therefore, although each individual has not made a declaration of citizenship, someone has made a declaration on his or her behalf and that declaration must be verified. As a result, each individual of the household has effectively declared to be a citizen of the United States, and documentation verifying such citizenship must be submitted for every individual member of the household.

Comment: One commenter requested that CMS require that individuals who were born outside the U.S. be treated in the same manner as individuals born inside the U.S. The commenter recommended that CMS revise the regulations to state that individuals born outside of the U.S. may use the same forms of documentation as individuals born in the U.S.

Response: We agree with the commenter and have modified the regulations to permit naturalized citizens to use additional documents as well as the affidavit process. We note that it is not possible to permit individuals born in the U.S. and naturalized citizens born outside of the U.S. to present all the same evidence of citizenship. For instance, a birth certificate issued in a U.S. hospital may be used to verify U.S. citizenship; however, it is not possible for a person born outside of the U.S. to have such a document. Likewise, most individuals born inside the U.S. will not be able to obtain a Certificate of Naturalization.

Citizenship Documents

Comment: Several commenters requested that CMS address in the final rule what the procedure will be when an individual can neither produce any documentation verifying citizenship nor locate two qualified individuals to support his or her affidavit declaring citizenship. The commenters stated that there is likely to be a significant number of individuals who cannot meet any of the documentation options. The commenters requested that States be allowed to grant ''good cause'' or hardship exemptions to the new regulations and permit applicants to show other evidence of citizenship. Several commenters suggested that CMS follow the approach taken by the Social Security Administration (SSA). The commenters stated that SSA permits individuals applying for Supplemental Security Income (SSI) the opportunity to explain why they have no proof of citizenship and provide any information they do have. The commenters suggested that CMS amend the proposed change to the regulations to permit a State Medicaid office to determine that it has obtained satisfactory documentation of citizenship outside of the guidelines published in the July 12, 2006 interim final rule.

One commenter requested that CMS provide an exception process whereby the State Medicaid agency could request the CMS regional office to review and approve the citizenship of an individual based on evidence submitted by the State that does not meet the documentation currently required under the regulations.

Response: It is important to note that Congress required the documentation of citizenship as a requirement in Medicaid. In order to ensure the validity of such documentation, we believe it is important to have consistent standards for States to follow. Therefore, we have not provided authority for States to accept additional documentation beyond what is specified in our regulations, or to create an exception process at the Regional Office level. We note that if commenters wish to propose additional types of documentation, they may present such documents to the Secretary, who will then engage in notice and comment rulemaking to determine whether the documents are acceptable evidence of citizenship or identity or both.

In addition, based on experience so far with the interim final rule, we believe it will be a very rare occurrence that the individual or State agency will be unable to produce any of the acceptable documents. If such a case arises, States must work with the individual to help them obtain whatever documentation could be made available. States may contact CMS for technical assistance if they experience instances in which they have questions or concerns.

Finally, we believe that the affidavit process is appropriate because it offers flexibility to individuals who have no other method of verifying their citizenship while protecting the integrity of the Medicaid program. The process was not intended to be simply a process of self-attestation, which the Congress intentionally eliminated by establishing this provision. We believe it will be less likely that an individual who is falsely declaring to be a U.S. citizen will be able to arrange for two individuals to submit affidavits on his or her behalf. The requirement that at least one of the individuals be a non-relative better ensures that there is less conflict of interest.

Comment: Several commenters noted that section 6036 of the DRA did not mandate a hierarchy of acceptable documents, and, therefore, CMS should not impose one. The commenters suggested that CMS revise the regulations to give States flexibility to comply with the documentation requirements. The commenters recommended allowing States to accept documentation from the second- and third-tier evidence groups without first ensuring that primary-level evidence is unavailable, unavailable without cost, or if there is some uncertainty about when the primary evidence can be obtained. The commenter requested that States be able to accept lower level evidence that is available at the time of application if waiting for higher level evidence will result in a delay in the eligibility determination. One commenter requested that CMS permit States to determine that a document is ''not available'' when it cannot be obtained within the reasonable opportunity period.

Several commenters also requested that if CMS is to maintain the hierarchy, it should continue to accept third and fourth level documents. One commenter requested that CMS collapse the second through fourth tiers. The commenter stated that once a document was deemed reliable for verifying citizenship or identity, it should be treated as equally reliable as all other approved documents.

In contrast, one commenter stated that the hierarchical approach to document acceptance is important and should remain in the regulations. The commenter stated that ensuring that applicants provide the most reliable documentation available to them will decrease the chance of fraud or abuse of the Medicaid system.

In addition, the commenter requested that CMS consider a document to be available if it is known to exist. The commenter stated that allowing individuals to submit lower-tier evidence when a higher level of evidence exists would encourage individuals to simply submit the available document without putting in the effort to locate and submit more reliable evidence.

Response: We understand that several commenters were concerned about our system for categorizing documents by reliability. While States should first seek documents from the first level (U.S. Passport, Certificate of Citizenship, Certificate of Naturalization, or certain State driver's licenses), States are not prohibited from accepting documentation from the second tier or below if a document from the first tier is not available. In other words, an applicant or recipient is not expected to purchase a passport if the individual does not already have one but does have available other evidence of citizenship and identity. As we stated in the preamble to the July 12, 2006 interim final rule, States have the authority (and flexibility) to determine when a document is considered unavailable (see 71 FR 39215). However, we would not expect a State to require an individual to secure a document that cannot be made available within the reasonable opportunity period if a lower level document is already available. We have made clarifying, technical changes to the regulations at § 435.407(c) and (d) to make clear that if higher level documents are unavailable, lower-level documentation may be used.

We do not agree with the commenter who suggested collapsing the second through fourth tiers. It is important for States to strive to collect the most reliable evidence first, and we believe that we have the authority under Title

XIX, as well as our rulemaking authority in section 1102 of the Act, to create the hierarchical system. Documents in the fourth tier are not as reliable as documents in the second tier and should not be considered as such.

Comment: Several commenters asked that CMS not further limit in the final rule the types of evidence that may be used to document citizenship or identity. In addition, the commenters suggested that CMS allow States greater flexibility in determining what documentation will be permitted. The commenters stated that this flexibility would enable States to confidently verify an individual's status using means that CMS has not considered or by methods that have yet to be developed.

In contrast, one commenter disagreed with CMS' expansion of the list of documents offered in the DRA. The commenter stated that the Secretary should have first published a set of proposed regulations followed by a public comment period, prior to the issuance of final regulations.

Response: After considering the comments received, we have decided not to further limit the list of documents considered satisfactory proof of citizenship and identity as published in the July 12, 2006 interim final rule. As we have previously stated, we think it will be a rare occurrence that an individual cannot meet these requirements using the broad spectrum of documents included in the regulations. If we become aware of additional documents that might serve as evidence of citizenship or identity or both, we will engage in notice and comment rulemaking to determine whether the documents should be accepted as evidence.

The July 12, 2006 interim final regulation is considered a regulation under the Administrative Procedure Act. For a discussion on why we had good cause to publish the regulation without first engaging in notice and comment, we refer readers to the interim final rule at 71 FR 39220.

Comment: Several commenters disagreed with CMS' policy of only allowing three pieces of documentation to qualify as first tier documents for purposes of verifying citizenship. The commenters noted that the cost, delay in receipt, and other factors make it unlikely that many low-income citizens will have access to these documents. For instance, several commenters noted that a Certificate of Citizenship currently costs $255, not including supporting documentation, passport photos, and the trip to a U.S. Citizenship and Immigration Service (USCIS) office. Commenters stated that a Certificate of Naturalization currently costs $200 and can take a considerable amount of time to receive. They indicated that a U.S. passport costs $97 and takes 6 weeks to process. The commenters noted that the U.S. Passport Agency verifies citizenship independent of the Department of Homeland Security (DHS) and therefore its records are not linked to the automated records used by DHS. The commenter therefore concluded that it will be especially burdensome for individuals to obtain a passport if they have lost their Certificates of Naturalization or Citizenship. The commenter concluded that limiting acceptable first tier documents to these three pieces of documentation will result in an increase in the number of Medicaid-eligible individuals not receiving coverage and turning to alternate sources of care in the community.

Response: We note that the Congress specifically cited these documents as proof of both citizenship and identity. We are not aware of any other government-issued documents that could satisfy both the U.S. citizenship and identity requirement and thus be considered a first tier document. As previously stated, while States should first seek documents from the first level, States are not prohibited from accepting documentation from the second tier or below if a document from the first tier is not available. For instance, if an applicant is in possession of an original or certified copy of his or her birth certificate but does not have a passport, the individual may present the birth certificate along with another form of identification that proves identity. In the case of a naturalized citizen, the State may conduct an electronic data verification with DHS' SAVE Program at no cost to the applicant or recipient. As we stated in the preamble to the July 12, 2006 interim final rule, States have the authority (and flexibility) to determine when a document is considered unavailable (see 71 FR 39215).

Comment: Several commenters recommended that CMS amend the list of evidence of citizenship by including: souvenir birth certificates; birth certificates from a foreign country stamped ''U.S. Citizen;'' marriage certificates showing place of birth of the individual; entries in a family bible documenting birth in the United States; and for a parent, a U.S. birth certificate of a child showing the parent's place of birth.

Response: We have reviewed each of the documents above. As part of our review, we considered SSA policy with respect to documents acceptable for issuance of a social security number. The documents listed above are not accepted by SSA as proof of citizenship for a social security number.

We are not accepting these documents as evidence of citizenship because they do not definitively establish an individual's citizenship. For many of the documents listed above, there is an existing alternative document or a database States may access that constitutes a more reliable record.

Recipients or beneficiaries with the types of birth records mentioned above should be able to obtain a birth certificate or have the State conduct a data match with the State vital statistics agency. An individual who was a U.S. citizen at birth despite being born abroad, can obtain a Department of State report of birth as described in the regulations at § 435.407(b)(2), (3), or (4).

Comment: Several commenters requested that CMS permit States to accept SSI check stubs for newly qualified SSI recipients whose names have not yet been entered into the State Data Exchange (SDX) database.

Response: Individuals receiving checks from SSA should have been entered into the SDX database. All States can check for SSI eligibility through this system. However, if the State cannot confirm with SSA that the individual has been deemed eligible for SSI via the SDX database, the State should pursue obtaining evidence of citizenship and identity.

Comment: One commenter recommended that CMS amend the list of secondary evidence of citizenship by including records that are considered secondary level evidence for citizenship verification from the SSA Program Operation Manual System (POMS). Several commenters requested that CMS revise the regulations to permit States to verify citizenship following the POMS guidelines for social security numbers.

Response: In the interim final rule we did not include two types of documents the SSA accepts as secondary evidence for social security numbers as listed in the POMS RM 00203.310: religious records recorded in the U.S. within three months of birth and early school records showing a U.S. place of birth.

We have accepted these documents as third level evidence of citizenship in the final rule. Religious records recorded in the U.S. within 3 months after the birth must show that the birth occurred in the U.S. and must show the date of the birth of the individual or the individual's age at the time the record was made. These must be official records recorded with the religious organization. Examples of such records include baptismal certificates. We caution States that in

questionable cases (*e.g.* where the child's religious record was recorded near a U.S. international border and the child may have been born outside the U.S.), the State should verify the religious record and/or document that the mother was in the U.S. at the time of birth. We have added regulations text at § 435.407(c)(3) and § 436.407(c)(3) to include these records as third level evidence of citizenship.

Early school records must show the name of the child, the date of admission to the school, the date of birth (or age at the time the record was made), a U.S. place of birth, and the name(s) and place(s) of birth of the applicant's parents. We have added regulations text at § 435.407(c)(4) and § 436.407(c)(4) to include these records as third level evidence of citizenship.

These records have been approved as third level evidence of citizenship because they are issued by non-governmental entities.

Comment: One commenter requested that CMS permit States to accept a duplicate of the information sent from hospitals to the State's Vital Statistics Agency for registering births to prove the citizenship of infants.

Response: This document could be permitted under 42 CFR 435.407(c)(1) or 42 CFR 436.407(c)(1) if it is part of the official hospital record and is on hospital letterhead.

Comment: One commenter recommended that CMS accept a letter of verification or any other official document from DHS or a U.S. District Court indicating that the person is a naturalized citizen. The commenter suggested that these documents be considered secondary evidence of citizenship.

Response: The Department of Homeland Security (DHS) has confirmed that documentation that an individual is a naturalized citizen may be contained in the SAVE database. All States have access to SAVE and data verifications can be conducted with the database. However, because SAVE verification is based on alien registration numbers, the State will need to provide DHS with the individual's alien registration number to enable the search to take place. While this number is found on the certificate of naturalization, it is necessary to keep in mind that since a SAVE verification has been designated as an acceptable form of second-tier evidence to be used only when first-tier evidence such as the certificate of naturalization is unavailable, that source for the alien registration number cannot, by definition, be used when SAVE is used as second-tier evidence, *i.e.*, as a substitute for documentary evidence of citizenship rather than as a verification of the certificate of naturalization. If an applicant has a certificate of naturalization, the applicant must provide it as first-tier evidence. Thus, the applicant will need to provide the alien registration number using another means, such as memory or documentation of previous dealings with DHS.

In addition, all use of the SAVE system is subject to DHS requirements, including execution of an appropriate Memorandum of Understanding (MOU) providing access to the system. The fact that entering a name, date of birth and alien registration number may generate a response that the subject of the query is a naturalized citizen does not necessarily mean that that is an authorized use of the system. SAVE was designed as a method of verifying alien immigration status, including responding that the subject of an alien status inquiry is in fact a naturalized citizen if such is the case. SAVE MOUs with State agencies administering Medicaid do not currently authorize use of the system to verify claims to naturalized citizen status. In addition and as previously stated, naturalized citizens may also now make use of the affidavit process as well. Therefore, we are not amending the policy to accept additional documents for use by naturalized citizens.

Comment: One commenter requested that CMS permit States to follow guidelines used by the Department of State for establishing citizenship, including accepting census records and a doctor's record of post-natal care.

Response: In our interim final and final regulations at § 435.407(d)(1) and § 436.407(d)(1), we permit as fourth-level documents census records showing U.S. citizenship or U.S. place of birth, as well as the applicant's age. Generally, census records from 1900 through 1950 provided this kind of information. Medical records of post-natal care could qualify as an extract of a hospital record, which is considered third level evidence at § 435.407(c)(1) and at § 436.407(c)(1), or a medical record, which is considered fourth level evidence at § 435.407(d)(4) and at § 436.407(d)(4).

Comment: Many commenters disagreed with CMS' policy to require that third and fourth tier evidence only be considered valid if issued at least 5 years before the date the individual applied for Medicaid. They stated that 5 years is an arbitrary period of time. The commenters noted that an applicant could not have been aware of the policy to use these documents to verify citizenship before the issuance of the July 12, 2006 interim final rule and, therefore, would not have had the foresight to create false documents in advance for purposes of meeting these requirements. Several commenters noted that many individuals have been receiving Medicaid for 20 or more years. They question CMS' decision to require those individuals to produce documents that were created decades ago. Several commenters suggested CMS permit States to accept documents that existed at the time of the enactment of the DRA. Other commenters recommended that CMS permit current recipients to use documents that existed on the date of the enactment of the DRA and permit new applicants to use documents that existed 2 or 3 years before this date.

Response: Five years prior to application is not an arbitrary date. This is long standing SSA policy which we have adopted. This requirement is only assigned to those documents that would be the most vulnerable to being created for the purpose of meeting Medicaid eligibility requirements. This requirement helps protect the integrity of these documents. We also note that not all documents are subject to this requirement. CMS has made available a wide spectrum of documents to establish citizenship and identity.

Comment: One commenter requested that CMS define the circumstances when fourth-level documentation is permissible to prove citizenship. The commenter stated that this evidence should only be used when primary, secondary, and third-level evidence does not exist.

Response: A State may accept fourth level evidence when primary, secondary, and third level evidence is not available within the reasonable opportunity period and, with the exception of the affidavit process, the applicant alleges a U.S. place of birth. In our above response to comments, we provide additional guidance on what it means for a document to be available. In accordance with such guidance, the State should make the decision of whether documents of a given level of reliability are available to the applicant or recipient (see 71 FR 39215).

Comment: One commenter requested that CMS take into account the circumstances of homeless persons when reviewing States for accepting third or fourth level evidence of citizenship. The commenter noted that there are significant reasons why documentation may not exist for homeless individuals and that providers and States should be assured that they will not be penalized for providing services to these individuals.

Response: If the individual or person working on the individual's behalf requires assistance, States are required to aid these individuals and locate and obtain whatever documentation exists. For instance, the State may be able to conduct electronic data matching that renders unnecessary the need for the applicant or recipient to submit paper documentation.

Comment: One commenter requested that for purposes of using third tier evidence, CMS specify that the place of birth on the nongovernmental document agree with the place of birth on the application at the State level. The commenter noted that names of small towns and rural areas often change. The commenter stated that these minor inconsistencies should not have any bearing on the application for Medicaid.

Response: While we understand the commenter's concern, this does not necessitate a modification to the regulations. The State is responsible for ensuring the authenticity of the documents.

Comment: One commenter requested that CMS accept as primary evidence of citizenship any identity cards issued by the Texas Vital Statistics Office to migrant workers, which show date and place of U.S. birth along with photo identification.

Response: We have worked with the Texas Department of State Health Services, Office of Vital Statistics to determine what these cards are, what they are used for, and if they might serve as appropriate evidence of citizenship and/or identity. However, we were unable to locate an example of the identification card. Until such time that we can review a sample document, we are unable to accept as evidence of citizenship and identity such document.

Comment: Several commenters requested that CMS define ''near the time of birth'' as found in § 435.407(c) and (d). The commenters requested CMS clarify whether the States were entitled to make this determination.

Response: States are best able to make this determination and are responsible for the authenticity of the document.

Comment: One commenter requested that CMS review the language pertaining to the recording of birth certificates to ensure that the appropriate terminology was used. The commenter stated that in § 435.407 and § 436.407 the word ''issued'' should be replaced with ''recorded.'' The commenter stated that by using the word ''issued,'' CMS is requiring applicants or recipients to have requested copies of birth certificates 5 years before the date of application. The commenter also recommended that the word ''amended'' be replaced with ''delayed.'' The commenter stated that an amended record is one that was changed based on a court order or some other documentary evidence based upon the items and nature of the change. A delayed record is one that was filed more than 5 years after birth. The commenter stated that these changes better reflect the intent of the regulations.

Response: We agree with the commenter and are making the necessary revisions to the regulations text at § 435.407 and § 436.407.

Comment: In the regulations at § 435.407(b)(1) and § 436.407(b)(1), a birth record may be accepted as secondary evidence of citizenship if it was recorded prior to five years of age; a birth record that was recorded more than five years after birth is considered fourth level documentation of citizenship. One commenter recommended that CMS permit States to accept any birth certificate, regardless of when it was recorded or whether it was delayed as secondary evidence of citizenship.

Response: We adopted limits on the acceptability of birth certificates in accordance with SSA practice when issuing SSNs. These limits were established to assure that when establishing citizenship, the oldest documents would be used in preference to more recent documents of the same degree of reliability. Therefore, it is appropriate to distinguish between a birth certificate that was recorded within five years of birth and one that delayed more than 5 years after the birth.

Comment: One commenter requested that CMS clarify that immunization records maintained by parents or schools are not considered to be medical records but that immunization records maintained by a clinic, doctor, or hospital are considered to be medical records.

Response: We agree with the commenter.

Comment: One commenter requested that CMS clarify whether citizens who are unable to produce the designated documentation are eligible to receive emergency medical assistance under Title XIX.

Response: Coverage for treatment of an emergency medical condition provided for under section 1903(v)(2) is only available to non-qualified aliens and qualified aliens subject to the five-year bar. Therefore, citizens are not eligible for coverage under this provision.

Section 1867 of the Act requires that hospitals with emergency departments must screen any individual who presents to the hospital emergency room requesting treatment of an emergency medical condition. The hospital must provide an appropriate medical screening examination. If the hospital determines that an emergency medical condition exists, the hospital must provide or arrange for stabilizing treatment of the emergency medical condition without regard to insurance or ability to pay.

Comment: Several commenters stated that it is a felony under Federal law (18 U.S.C. 1426(h)) for any person to copy Certificates of Naturalization and Certificates of Citizenship. Therefore, the commenters requested that CMS address what State agencies should do to document that an individual presented a Certificate of Naturalization or Citizenship.

Response: Any person who, without lawful authority, makes a likeness of various immigration or naturalization documents is committing a crime under 18 U.S.C. 1426(h). The Department of Homeland Security and the Department of Justice investigate and prosecute such offenses. However, the limitation ''without lawful authority'' would appear to exclude State employees, as well as Federal employees and agents, acting within the scope of their official duties, from the ambit of the offense. Accordingly, we do not believe that this criminal offense provision should be considered an impediment to the State's records retention needs and making photostatic or xerographic copies of such documents, duly marked as copies retained for official purposes, for their records.

Tribal Documents

Comment: Many commenters requested that CMS modify the regulations to permit American Indian/Alaska Natives to submit documentation establishing membership in a federally-recognized Tribe as a first tier document to verify U.S. citizenship and identity. The commenters noted that American Indian/Alaska Natives frequently do not have the type of documents required under CMS'' regulations implementing section 6036 of the DRA. In particular, the commenters stated that many elderly American Indian/Alaska Natives do not have birth certificates, as they were born in remote rural locations where no healthcare facilities existed.

Response: We have carefully considered the commenters' concerns and recommendations and have concluded that we cannot accept additional tribal documents as proof of U.S. citizenship at this time. First, we note that elderly individuals, if enrolled

in Part A or B of Medicare, will be exempt from the citizenship documentation requirements. Second, certain Tribal documents, such as those listed in § 435.407(d)(2) and § 436.407(d)(2), are already accepted as evidence of citizenship. However, not all Tribes require members to be U.S. citizens or to have been born in the U.S. Therefore, we cannot ensure that all Tribal members are U.S. citizens. In many instances, Tribes indicated that they require individuals to present a birth certificate to obtain a Certificate of Indian Blood. In these cases, the individual should be able to submit the same birth certificate to the State Medicaid Agency as evidence of citizenship. However, some Tribes indicated that they relied on lineage documentation to establish membership in the Tribe. Establishing tribal membership confirms the heritage and blood linkage of the individual to an ancestor who was a member of the Tribe. Determining lineage does not necessarily establish U.S. citizenship of the individual applying for or receiving Medicaid and therefore, does not meet the requirements under section 1903(x) of the Act.

Comment: Several commenters noted that in 1924, the Congress granted U.S. citizenship to members of federally-recognized Tribes through the Indian Citizenship Act. They stated that the Department of the Interior approves tribal constitutions, including membership provisions. The commenters therefore concluded that when the Federal government approved the membership guidelines, it automatically conferred U.S. citizenship on any individual granted membership in a federally-recognized Tribe. The commenters therefore concluded that tribal documents verifying tribal membership should be accepted as evidence of citizenship.

Response: The Indian Citizenship Act conferred U.S. citizenship on American Indians who were born in the United States. The Act did not grant U.S. citizenship to all members of Federally-recognized Tribes. The individual must not only be a member of a Federally-recognized Tribe, but also have been born in the United States. Therefore, demonstration of Tribal membership is not equivalent to demonstration of U.S. citizenship.

Comment: In the case of Alaska Natives, the commenters requested that States be permitted to refer to the Roll of Alaska Natives composed by the Secretary of the Interior in 1971 to verify citizenship. Section 1604(a) of the Alaska Native Claims Settlement Act of 1971 required the Secretary to prepare a roll of all Natives who were born before December 18, 1971. In section 1602 of this act, ''Native'' is defined as a ''* * *citizen of the United States who is a person of one-forth degree or more Alaska Indian, Eskimo, or Aleut blood, or combination thereof.'' The commenters therefore conclude that inclusion on this list is documentation of U.S. citizenship.

Response: We agree with the commenters and have accepted the Roll of Alaska Natives as fourth level evidence of citizenship.

The purpose of the Roll was to identify individuals with whom the Federal government was to settle a claim of aboriginal title to land. Individuals submitted applications to be included on the Roll. As part of the application, individuals had to demonstrate that they were U.S. citizens. We have confirmed with the Bureau of Indian Affairs (BIA) that the documentation submitted as part of the application for inclusion on the Roll could have included birth certificates, ancestry information, marriage documents, official name change documents, adoption information and information on siblings. Such documentation is sufficient evidence of citizenship under these regulations.

The Roll is not continually updated; it only contains information for individuals who were born prior to December 18, 1971. With the applicant's or recipient's approval, the State Medicaid Agency may contact the BIA's regional office in Juneau to request information on the individual from the Roll.

This is consistent with the Social Security Administration's policies. We have added corresponding regulations at § 435.407(d)(vi) § 436.407(d)(vi).

Comment: Several commenters stated that not all American Indian/Alaska Natives are required to be U.S. citizens or meet one of the specific immigration statuses to be eligible for Medicaid. The commenters noted that Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (''PRWORA,'' Pub. L. 104–193), enacted on August 22, 1996, exempted American Indians from the citizenship requirements for Medicaid eligibility. The commenters therefore concluded that American Indian/Alaska Natives are exempt from the citizenship documentation requirements.

Response: We are aware that American Indians who are not U.S. citizens may be eligible for Federal public benefits under PRWORA (and the amendments made thereto through section 5303 of the Balanced Budget Act of 1997, Pub. L. 105–33, enacted August 5, 1997). As amended, PRWORA provided that non-citizen American Indian/Alaska Natives born outside of the U.S., who either (1) were born in Canada and are at least 50 percent American Indian blood, or (2) are members of a federally-recognized Tribe as defined in Sec. 4(e) of the Indian Self-Determination and Education Assistance Act, are eligible for Medicaid, even if they are not U.S. citizens. In other words, individuals who meet one of the above requirements may be considered to be in satisfactory immigration status for purposes of determining eligibility for Federal public benefits. PRWORA specifically created an exception for American Indian/Alaska Native individuals who are not United States citizens. An American Indian/Alaska Native who declares him- or herself to be a citizen is not affected by PRWORA and is subject to this provision.

Comment: A representative from one Tribe asked that CMS delay implementation of section 6036 of the DRA until the issue of adequate documentation for American Indian/Alaska Natives has been further discussed and a solution reached.

Response: In section 6036(b) of the DRA, Congress required the citizenship documentation requirements to apply July 1, 2006, specifically stating that the ''amendments made by subsection (a) shall apply to determinations of initial eligibility for medical assistance made on or after July 1, 2006, and to redeterminations of eligibility made on or after such date.''

Comment: In contrast, several commenters agreed with CMS' proposal to not accept tribal membership cards as first tier documentation verifying U.S. citizenship.

Response: We appreciate the comment and have not made any changes at this time with respect to Tribal documents that will be accepted for purposes of verifying United States citizenship.

Evidence of Citizenship for Children

Comment: One commenter asked that CMS clarify what constitutes sufficient documentation of citizenship for children under age 16. One commenter noted that some documents will not be available for children. For instance, one State prohibits children under the age of 18 from obtaining a certified copy of their own birth certificates.

Response: As stated earlier, we believe the statute requires children who have either declared U.S. citizenship or have had such a declaration made on their behalf to meet the documentation requirements under

1903(x) of the Act. There are numerous ways to document citizenship for children as outlined in this final rule.

Comment: One commenter requested that CMS reconsider whether documentation is necessary to document the citizenship and identity of very young children. They stated that there is very little question about the citizenship of children born to parents who have documented their own citizenship. They also request that CMS expand the list of satisfactory documents for young children.

Response: As stated above, we interpret the statute as requiring that every individual who has declared to be a U.S. citizen or had a declaration made on his or her behalf must document such U.S. citizenship in order for the State to receive FFP. The State cannot assume a child's citizenship status based on the parents' information.

Comment: One commenter recommended that CMS permit States to accept birth records to satisfy both the citizenship and identity requirements for children.

Response: Section 1903(x)(3) of the Act requires that when an individual submits a birth certificate to establish citizenship, the individual must submit a second document to verify identity.

Comment: Many commenters disagreed with CMS' requirement that infants born to non-status aliens receiving ''emergency Medicaid'' in a U.S. hospital be required to submit documentation verifying citizenship. The commenters noted that individuals born in the U.S. are U.S. citizens, regardless of the citizenship of the mother. The commenters stated that, otherwise, many eligible citizen newborns risk a delay in health coverage to which they are entitled.

Several commenters also stated that some eligible infants may not have applications made on their behalf and that CMS should make the process as simple and direct as possible for those responsible for this vulnerable population.

Response: We have considered the comments received and are modifying the regulations to clarify that a child born to a woman who has applied for, has been determined eligible and is receiving Medicaid on the date of the birth of the child is deemed Medicaid-eligible for a period of one year so long as the mother also remains (or would remain if pregnant) eligible and the child is a member of the woman's household.

Under section 1902(e)(4) of the Act and 42 CFR 435.117, a Medicaid agency must provide Medicaid eligibility to a child born to a woman who has applied for, has been determined eligible and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains (or would remain if pregnant) eligible and the child is a member of the woman's household. Citizenship and identity documentation for the child would be obtained at the next redetermination of eligibility. This policy also applies to a citizen child born to a non-qualified or 5-year bar qualified alien mother eligible for and receiving Medicaid on the date of the child's birth.

In order for an individual to be determined eligible for Medicaid (with the exception of newborns deemed eligible under section 1902(e)(4) of the Act), he or she must complete a full Medicaid application. This is also the case for non-qualified or 5-year bar qualified aliens seeking coverage for emergency medical services (including labor and delivery) only. While non-qualified aliens are not required to meet the citizenship or satisfactory immigration status requirements or to submit a social security number, they must be determined otherwise-eligible, including but not limited to meeting residency, income and resource requirements. All standard Medicaid application procedures apply, including timely determination of eligibility and adequate notice of the agency's decision concerning eligibility. Qualified aliens subject to the 5-year bar must demonstrate that they are in satisfactory immigration status, submit a valid social security number, and meet all other eligibility requirements including but not limited to the residency, income and resource requirements as part of being determined otherwise-eligible for emergency medical services under Medicaid. All Medicaid application procedures apply, such as timely determination of eligibility and adequate notice of the agency's decision concerning eligibility.

In most cases affected by this rule, States have up to 45 days to make an eligibility determination. Once an applicant is determined eligible, the effective date of eligibility may be the date of application, the first date of the month of application or up to 3 months prior to the month of application. Under retroactive eligibility authorized under section 1902(a)(34) of the Act, an applicant may be determined eligible for services rendered up to 3 months prior to the date of application. In order for a service to be covered by Medicaid in the 3 month period prior to the application, the applicant must be determined to have been Medicaid-eligible either on the date of service or during the month in which retroactive eligibility is provided. This applies to all applicants, including non-qualified or 5-year bar qualified aliens seeking coverage for emergency services (including labor and delivery) only. If a woman is found to be retroactively eligible for labor and delivery services, the newborn child would be deemed Medicaid-eligible from the date of birth.

With respect to whether the mother remains (or would remain if pregnant) eligible for Medicaid after the birth of the child, the State must determine whether a non-qualified or 5-year bar qualified alien would remain eligible for emergency services under § 435.139 or § 436.139. In determining whether the woman would remain eligible for such services, the State must consider whether the woman would remain otherwise-eligible if pregnant.

If a woman does not apply for Medicaid or applies for Medicaid and is not determined eligible, her labor and delivery services will not be covered by Medicaid and the child would not benefit from the provisions under section 1902(e)(4) of the Act. In these cases, an application must be filed on behalf of the child and the citizenship documentation requirements would apply at the time of application.

We note that certain children born in the United States do not benefit from deemed eligibility because the mother will be ineligible for both emergency and regular Medicaid. For example, foreign diplomats and their children (including those born in the United States) are not eligible for either emergency or regular Medicaid. (See section 3211.10 of the State Medicaid Manual, Publication 45.) In addition, some non-qualified aliens are not eligible for Medicaid coverage of an emergency medical condition because they do not meet all eligibility criteria, such as residence in a State. For example, individuals present in the United States on a current visitor's visa are not considered residents of a State. Such individuals are admitted to the U.S. for temporary periods, and upon applying for the visa declared under penalty that they are not abandoning their primary residences abroad. While a child born in the United States to such an individual is a U.S. citizen and may be eligible for Medicaid, deemed eligibility does not apply. In these instances, a full Medicaid application for the child would be required to determine Medicaid eligibility.

We are modifying the regulations text at § 435.117 and § 436.117 to reflect these changes in policy.

We note that CMS has not initiated action against any State to disallow FFP based on implementation of the deemed newborn provision under the policy in the interim final regulation. However, we expect that all States will be in compliance with the deemed newborn policy described above upon the effective date of the final regulation. We continue to provide States with ongoing outreach and technical assistance on this matter.

Comment: Many commenters requested that States should be permitted to accept record of payment, and especially a State Medicaid agency's record of payment, of an individual's birth in a U.S. hospital as satisfactory documentation of both citizenship and identity. In addition, several commenters suggested that States be permitted to accept U.S. hospital records of birth as primary evidence of citizenship and identity for newborns.

Response: A record of payment is not sufficient to document citizenship. We reviewed several hospital claims and determined that they do not contain sufficient information to establish citizenship. For example, the information provided on a labor and delivery claim is particular to the mother and does not contain any information on the infant. For instance, such claims do not indicate whether or not the labor resulted in a live birth.

However, as stated in § 435.407(c)(1) and § 436.407(c)(1) of this final rule, an individual may use an extract of a hospital record of birth to verify an infant's citizenship if higher tier documentation is unavailable. This document must be on hospital letterhead and created near the time of birth. We recommend that State eligibility workers work with the parents or caretakers of infant children to ensure that they are aware of these requirements and request the appropriate records from the hospital.

Comment: One commenter requested that CMS clarify the regulations text at § 435.407(b)(8), which states that, when an adoption has not been finalized, a State may accept a certification of the child's U.S. place of birth from an adoption agency as long as the adoption agency can certify that the source of the birth information was an original birth certificate. The commenter recommended that CMS permit States to accept any information provided by the adoption agency pursuant to the regulations at § 435.407(b)(1), (d)(2)(iv), or (h)(1) (now (i)(1)) of the July 12, 2006 interim final rule, including a match with a State vital statistics agency.

Response: We note that if the adoption is for a child eligible for Title IV–E Adoption Assistance, the child would be exempt from these requirements as authorized under section 405(c)(1)(A) of Division B of the TRCHA. If the exemption does not apply, a State may accept birth information from an adoption agency if the adoption agency certifies that it obtained the information from an original birth certificate or certified copy of a birth certificate. The State may also conduct a match with the appropriate vital statistics agency using the information provided by the adoption agency, or work with another State to conduct such a match with that State's vital statistics agency.

Comment: One commenter requested that CMS clarify how the regulations apply to children born outside of the U.S. They recommended that CMS recognize the automatic citizenship of any child affected by the Child Citizenship Act of 2000.

Response: All individuals claiming U.S. citizenship or who have had a declaration made on their behalf, including children, must provide evidence of citizenship and identity. As previously stated, if the adoption is for a child eligible for Title IV–E Adoption Assistance, the child would be exempt from these requirements as authorized under section 405(c)(1)(A) of Division B of the TRCHA. Otherwise, and as stated in the preamble to the July 12, 2006 interim final rule, a child born outside the U.S. and adopted by a U.S. citizen may establish citizenship under section 320 of the Immigration and Nationality Act (8 U.S.C. 1431), as amended by the Child Citizenship Act of 2000 (see 71 FR 39218). This also applies to certain children born abroad whose parents are naturalized citizens. The State must obtain documentary evidence that verifies that at any time on or after February 27, 2001, the following conditions have been met: (1) The child has at least one U.S. citizen parent (by either birth or naturalization); (2) the child is under the age of 18; (3) the child is residing in the United States in the legal and physical custody of the American citizen parent; (4) the child was admitted to the United States for lawful permanent residence; and (5) if adopted, the child satisfies the requirements of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) pertaining to international adoptions (i.e., the child must have been admitted as an IR–3 if adopted outside the United States, or been admitted as an IR–4 with a final adoption having taken place in the United States).

The U.S. citizenship of the parent should be verified as otherwise provided in this rulemaking. Admission of the child as a lawful permanent resident should be verified in the manner provided for a determination of ''qualified alien'' status, including SAVE verification. More detailed information about documentary evidence that can be used to satisfy elements of a section 320 claim to U.S. citizenship is provided in DHS regulations at 8 CFR Part 320 (especially section 320.3(b)) and in the instructions for DHS Form N–600, Application for Certificate of Citizenship (available on the USCIS Web site at *http://uscis.gov*).

Note that these provisions apply to claims of ''automatic'' citizenship under section 320 of the Immigration and Nationality Act only. The Child Citizenship Act also amended section 322 of that Act (8 U.S.C. 1433). Section 322 is, however, a naturalization provision that requires a grant of citizenship by DHS. Determination of citizenship of a section 322 claimant should be made in the manner provided by this rulemaking for other naturalized citizens.

We have modified our regulations at §§ 435.407(b)(12) and 436.407(b)(12) to codify this rule, as stated in the preamble to the July 12, 2006 interim final rule.

Affidavit Process

Comment: Several commenters requested that CMS clarify what it means when it uses the term ''affidavit.'' According to the commenters, the term ''affidavit'' may have different definitions under State law. The commenters were particularly concerned with whether the affidavit must be notarized. They stated that CMS did not intend to require applicants to notarize the affidavit, as this could pose problems for people in more remote areas.

Response: We understand from the commenters that under many State laws an affidavit must be notarized. We note that for purposes of meeting the requirements of section 6036 of the DRA, an ''affidavit'' is a signed written declaration made under penalty of perjury. This document does not need to be notarized. We have modified the regulations text at § 435.407(f) and § 436.407(f) to clarify that these identity affidavits are not required to be notarized.

Comment: Several commenters disagreed with CMS' decision to require that the individuals submitting supporting affidavits on behalf of a recipient or applicant be citizens and verify their own citizenship. The

commenters do not agree that it is necessary for an individual to be a citizen to know the circumstances of another individual's citizenship. They stated that this requirement does not ensure greater authenticity of the applicant's or recipient's claim but only makes the process more burdensome. One commenter requested that CMS clarify whether this policy applies to parents or guardians filing affidavits on behalf of a child. One commenter further requested that CMS exempt supporting affiants from verifying their own citizenship for purposes of the affidavit process if they are exempt from verifying citizenship for purposes of Medicaid (e.g. individuals in receipt of SSI or SSDI).

Response: We do not believe accepting supporting affidavits from a non-citizen individual is appropriate. The intent of the law is for citizens to document their citizenship status; therefore, we believe it is counter-intuitive and does not accord with the overall purpose of the law to permit non-citizens to establish another individual's citizenship, including the non-citizen parents of a citizen child. Therefore, the policy continues to be that States may only accept supporting affidavits from a citizen who has personal knowledge of the events determining another individual's citizenship.

Comment: Several commenters stated that the affidavit process was overly burdensome. The commenters stated that affidavits should be accepted when appropriate, and not just in the rarest of circumstances. In addition, the commenters stated that it is unrealistic to expect that two individuals, including one non-relative, will be able to provide information on the facts establishing citizenship. Another commenter requested that CMS not require a third affidavit from a second witness. The commenter argued that the affidavits from the other two individuals already establish the information on the absence of other documentary evidence and that further evidence is unnecessary.

Response: The process established for affidavits is necessary to protect the integrity of the Medicaid program. We believe that requiring two affidavits is a safeguard that ensures consistency in the accounts and prevents against fraud. We believe that it is less likely that an applicant or recipient who can obtain two corroborating affidavits by other individuals to support his own affidavit will be engaged in fraud. It is important that at least one of the affidavits be from a non-relative to diminish the possibility of conflict of interest.

In addition, we note that there are numerous documents available to an individual to verify citizenship status. Most applicants should not have to resort to an affidavit.

Comment: One commenter requested that CMS permit States to accept affidavits to document both citizenship and identity.

Response: As we previously stated, the statute requires that when an individual does not use a first tier document to establish both citizenship and identity, the individual must provide two distinct documents to verify citizenship and identity. We have only allowed identity affidavits in the rare circumstances where we believe there is a reasonable possibility that the individual will not be able to obtain other documents proving identity. Populations eligible to use identity affidavits are children under the age of 16 (18 in limited circumstances) and disabled individuals living in residential care facilities.

Comment: Several commenters recommended that CMS change the regulations to permit naturalized citizens to submit signed affidavits accompanied by copies of any supportive documents and/or information, such as the date of naturalization, alien registration number, or information on a parent's naturalization. The commenter noted that all naturalization cases can be verified by DHS.

Response: We have considered the commenters' request and agree that it is appropriate to permit naturalized citizens to submit an affidavit to verify citizenship. While we believe that electronic verification with the SAVE Program will eliminate the need for many naturalized citizens to utilize the affidavit process, we believe that such individuals should have a recourse available to them when their information cannot be located in the SAVE database. Such affidavits should of course be considered carefully for their probative value in light of the fact that they are offered as proof that the U.S. Government has conferred a status (and that it is a continuing status, i.e., that the person has not been denaturalized) absent any other evidence of that grant of status.

Comment: One commenter requested that CMS remove from the regulations the use of affidavits. The commenter stated that the intent of the Congress was to move away from self-attestation of citizenship and that CMS is not meeting that intent by allowing an individual to prove citizenship through a written affidavit. The commenter also stated that if an individual cannot prove citizenship based on one of the other methods, that is a strong indication that person is not a citizen.

The commenter recommended that if CMS is to retain the affidavit provision, it be modified. The commenter recommended that CMS explicitly state in the regulations that an affidavit may only be used if higher-tier documentation does not exist, not that it cannot be obtained. The commenter also recommended that a second affidavit explaining why the documentary evidence does not exist should be required, not requested. The commenter stated that the second affidavit will help the State Medicaid Offices keep track of why applicants are relying on an affidavit and possibly help them verify the applicant's citizenship.

One commenter strongly opposed the use of affidavits as proof of citizenship. The commenter stated his opinion that affidavits blur the lines between clear verification of citizenship and an honor system. The commenter requested that if CMS is to maintain use of affidavits, CMS should clarify what constitutes ''personal knowledge'' and ''rarest circumstances.''

Response: We do not agree that we should delete the affidavit process. We fully agree that the Congress intended that we no longer rely on self-declaration alone as sufficient evidence of citizenship. However, we do not agree that our affidavit process is the same as the process of self-declaration. The conditions under which a person may utilize the affidavit process are strictly limited to rare instances when higher level documentation is not available, and affiants declare their status under penalty of perjury.

We also disagree with the commenter who stated that we should require States to obtain from a second affiant information on why citizenship documentation is not available to an individual. If this information is available, as stated in the regulations at § 435.407(d)(5)(iv) and § 436.407(d)(5)(iv), it should be contained in the affidavit. However, it is possible for States to determine whether the individual has provided sufficient evidence of citizenship without information on why other documents may not be available.

For purposes of the affidavit process, an individual has ''personal knowledge'' of circumstances if he or she has knowledge about the event that established a person's citizenship or has personally seen a document establishing citizenship—such as a passport that burned in a fire. The individual should be able to share details such as when and where the event occurred, who was

involved and whether there were any special circumstances surrounding the event.

For this same purpose, we consider ''rare circumstances'' to be instances when none of the acceptable documents are available to the individual.

Comment: One commenter requested that CMS clarify the degree of relationship that is meant by ''related'' with respect to the affidavit process. The commenter requested that CMS clarify whether two people in a relationship by marriage are considered ''related.''

Response: States are in the best position to determine degrees of relationships that fall into the term ''related.'' However, we would expect States to consider spouses to be related.

Comment: One commenter requested that CMS delete from § 435.407(d)(5)(v) the parenthetical reference to ''guardian or representative'' and allow for this affidavit to be signed by ''the applicant or recipient or other knowledgeable individual.''

Response: We have considered the commenter's request; however, it is important that the individual submitting an affidavit of citizenship on behalf of an incapacitated person be the guardian or representative of that individual. It is sufficiently reliable that another person attest to the circumstances of the individual's citizenship status when a guardian or representative has been legally appointed to care for the individual's affairs.

Identity Documentation

Comment: Several commenters noted that evidence of identity will be very difficult for certain populations to obtain. In particular, the commenters expressed concern about the ability to obtain identification for children. One commenter recommended that CMS revise the regulations to permit States to accept school records, and not just photo ID, as acceptable identification for children under the age of 16, as many schools do not issue photo ID. Several commenters recommended that CMS permit States to accept photos contained in yearbooks for purposes of identification. Several commenters requested that CMS revise the regulations to exempt children under the age of 18 from submitting photo identification.

Response: We understand the commenters' concerns regarding identity documentation for children. For this reason, we permitted identity affidavits to be submitted on behalf of children under the age of 16. In most locations, children 16 and above have access to either a school ID card with a photograph, or a driver's license that contains a photograph or other identifying information listed in the regulations at § 435.407(e)(1) and § 436.407(e)(1). However, we understand from the commenters that this is not universally true. Therefore, in areas where both a school ID card with a photograph that meets the criteria at § 435.407(e)(1)(ii) or § 436.407(e)(1)(ii) or a driver's license that meets the criteria at § 435.407(e)(1)(i) or § 436.407(e)(1)(i) are not available to an individual before the age of 18, States will be permitted to accept affidavits establishing the identity of children up to age 18.

We have revised the regulations text at § 435.407(f) to include school records such as report cards. If the State accepts such records, it must verify them with the issuing school.

Comment: One commenter requested that the regulations be revised to permit States to accept affidavits to establish identity for all children under the age of 18. In addition, the commenter requested that CMS permit caretaker relatives to submit affidavits on behalf of children.

In contrast, one commenter stated that CMS inappropriately approved the use of affidavits for children under the age of 16 to establish identity. The commenter noted that use of affidavits for these purposes violate the DRA, the INA, and the Attorney General's regulations. The commenter requested that CMS revise the regulations to eliminate this use of affidavits.

Response: As we stated in the previous comment, we are revising the regulations to permit States to accept affidavits establishing the identity of children up to age 18 in areas where school ID cards and driver's licenses establishing identity in accordance with our regulations are not available to an individual before the age of 18.

We have reconsidered whether identity affidavits for children must be signed by a parent or legal guardian and agree with the commenter who requested that CMS permit caretaker relatives to sign identity affidavits on a child's behalf. We have revised the regulations at § 435.407(f) and § 436.407(f) to reflect this change.

In response to the commenter who stated that the use of identity affidavits violate the DRA, we note that section 1903(x)(3)(D)(ii) permits the Secretary to approve additional documents as evidence of identity.

Comment: Several commenters requested that CMS accept many additional documents as proof of identity. Among these, commenters requested that CMS accept court-issued documents for individuals of any age; facility medical records for any institutionalized individuals who are not receiving SSI or Medicare; current employer ID cards; ID cards with photos issued by a private agency providing social services (for example, Salvation Army); government-issued papers not related to public assistance (e.g. tax returns); bank statements; utility bills; IDs or documents from correctional institutions; military discharge papers; certified copies of marriage certificates or judgments of divorce; and checks issued by the Department of Veterans' Affairs.

Response: We have expanded the use of additional identity documents to include a combination of three or more of the following official documents: Employer identification cards, high school and college diplomas from accredited institutions (including general education and high school equivalency diplomas), marriage certificates, divorce decrees, and property deeds/titles. A combination of three or more of these documents must corroborate one another and must not conflict, and may only be used to verify identity if the individual used secondary or third level evidence of citizenship and the document was not used to verify citizenship. A State may permit an individual to submit such documents only when it has determined that no other evidence of identity is available to the individual prior to accepting these documents. The documents should be originals or certified copies. This is similar to SSA policy in that SSA may accept an employer identification card or marriage document as secondary level evidence of identity along with additional supporting documentary evidence for purposes of issuing an SSN (see POMS RM 00203.200 Evidence of Identity for an SSN Card). We have added regulations text at § 435.407(e)(3) and § 436.407(e)(3) to reflect this change.

Comment: Several commenters stated that the July 12, 2006 interim final rule failed to include several identity documents found in the Immigration and Nationality Act. The commenters noted that section 1903(x)(3)(D)(i) of the Act states that ''any identity document described in section 274A(b)(1)(D) of the Immigration and Nationality Act'' is acceptable proof of identity. The commenters stated that under the regulations at 8 CFR 274a2(b)(1)(v)(B), which implement section 274A(b)(1)(D) of the Immigration and Nationality Act, voter registration cards and Canadian driver's licenses are acceptable proof of identity for anyone 16 years of age or older. The commenters therefore

conclude that the Congress has deemed these documents as reliable forms of identity. The commenter further notes that section 1903(x)(3)(D)(ii) of the Act authorizes the Secretary to expand the list of acceptable evidence of identity, rather than restrict the list established by the Congress.

Response: We do not agree that voter registration cards and Canadian driver's licenses are acceptable evidence of identity for the purpose of Medicaid eligibility. The DRA required CMS to accept as evidence of identity any document described in section 274A(b)(1)(D) of the INA. Section 274A(b)(1)(D)(i) of the INA says that a document is a ''driver's license or similar document issued by a State if it contains a photograph of the individual or other such personal identifying information relating to the individual.'' We do not believe either voter registration cards or Canadian driver's licenses meet this requirement. Voter registration cards do not contain photographs or other personally identifying information. Canadian driver's licenses are not issued by a State.

We recognize that regulations implementing this requirement under the Immigration and Nationality Act long have included a much wider variety of documents than the statute would appear to permit, and that Congress undoubtedly was aware of this implementation when cross-referencing the provision, and have taken that consideration into account in listing all the regulatory documents but these two. However, the section 1903 reference is to the statute and does not require us to designate documents with no personal identifying information or foreign-issued documents as evidence of identity to establish U.S. citizenship.

Comment: One commenter requested that CMS clarify whether identity documents may be used even if they recently expired.

Response: States may accept identity documents that have recently expired as long as there is no reason to believe that the document does not match the individual.

Comment: One commenter requested that CMS extend the permissible use of affidavits to establish the identity of disabled individuals. Several commenters requested that CMS permit States to accept affidavits from providers of long term care or rehabilitation service facilities to demonstrate the identity of individuals in their care.

Response: We agree with the commenters. A State may accept an identity affidavit on behalf of a disabled individual made by a director or administrator of a residential care facility where the individual resides. However, the State should first pursue all other means of verifying identity prior to accepting such an affidavit. The affidavit is not required to be notarized. We have modified the regulations at § 435.407(g) and § 436.407(g) to incorporate this policy.

Comment: One commenter requested that States be permitted to accept an identity affidavit for adults in certain limited circumstances.

Response: As stated above, we have permitted the use of identity affidavits for disabled adults in residential care facilities.

Comment: One commenter requested that CMS clarify which Native American tribal documents will satisfy the identity requirement and what kind of information the document must include.

Response: Documents establishing identity must include a photograph or other personally identifying information such as height, weight, hair color, eye color, sex, or race. We have revised the language at § 435.407(e)(1)(vi) to reflect this.

Comment: One commenter requested that CMS clarify the list of identity documents. The commenter stated that the list in the regulations text at § 435.407(e)(8) and § 436.407(e)(8) appears to be duplicative of the documents described in § 435.407(e)(1)–(7) and § 436.407(e)(1)–(7) and its presence is therefore confusing.

Response: We inadvertently repeated the list of documents from the INA twice. For this reason, we have removed the regulations text at § 435.407(e)(8). In addition, we have removed § 435.407(e)(9), which was a duplicate of the new § 435.407(e)(1)(vi). The regulations text at § 435.407(e)(10) in the interim final regulations is now at § 435.407(e)(2).

Comment: One commenter stated that each of the identity and citizenship documents presented by CMS is vulnerable to fraud at the enrollment, issuance, and usage phases. Therefore, the commenter recommended that information-based identity authentication be included as a requirement to bolster the identity authentication process.

Response: We appreciate the commenter's technical expertise and will keep this in mind as we approve databases and processes for electronic matching. We note that States are required to protect against fraud under the regulations at 42 CFR 431 Subpart P Quality Control.

Comment: One commenter requested that CMS clarify whether identification cards issued by the Federal, State or local government must have the same information as is actually included on some unspecified drivers' licenses, or whether they must simply have the same information as is required by the July 12, 2006 interim final rule for drivers' licenses as documentation of identity. The commenter recommended that CMS accept the latter. In addition, the commenter requested that CMS clarify whether a State is to compare all government-issued identification cards to its own drivers' licenses or should it compare these identification cards to the drivers' licenses in the State in which the card was issued. Similarly, the commenter requested that CMS identify the drivers' licenses to which Federal identification cards are to be compared.

Response: Identification cards issued by the Federal, State, or local government must contain a photograph or personally identifiable information such as height, weight, age, and sex. States may determine whether or not a particular identification card meets their standard for establishing identity. Generally, drivers' licenses contain at least a photograph or, if not, detailed information on the person's physical appearance. We intended the reference to comparing identification cards to drivers' licenses to mean that a State would consider whether the information provided on the identity card was comparable to what is provided on drivers' licenses generally.

Requests for Assistance

Comment: Several commenters requested that CMS require States to extend assistance to indigent individuals who cannot afford to pay for obtaining the required documents. One commenter requested that States be required to pay the cost of obtaining original and certified copies of citizenship documents. One commenter requested that the Federal government reimburse States for 100 percent of any costs the State incurs while attempting to secure documents for recipients or applicants. One commenter requested that CMS require States to waive fees for individuals seeking documents in the State's control to prove their identity and citizenship for Medicaid purposes.

Response: As we stated in the interim final rule with comment period, FFP for administrative expenditures is available at the current match rate to assist States with these costs.

Comment: Several commenters noted that the phrase ''incapacity of mind'' is vague and undefined. They suggested

that CMS modify the change to the regulations to require States to assist individuals who ''due to a physical or mental condition'' are unable to comply with the requirements. One commenter requested that CMS replace the term with a more specific definition of who is being targeted. One commenter suggested that we replace the term with ''individuals with mental or physical impairments.''

Response: We accept the comment and have revised the regulations text at § 435.407(h) and § 436.407(h) (formerly § 435.407(g) and § 436.407(g)) to reflect this change.

Comment: Several commenters noted that the new regulation text does not specifically require States to assist homeless persons or individuals whose documentation may have been lost or destroyed due to a natural or man-made disaster to verify their citizenship. The commenters suggested that CMS modify the regulations to explicitly require States to aid these groups. One commenter requested that CMS expand the list of reasons why a person may require assistance at the outset, making specific reference to both the Americans with Disabilities Act (ADA) and section 504 of the Rehabilitation Act and including specific people who are limited English proficient (LEP). The commenters also requested that CMS indicate in the final rule the steps States must take to assist populations with special needs. One commenter recommended that these individuals be designated as a State representative who will have the primary responsibility of obtaining the required documentation.

Response: All of the protections offered under the Civil Rights Act, the Americans with Disabilities Act and the Rehabilitation Act apply. As we stated in the interim final rule with comment period, States must assist individuals who are trying in good faith to obtain satisfactory documentation but cannot do so within the reasonable opportunity period (see 71 FR 39216).

Comment: Several commenters requested that CMS permit States to institute a Hardship Provision to account for personal and natural disasters. The commenters stated that often these individuals are in critical need of medical care, but due to their circumstances are unable to provide the necessary documentation. The commenters stated that these individuals should be afforded benefits upon application, if otherwise Medicaid-eligible.

Response: States must assist individuals who are trying in good faith to obtain satisfactory documentation but cannot do so within the reasonable opportunity period (see 71 FR 39216).

Comment: One commenter requested that CMS modify the reasonable opportunity definition to include an affirmative obligation on States to provide assistance and guidance to any recipient or applicant actively trying to procure documentation.

Response: The statute has provided that many of the vulnerable individuals are exempt from these requirements. Under the regulations at § 435.407(h) (formerly § 435.407(g)), we have required States to assist special populations. In addition, as stated above, we clarified in the preamble to the interim final rule with comment period that States must assist any individual who is trying in good faith to obtain satisfactory documentation but cannot do so within the reasonable opportunity period (see 71 FR 39216).

In any case, we have always expected States to help individuals requiring assistance. Under the regulations at § 435.908 ''Assistance with application'' a State Medicaid Agency must allow an individual the choice of having someone accompany, assist, and/or represent him or her during the application or redetermination process. In addition, States are required under the regulations at § 435.905 to provide written information on eligibility requirements. We expect States to incorporate into written information which documents are acceptable to verify citizenship.

Comment: One commenter stated that the policy set forth in the July 12, 2006 interim final rule violates the Federal Medicaid statute by treating applicants and recipients differently. The commenter expressed particular concern with respect to terminating the reasonable opportunity period for applicants at 45 or 90 days while allowing recipients an indefinite amount of time to produce the documents.

Response: We have not changed the long-standing reasonable opportunity periods afforded applicants and recipients during application and redetermination. For this reason, we stated in the preamble to the interim final rule with comment period that the reasonable opportunity period should be consistent with the State's administrative requirements such that the State does not exceed the time limits established in Federal regulations for timely determination of eligibility in § 435.911. The regulations permit exceptions from the time limits when an applicant or recipient in good faith tries to present documentation but is unable to do so because the documents are not available.

Further Exemptions

Comment: Many commenters acknowledged their support of CMS' change to the regulations to exempt recipients of Medicare and SSI from the citizenship documentation requirements. Several commenters recommended that CMS modify the change to exempt individuals who are not currently in receipt of both Medicare and SSI but had been in the past. The commenters also requested that if CMS exempts these individuals, it should specify in the regulations how far back the States may look for Medicare and SSI eligibility. One commenter recommended that CMS exempt SSI applicants who were denied for reasons other than citizenship. One commenter requested that CMS clarify whether only the citizenship documentation process is waived for Medicare and SSI recipients or if the identity documentation process is waived as well.

Response: Section 1903(x)(2) of the Act exempts only those individuals who are currently entitled to or enrolled in Medicare or in receipt of SSI. Further, SSA does not make available to CMS the bases for denial. Therefore, we would not be able to determine whether an individual was terminated or denied based on immigration status. Both the identity and the citizenship documentation requirements do not apply in the case of exempted individuals.

Comment: Many of the commenters suggested that CMS modify the regulations to exempt additional groups from the citizenship verification requirements, including groups of individuals for whom the commenters believe SSA has already verified citizenship status.

Response: The TRHCA amended section 1903(x)(2) to exempt individuals receiving disability insurance benefits under section 223 of the Act or monthly benefits under section 202 of the Act, based on such individual's disability (as defined in section 223(d) of the Act). The State may also confirm such receipt with SSA through established data matches. As stated earlier, we do not have the authority to exempt groups that were not exempted by the statute unless they meet the statutory requirements in section 1903(x)(2)(D) of the Act.

Comment: One commenter requested that we exempt all SSI recipients and not just those in the section 1634 States where SSI recipients are automatically eligible for Medicaid.

Response: As previously stated, the TRHCA amended section 1903(x) of the Act to exempt all individuals in receipt of SSI.

Comment: Many commenters requested that CMS exempt individuals currently covered or otherwise eligible for services under a family planning waiver. The commenters noted that these individuals should be exempt from the documentation requirements due to the timely nature of their need for services.

Response: We believe it is consistent with the intent of the law that individuals receiving medical assistance through a State Medicaid program declare citizenship or immigration status and provide documentation of that status including individuals receiving medical assistance through an 1115 demonstration. Such individuals must apply for coverage and be determined to meet all other Medicaid requirements, such as providing a valid social security number.

We note that PRWORA requires that any individual receiving Federal public benefits be a citizen or qualified alien, with limited exceptions. We note that CMS would not be able to waive this requirement for purposes of eligibility for an 1115 demonstration program or family planning waiver.

Comment: Several commenters requested that CMS exempt foster children from the citizenship documentation requirements.

Response: Section 405(c)(1)(A) of Division B of the TRCHA amended section 1903(x) of the Act to exempt children in foster care who are assisted under Title IV–B of the Act and children who are recipients of foster care maintenance or adoption assistance payments under Title IV–E of the Act. We note however, that section 405(c)(1)(B) of Division B of the TRCHA requires the State title IV–E agency to have procedures to verify the citizenship or immigration status of any child in foster care under the responsibility of the State under titles IV–B or IV–E.

Comment: Several commenters recommended that CMS revise the regulations to exempt all foster children upon initial placement, at which time Title IV–E eligibility may not yet have been determined. Several commenters requested that these exceptions also be made for children in informal placements and State and tribal-run foster care systems.

Response: As previously stated, section 405(c)(1)(A) of Division B of the TRCHA exempted children in foster care who are assisted under Title IV–B of the Act and children who are recipients of foster care maintenance or adoption assistance payments under Title IV–E of the Act. For purposes of this provision, foster care includes any child assisted under Title IV–B in the placement and care responsibility of a State or Tribe that is in an out-of-home placement, regardless of licensing or payment status of the provider.

Comment: One commenter requested that CMS exempt abandoned babies from the requirements. The commenter stated that because parents are not required to provide personal information, little is known about these infants.

Response: To the extent these children are in foster care, they would be exempt from these requirements based on the TRHCA's exemption of children in receipt of Title IV–B services or IV–E assistance. However, we do not have the authority to exempt groups that were not exempted by the statue unless they meet the statutory requirements in section 1903(x)(2)(D) of the Act.

Comment: One commenter requested that CMS explain why some requirements only apply to children under 16 years old when a child is not normally considered an adult until age 18.

Response: In general, it is appropriate to require children over the age of 16 to present identification from the list. In general, individuals over the age of 16 will be able to obtain a driver's license or school ID. However, as we previously stated, in areas where identity documents are not available to individuals before the age of 18, a parent or guardian may provide an identity affidavit on a child up to age 18. We have changed the regulations text at § 435.407(f) to reflect this change.

Comment: One commenter recommended that CMS allow individuals and families who are victims of natural disasters to be given 5 months of coverage under Medicaid beginning on the date of the natural disaster's occurrence without regard to the citizenship documentation requirements. The commenter also recommended that additional coverage should be provided for pregnant women affected by natural disasters through 60 days postpartum.

Response: How to treat Medicaid eligibility in the event of a natural disaster is out of the scope of this regulation. Under reasonable opportunity, States must aid individuals in obtaining documentation if the individuals are making a good faith effort to procure the documents but are unable to do so within the reasonable opportunity period.

Comment: One commenter recommended that children, regardless of documentation of citizenship, be considered eligible for emergency services under the same circumstances that aliens may receive these services. One commenter recommended that children under the age of 5 be presumptively considered citizens and be covered under Medicaid for 6 months while the necessary documentation is being gathered.

Response: As previously stated, we do not have authority under the law to make citizens eligible for emergency services authorized for aliens only under section 1903(v)(3) of the Act, as well as PRWORA. In addition, we believe that providing medical assistance to individuals prior to collecting citizenship documentation requirements would violate the intent of section 1903(x), which requires States to have such documentation as a condition of receiving FFP.

Comment: One commenter requested that CMS include the Medicare/SSI exemption in § 436.406 as well as § 436.1004 to clearly establish that these populations are excluded from the documentation requirements.

Response: We agree with the commenter and have modified the regulations text at 42 CFR part 435 or 42 CFR part 436 to include these exemptions.

Comment: Several commenters recommended that CMS consider several additional populations to be presumptively eligible, including their status as citizens, because they will likely not have the capabilities to obtain the proper identification documents.

Response: Criteria for presumptively eligible is under sections 1920, 1920A and 1920B of the Act. Addressing modifications to these statutory provisions is outside the scope of this rule. We have previously addressed how States may help individuals requiring assistance.

Outreach

Comment: Several commenters requested that CMS work with the States to ensure that appropriate outreach efforts are made. The commenters noted that there exists considerable lack of awareness and confusion of what is required by section 6036 of the DRA on the part of eligibility workers, and applicants for and recipients of Medicaid. One commenter requested that CMS outline the extent of CMS' outreach program so that States can avoid any duplication of effort.

Response: We have been working with States on a comprehensive

outreach plan. Outreach to date includes meetings and open door forums with over 150 organizations comprised of States, advocacy groups, and technical advisory groups. We have also distributed the State Medicaid Director's Letter on the citizenship documentation requirement to 100 advocacy groups. Working in conjunction with these organizations, we have reached out to over 49,000 individuals.

We continue to provide education and outreach through speaking at conferences, conducting conference calls, and providing technical assistance to a number of our closest partners in reaching out to States and information intermediaries. 250 organizations participated in two Low-Income Open Door Forums including Indian Health Service, American Association of People with Disabilities, American College of Physicians, National Council on Aging, National Center for Children and Poverty, Public Hospital Pharmacy Association, and National Senior Citizens Law Center.

Finally, we have posted numerous outreach and education materials in both English and Spanish to the CMS Web site as part of the campaign. We encourage States, advocacy groups and individuals to use these materials to reach out to other organizations and people with Medicaid to provide more information about the new requirements. These documents include a brochure, PowerPoint presentation, poster, Questions and Answers sheet and a fact sheet.

Comment: One commenter requested that CMS and the States clarify in their outreach efforts that these new requirements apply only to Medicaid, not the Food Stamp Program.

Response: The statute only applies to Medicaid. In the interim final rule with comment period, we stated that these determinations are not binding on other Federal or State agencies for any other purpose (see 71 FR 39218).

Comment: Several commenters requested that CMS provided Federal grant assistance to the States to offset the cost of outreach.

Response: FFP is available to States for administrative costs; the match for these costs is 50 percent.

Other Comments

Comment: Several commenters expressed their support of CMS' change to the regulations to meet the requirements of section 6036 of the DRA. One commenter noted that Medicaid is not the only source of health care coverage in many communities; he stated that individuals who are unable to produce the required documentation to establish citizenship should seek coverage of services from an alternate source.

Response: We appreciate the commenters' expressions of support for the rule. However, we can only comment on the Medicaid program. State and local agencies are best suited to address what additional sources of care in a community are available to an individual.

Comment: Several commenters inquired about the financial impact on the Medicaid program of non-eligible non-citizen individuals receiving coverage. The commenters stated that aliens without established immigration status are very careful to not make themselves known to government officials for fear of deportation. The commenters cited the Office of the Inspector General's July 2005 report ''Self-Declaration of U.S. Citizenship for Medicaid'' as evidence that non-status aliens are not falsely claiming citizenship for purposes of obtaining Medicaid. The commenters stated that unless CMS had evidence to suggest otherwise, the regulations were overly and unnecessarily strict and would result in eligible individuals failing to seek coverage or being deemed ineligible for lack of documentation.

Response: We emphasize that section 6036 of the DRA requires States to verify an individual's declaration of citizenship via documentation as a condition of receiving FFP. These regulations provide numerous additional documents not specified in the law that provide greater flexibility to individuals in meeting these requirements.

Comment: One commenter stated that the July 1, 2006 implementation date is unreasonable, especially considering the regulations have yet to be finalized. One commenter requested that CMS delay implementing section 6036 of the DRA until States can set up adequate processes. One commenter requested that CMS provide States with a grace period to enact the new regulations, including an opportunity for corrective action by States, through January 1, 2007.

Response: We note that the statute requires that State Medicaid Agencies obtain documentation of the citizenship and identity of applicants as of July 1, 2006, and for recipients at the time of the first redetermination occurring on or after July 1, 2006. The Secretary does not have the authority to modify this date. In addition, we note that the vast majority of States had begun implementing this provision on or before July 1, 2006.

Comment: One commenter requested that CMS include in the final rule specific standards for assuring agency and provider compliance with all applicable civil rights laws including section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, and Title VI of the 1964 Civil Rights Acts.

Response: Under the regulations at § 430.2 and § 435.901, all aspects of the Medicaid program must comply with Federal antidiscrimination laws.

Comment: One commenter stated that verifying both citizenship and identity was redundant.

Response: Federal law requires that State Medicaid Agencies verify and document both citizenship and identity if the individual does not use a first tier document.

Comment: Several commenters requested that CMS reverse the citizenship documentation requirements.

Response: CMS does not have the authority to reverse an act of the Congress.

Comment: Several commenters stated that because of the new regulations, citizen applicants are being required to provide more information than non-citizen applicants. For instance, a non-citizen can provide a photocopy of his or her resident alien registration card and other identification documents. In addition, a non-citizen applicant is required to be covered by Medicaid while locating the documents necessary to verify immigration status. Under these new regulations, citizen applicants are not covered by Medicaid during the reasonable opportunity period.

Response: Citizen applicants and recipients are not required to provide more documentation than non-citizens. Like citizens, aliens must provide documentation that they are in satisfactory immigration status, which the State is then required to verify with the SAVE database. While individuals in satisfactory immigration status may submit photocopies of the required document, this is permissible because States must verify all such documents with the Department of Homeland Security through a verification with the SAVE Program. Therefore, States are not expected to determine whether the documents are valid. In contrast, States are obligated to determine the validity of documents attesting to citizenship and such documents are extremely variable with no single issuer who could attest to their validity. Therefore, the most efficient and effective method for documenting citizenship is to require that documents submitted be originals.

Current recipients will be covered during the reasonable opportunity period. Once an applicant is determined eligible, eligibility may start on the date of application, the first day in the month of application, or up to 3 months prior to the month of application (under section 1902(a)(34) of the Act). Like aliens, citizens must be provided a reasonable opportunity period before the State Medicaid Agency can take action on the individual's eligibility.

Comment: One commenter noted that the new regulations will be exceptionally burdensome on the specific populations relying on Medicaid for health care. The commenter stated that the most affected groups will be the transient, minorities, and those with mental illnesses.

Response: The statute has exempted many of the most vulnerable populations, including those receiving Medicare and certain disabled populations. In addition, States are required under § 435.407(h) to assist individuals with incapacitating physical and mental conditions. As previously stated, States must assist any individual who cannot obtain the necessary documentation within the reasonable opportunity period and is making a good faith effort to do so.

Comment: One commenter expressed concern over CMS' legal interpretation of the word ''alien'' in section 6036(x)(2) as a congressional error.

Response: As we discussed previously, the TRCHA corrected this error by replacing the word ''alien'' in 1903(x)(2) with the phrase ''individual declaring to be a citizen or national of the United States.'' The TRHCA made such change effective as if it had been included in the DRA.

Comment: One commenter asked CMS to clarify whether a State can terminate or deny an individual during the reasonable opportunity period if the person is deemed to not be making a good faith effort to comply with the requirements. They also asked whether they were permitted or required to extend the period if an individual is shown to be making a good faith effort. They also asked CMS to state the proper course of action to take with a child whose parents or guardians are uncooperative.

Response: States must follow standard application and redetermination processes. States' standard practices with respect to the reasonable opportunity period have not changed. Therefore, as is currently permissible, a State may deny an individual at any point in the application process if the State determines that the individual is not making a good faith effort to comply with any part of the application process.

Comment: One commenter noted that States are not required to authenticate documents and should not be required to do so.

Response: Eligibility workers are trained to review and accept documents and we expect that for purposes of determining eligibility, they would accept only reliable documents.

A State should evaluate every document presented as evidence of citizenship and identity to determine whether it meets the published criteria for acceptance and whether the document appears to be genuine. A State is not obligated to accept any document submitted as evidence of either citizenship or identity if that document does not appear genuine.

Determining the authenticity of any document is a process of judgment the State agency must exercise. The State should consider, for example, whether the information on the document is consistent with other information the agency has on the individual, if the document contains any erasures or obvious signs of manipulation, if the issuing organization is a recognized organization in the United States, is there any irregularity in the size, style, printing, or use of capitalization, and whether the date of registration is later than the date of the event recorded.

If the State agency determines a document is questionable, the State may refuse to accept the document, or it could contact the issuing agency to determine whether the document is indeed authentic.

This description of evaluation questions is only a sample of the possible questions a State would need to answer to be assured the document is genuine and refers to the person named on it.

Financial Aspects and Compliance

Comment: One commenter requested that CMS explicitly identify which costs incurred by a State or county agency assisting applicants and recipients procure citizenship documentation will be considered allowable administrative costs for Federal Financial Participation (FFP). One commenter recommended that Federal funding for the costs of obtaining adequate documentation should be reimbursed to the State at 100 percent.

Response: Under the law, States are eligible for the standard 50 percent Federal match for administrative costs in connection with implementing the citizenship documentation provision, as defined under the regulations at § 435.1001.

Comment: One commenter requested that CMS indicate in the final rule how it will monitor the extent to which States are obtaining primary evidence.

Response: We will monitor compliance with these regulations following the standard reviews and audits as described in the regulations at 42 CFR Part 430.

Comment: One commenter asked CMS to clarify that agency oversight with respect to FFP is not intended to prevent eligible citizens from receiving Medicaid benefits. The commenter expressed concern that States will be overly cautious with respect to following the Federal guidelines and risk not enrolling eligible individuals.

Response: We are committed to ensuring that all eligible individuals receive the Medicaid benefits to which they are entitled. In no way are these new regulations intended to prevent eligible citizens from receiving Medicaid benefits. However, Federal law requires that citizens provide documentation verifying their citizenship. States are encouraged to assist individuals who have difficulty obtaining or locating such documentation.

Comment: One commenter requested that CMS give States a higher Federal Medicaid Assistance Percentage (FMAP) to cover the costs of implementing this DRA provision.

Response: CMS does not have the authority to alter FMAP rates, which are set in statute.

Comment: One commenter recommended that CMS give States the flexibility to designate qualified hospitals as agents of the State for purposes of collecting and certifying citizenship documentation for purposes of Medicaid applications. One commenter requested that CMS strongly recommend that States enter into these arrangements with hospitals and health centers to assist in expediting the citizenship verification process. One commenter requested that CMS confirm that agencies collecting eligibility applications on behalf of the State are permitted to copy documents and note on the copies that the original documents were viewed.

Response: It would promote proper and efficient administration of the Medicaid program for hospitals to perform this step in the application process of collecting and photocopying citizenship documentation. However, States already must have outstation locations for the initial processing of Medicaid application, under § 435.904. These locations must include all disproportionate share hospitals (DSH) and Federally qualified health centers

(FQHC), or, at State option, other outstation locations which include at least some DSH hospitals and FQHCs. The initial processing of applications includes obtaining required documentation, such as citizenship documentation. Outstationed provider or contractor employees or volunteers could collect and photocopy the required certification, and would be required to certify that original documentation was seen as with any other Medicaid eligibility worker.

Technical

Comment: One commenter asked that CMS clarify the statement in the preamble to the July 12, 2006 interim final rule which reads, ''We are removing § 435.408 and § 436.408 because the immigration status described as permanently residing in the United States *under color of law* no longer has any effectiveness because of the enactment of 1996 of the Personal Responsibility and Work Opportunity Act which provides that ''notwithstanding any other law'' an alien who is not a qualified alien as defined in 42 U.S.C. 1641 is not eligible for any Federal public benefit'' (71 FR 39220). The commenter would like CMS to clarify whether this statement regards the Immigration Reform and Control Act (IRCA) only or also Persons Residing Under Color of Law (PRUCOL) in general.

Response: The term ''permanently residing in the U.S. under color of law'' (PRUCOL) is not defined in the Immigration and Nationality Act. The changes made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) define the classes of aliens eligible for Federal public benefits in section 431 of that act consistent with the definitions in the Immigration and Nationality Act. Thus, the definition of qualified alien excludes any alien not defined in section 431. In addition, the conference report accompanying PRWORA states on page 383 that: ''Persons residing under color of law shall be considered to be aliens unlawfully present in the United States * * *.'' Therefore, we are reflecting the changes made by PRWORA.

Comment: One commenter noted that the citation to the Immigration Regulations in § 435.407(e)(8) of the rule appears to be incorrect. The commenter stated that the citation should be 8 CFR 1274a.2(b)(1)(v)(B).

Response: The regulations text at 8 CFR 1274a.2(b)(1)(v)(B) and 8 CFR 274a.2(b)(1)(v)(B) is identical. The difference between them is that 8 CFR Part 274 contains Department of Homeland Security (DHS) regulations, while Part 1274 represents Department of Justice (DOJ) regulations. Duplicate regulatory provisions were promulgated effective March 1, 2003 by DOJ to complement the existing Part 274A which shifted to DHS jurisdiction, because the authorities previously exercised on behalf of the Attorney General relating to section 274A of the INA by two DOJ components (the Immigration and Naturalization Service (INS) with respect to 274A enforcement and the Executive Office for Immigration Review (EOIR) for adjudication of contested 274A cases) were as of that date exercised by DHS as the successor to INS with DOJ retaining its EOIR jurisdiction. DOJ therefore deemed it appropriate to establish separate regulations for continuing EOIR purposes. We have utilized this citation to reflect only the Department of Homeland Security regulations in § 435.407(e)(1) (formerly § 435.407(e)(8)), as this is the most appropriate citation given DHS jurisdiction over designation of acceptable documents for Form I–9 purposes; as noted, though, the provisions are substantively identical.

Comment: One commenter requested that CMS clarify how a State may verify identity documents while also not requiring applicants to appear in person.

Response: Ultimately, States are responsible for verifying an individual's declaration of U.S. citizenship, including verifying the identity of the individual. If a State does not feel confident it can verify a person's identity without having the individual present documentation in-person, it may require that the applicant or recipient do so.

Comment: One commenter requested that CMS clarify whether or not verifying citizenship is a one-time activity. The commenter notes that CMS has indicated that there may be a need to reevaluate this information if a 3-year gap in coverage occurs.

Response: Generally, once an individual has verified his or her citizenship for Medicaid purposes, he or she will not have to verify it again unless there is a 3-year gap in enrollment and the State has subsequently destroyed the prior records or if doubt is raised about the authenticity of the previously submitted documents. If the records no longer exist, the individual would be required to submit verifying documentation again. We note that a State may decide to retain records beyond the 3-year minimum requirement at its discretion.

Comment: One commenter requested that CMS clarify the following sentence from the Regulatory Impact Statement: ''* * * with respect to those States that elect to review documents through the routine eligibility and redetermination process, we recognize there will be some increased burden on eligibility workers.'' The commenter requested that CMS clarify what alternatives States have to this election.

Response: States may use electronic records matching in place of requiring that an individual submit paper documentation.

Comment: One commenter requested that CMS clarify whether the omission from the July 12, 2006 interim final regulations that certain documents must have been created 5 years before the date of application for Medicaid was an oversight or a change to the policy.

Response: We reviewed the SMD and the interim final rule and found one instance where the policy as stated differed with respect to the criteria that the documents must have been created 5 years before the date of application. We intended to require that institutional admission papers from a nursing facility, skilled care facility or other institution have been created at least 5 years prior to the date of application for Medicaid. We are updating the regulations text at § 435.407(d)(3) and § 436.407(d)(3)to reflect this.

Comment: One commenter requested that CMS clarify whether or not an electronic indicator from a prior period can be used to verify citizenship if the 3-year period of document retention has expired and paper copies of documentation are no longer available.

Response: We are interpreting the electronic indicator mentioned by the commenter to be an electronic file with a checkbox indicating whether or not acceptable evidence of citizenship and identity had been viewed.

As we stated in the interim final rule with comment period, records of citizenship and identity documents must be kept in the Medicaid file in either paper or electronic format (e.g., a scan of a document). An electronic marker from a prior period indicating that the citizenship verification process was completed will not meet this standard. However, a State may opt to keep records for a longer period of time if the State believes this better serves its program needs.

Comment: One commenter requested that CMS clarify whether the omission from the July 12, 2006 interim final regulations of the clinic, doctor, or hospital record showing date of birth as proof of identity for children that was included in the Medicaid Fact Sheet

June 9, 2006 was an oversight or a change in policy.

Response: The absence of this document from the regulations at § 435.407(f) was an oversight. We have revised the regulations text to include these documents.

Comment: One commenter requested that the reference to Medicare in the preamble of the July 12, 2006 interim final rule (71 FR 39215) is confusing because it does not specify whether the exemption applies to an individual who is entitled to or enrolled in Medicare Part A only or to individuals entitled to or enrolled in both Medicare Part A and Part B.

Response: The law states that this exemption applies to individuals entitled to or enrolled in any part of Medicare. The individual need not be enrolled in all parts of Medicare.

Comment: One commenter noted that the July 12, 2006 interim final rule contains two citation errors. The reference to 42 U.S.C. 1641 should be 8 U.S.C. 1641 and the reference to 42 CFR Part 74 should be part 92.

Response: We have corrected the citation to 8 U.S.C. 1641 and the citation to 45 CFR part 74.

IV. Provisions of the Final Regulations

We are maintaining the majority of the provisions in the July 12, 2006 interim final rule with several exceptions. The provisions of this final rule that differ from the interim final rule with comment period are as follows:

(1) We are modifying the regulations to provide Medicaid eligibility to a child born to a woman who has applied for, has been determined eligible and is receiving Medicaid on the date of the child's birth so long as the woman remains eligible and the child is member of the woman's household. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for up to one year. This provision applies to all newborn children as long as the mother is receiving Medicaid on the date of the child's birth. A non-qualified alien or 5-year bar qualified alien receiving emergency Medicaid services as provided under § 435.139 is considered to be Medicaid-eligible and receiving Medicaid for purposes of this provision. Citizenship and identity documentation for the child must be obtained at the next redetermination of eligibility. As required by law and regulation, a woman may be eligible under § 435.139 only if she submits a full Medicaid application showing she meets the requirements under § 435.406(b), including income, residency and asset requirements.

(2) We have modified the regulations concerning citizenship and alienage to emphasize that individuals receiving services through an 1115 demonstration program, including a family planning waiver, must declare if they are a U.S. citizen and provide the required documentary evidence of citizenship and identity.

(3) We have modified the regulations to exempt individuals receiving SSDI benefits based on disability, children in foster care who are assisted under Title IV–B of the Act, and children who are recipients of foster care maintenance or adoption assistance payments under Title IV–E of the Act as authorized by section 405(c)(1)(A) of Division B of the TRHCA.

(4) We have included in the regulations the exemption of individuals entitled to or enrolled in Medicare or in receipt of SSI payments as authorized by the DRA and clarified by the TRHCA.

(5) We have made several technical corrections to the regulations text at § 435.406(a)(2) and (b) and § 436.406(a)(2) and (b) to clarify that non-qualified aliens and aliens subject to the 5-year bar may only be eligible for coverage of emergency services.

(6) We have modified the regulations text at § 435.406(b), (c) and (d) and § 436.406(b), (c) and (d) to clarify that a State may accept lower tier evidence of citizenship when a higher tier document is unavailable.

(7) We have modified the regulations text at § 435.407 and § 436.407 to clarify that for purposes of this regulation, the term ''citizenship'' includes status as a noncitizen national of the United States as well as a U.S. citizen.

(8) We have revised the language used to describe birth records to be consistent with the National Association for Public Health Statistics and Information Standards (NAPHSIS). This entails replacing the words ''issued'' with ''recorded'' and ''amended'' with ''delayed.'' This language reflects our original intent of accepting birth records that were recorded with vital statistics within 5 years of birth as secondary evidence of citizenship and birth records that were recorded with vital statistics after 5 years of birth (a delayed birth record) as fourth level evidence of citizenship.

(9) We have corrected the regulations text at § 435.407(b)(5) and § 436.407(b)(5) to account for a drafting error in the DRA that incorrectly references the form number for U.S. citizen identification cards. This does not change the policy as stated in the interim final regulations.

(10) We have approved the use of the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program for purposes of verifying citizenship for naturalized citizens, subject to DHS authorization. We have also codified in regulation the rule (already articulated in the interim final rule with comment) that a biological or adopted child born outside the United States may establish citizenship using the process established under section 320 of the INA, as amended by the Child Citizenship Act of 2000 (Pub. L. 106–395, enacted on October 30, 2000).

(11) We have expanded the list of appropriate documents to verify citizenship by including religious records recorded in the U.S. within 3 months of birth and early school records showing a U.S. place of birth as third level evidence of citizenship. We have noted that entries in a family bible are not considered recorded religious records. This is consistent with the Social Security Administration's policy.

(12) We have revised the regulations to clarify that institutional admission papers from a nursing facility, skilled care facility or other institution that indicates a U.S. place of birth must have been created at least 5 years before the initial application date to be accepted as fourth level evidence of citizenship. This is consistent with the Social Security Administration's policy.

(13) We have accepted the Roll of Alaska Natives maintained by the Bureau of Indian Affairs as fourth level evidence of citizenship.

(14) We have modified the regulations text at § 435.407(d) and § 436.407(d) to allow naturalized citizens to utilize the affidavit process.

(15) We have removed from the regulations text the duplicate list of documents under § 435.407(e)(8) and § 436.407(e)(8). This does not change the policy as stated in the interim final rule with comment period.

(16) We are modifying the language in the regulations describing what information Certificates of Degree of Indian Blood and other American Indian/Alaska Native Tribal documents must have to be considered evidence of identity. Specifically, we are clarifying that the document must have a photograph or other personally identifying information.

(17) We have modified the regulations to approve the use of three or more corroborating documents such as high school and college diplomas from accredited institutions, marriage certificates, property deeds/titles, and

employee ID cards to verify the identity of an individual.

(18) We have clarified in the regulations text at § 435.407(f) and § 436.407(f) that school records may be accepted for purposes of establishing the identity of children. This does not change the policy as stated in the interim final rule with comment period.

(19) We have modified the regulations text at § 435.407(f) and § 436.407(f) such that clinic, doctor and hospital records may be accepted as evidence of identity for children.

(20) We have expanded the list of acceptable identity documents at § 435.407(f) and § 436.407(f) to include the use of identity affidavits for children up to 18 years of age in limited circumstances. We have stated in the regulations text that these identity affidavits do not need to be notarized.

(21) We have modified the regulations text at § 435.407(f) and § 436.407(f) such that caretaker relatives may submit an identity affidavit on a child's behalf.

(22) We have expanded the list of acceptable identity documents to include the use of identity affidavits for disabled individuals in residential care facilities. This modification to the policy can be found at the new § 435.407(g) and § 436.407(g).

(23) We have revised the regulations text at § 435.1008 and § 436.1004 to identify the populations who are exempt from the citizenship documentation requirements.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 30-day notice in the **Federal Register** and solicit public comment when a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We solicited public comment on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

Citizenship and Alienage (§ 435.406)

Section 435.406 requires States to obtain a declaration signed under penalty of perjury from every applicant for Medicaid that the applicant is a citizen or national of the United States or an alien in a satisfactory immigration status, and require the individual to provide acceptable documentary evidence to verify the declaration. (§ 435.407 describes the types of acceptable documentary evidence of citizenship.)

An individual should ordinarily be required to submit evidence of citizenship once unless the State receives evidence that evidence previously relied upon may be incorrect. States must maintain copies of that evidence in the case file or database.

We estimated it would take an individual 10 minutes to acquire and provide to the State acceptable documentary evidence and to verify the declaration.

We estimated it will take each State 5 minutes to obtain acceptable documentation, verify citizenship and maintain current records on each individual.

Citizenship and Alienage (§ 436.406)

Sections 436.406 and 436.407 apply to Guam, Puerto Rico, and the Virgin Islands and are the corresponding sections to the regulations at § 435.406 and § 435.407. Section 436.406 requires Medicaid agencies to obtain a declaration signed under penalty of perjury from every applicant for Medicaid that the applicant is a citizen or national of the United States or an alien in a satisfactory immigration status, and require the individual to provide acceptable documentary evidence to verify the declaration. (§ 436.407 describes the types of acceptable documentary evidence of citizenship.)

An individual should ordinarily be required to submit evidence of citizenship once unless the State receives evidence that evidence previously relied upon may be incorrect. States must maintain copies of that evidence in the individual's case file.

We estimated it would take an individual 10 minutes to acquire and provide to the State acceptable documentary evidence and to verify the declaration.

We estimated it will take each State 5 minutes to obtain acceptable documentation, verify citizenship and maintain current records on each individual.

Comment: Many commenters contended that the collection of information requirements were either significantly understated or estimated only for instances where an individual was already in possession of the required documents. The commenters also noted that in determining the amount of time the person would spend producing these documents, CMS must have expected that all individuals would be mailing the documents to the State. Many commenters expressed serious concern about sending original versions of important documents through the mail. Therefore, the commenters concluded that CMS failed to consider the amount of time associated with obtaining and personally presenting these documents to a State Medicaid Agency office, which they state will be the more likely scenario. The commenters stated that this requirement will be onerous on both the part of the individual producing the documents and on the States collecting and processing the documents. The commenters noted that it generally takes weeks to get a passport or birth certificate and months to a year to get a Certificate of Citizenship or Certificate of Naturalization.

Response: We based our estimate upon the average time it would take an individual who had the documents in his or her possession and brought those documents to the initial intake meeting or opted to mail those documents into the State Medicaid Agency office. We believe that in the vast majority of instances, this will be the likely scenario. We also considered that the people who would have the most difficulty obtaining documents (e.g. the disabled, elderly, and, since enactment of TRHCA, children in foster care) are exempt from these requirements.

We recognize that it may take certain applicants and recipients additional time to obtain the necessary documentation. We encourage States to work with all applicants and recipients to minimize this amount of time. We also encourage States to utilize electronic matching with State Vital Statistics agencies before requesting paper documentation. Through effective outreach, States can minimize delays caused by confusion or lack of awareness of the requirements.

In addition, at this time, we do not have evidence from States indicating we should revise the estimates.

If you comment on these information collection and recordkeeping requirements, please mail copies directly to the following:

Centers for Medicare & Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group, Attn: Melissa Musotto [CMS–2257–F], Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Katherine Astrich, CMS Desk Officer, [CMS–2257–F], *katherine_astrich@omb.eop.gov.* Fax (202) 395–6974.

VI. Waiver of the Delay in the Effective Date

The Administrative Procedure Act as codified in 5 U.S.C. section 553(d) ordinarily requires a 30-day delay in the effective date for final rules. In addition, the Congressional Review Act, at 5 U.S.C. section 801(a), requires that certain major rules not take effect until 60 days after publication. Both provisions permit the delay in effective date to be waived, however, if an agency for good cause finds that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the finding and its reasons in the rule issued. 5 U.S.C. 553(d)(3), 808(2). In addition, if the rule grants or recognizes an exemption or relieves a restriction, the agency may waive the delay in effective date. 5 U.S.C. 553(d)(1).

In this rule we have identified additional documentary evidence of citizenship and identity beyond that contained in the interim final rule with comment period. Thus, we consider this final rule as providing additional relief to potential restrictions that may have hindered receipt of Medicaid. Also, the addition of such documents may allow Medicaid eligible citizens lacking documents identified in the interim final rule to receive Medicaid without undue delay or without being denied or terminated. Without prompt publication of a rule, States will not have immediate authority to employ additional documentary evidence beyond that contained in the interim final regulations. Such additional documentary evidence will help to prevent loss of Medicaid eligibility. Because delaying the effective date of this regulation could either prevent or complicate eligible individuals from being able to demonstrate their citizenship, we find that good cause exists to waive this requirement. The attendant delay would be contrary to public interest.

VII. Regulatory Impact Analysis

A. Overall Impact

We examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). It is assumed that Medicaid enrollees who are citizens will eventually provide proof of that fact, and that the savings will come from those who are truly in the country illegally. Consequently, we estimated that the level of Federal savings from this provision will be under $80 million, and State savings under $60 million, per year over the next 5 years. By considering the impact on both Federal and State savings, this rule surpasses the economic threshold and is considered a major rule. The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6.5 million to $31.5 million in any 1 year. Individuals and States are not included in the definition of a small entity. We did not prepare an analysis for the RFA because we determined, and the Secretary certifies, that this rule will not have a significant economic impact on a substantial number of small entities. We also note that section 604 of the RFA applies only in cases where an agency promulgates a final rule after being required to publish a general notice of proposed rulemaking. As stated in the interim final rule, for this regulation, we found good cause to publish the interim final rule without prior publication of a proposed rule.

In addition, section 1102(b) of the Act required us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We did not prepare an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $120 million. This rule will have no consequential effect on State, local, or Tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Although each State is responsible for establishing its own procedures for reviewing the documentation, several States have already been reviewing these documents. For these States, there will be little or no added burden. There will also be no additional burden for the millions of individuals enrolled in Medicare who will be exempt. In addition, there will be no additional burden for the millions of individuals who receive SSI, SSDI, child welfare services under Title IV–B, or adoption or foster care assistance payments under Title IV–E. In the future, when additional data matches are available, the burden will continue to be minimized for other groups of Medicaid eligible individuals.

Finally, with respect to those States that elect to review documents through the routine eligibility and redetermination process, we recognize there will be some increased burden on eligibility workers. However, the Medicaid eligibility and redetermination process is ordinarily conducted by skilled interviewers who are trained and skilled in the review of documents related to income and identification; therefore, we do not anticipate that these added requirements will overburden the eligibility process.

B. Anticipated Effects

1. Effects on the Medicare and Medicaid Programs

As described in more detail below, we estimate that as a result of this provision, roughly 50,000 undocumented aliens will no longer receive full Medicaid. Based on this estimated decline in enrollment, we estimate that the level of Federal savings from this provision will be under $80 million, and State savings under $60 million, per year over the next 5 years.

In projecting these savings, we assumed that Medicaid enrollees who are U.S. citizens by birth or naturalization will eventually be able to provide proof of citizenship. Since the rule does not apply to legal immigrants, the impact would come from undocumented aliens who are receiving Medicaid benefits illegally.

We developed projections of the total undocumented population based on estimates by the Pew Research Center (about 12 million in 2007, rising to 14 million by 2011). From limited available evidence, we believe that very few of these undocumented individuals are currently receiving full Medicaid benefits. For these estimates we assumed participation rates of one percent in states that allow self-declaration of citizenship and one-half percent in states with restricted self-declaration. States that do not permit self-declaration were not included in the savings estimates. We further assumed that the new documentation requirements would be effective in eliminating 75 percent of participating undocumented aliens from the full benefit Medicaid rolls. (Emergency services would, of course, continue to be available.) These assumptions result in an estimate of roughly 50,000 undocumented aliens who would no longer receive full Medicaid.

Savings per person were estimated using Medicaid per capita expenditure projections from the President's FY 2008 budget, adjusted to exclude exempt groups and emergency services that would continue to be available. The states' share of savings was calculated using an average federal matching rate of 57 percent. These savings are subsumed in the President's FY 2008 budget.

C. Alternatives Considered

Because CMS previously issued interim final regulations and not a notice of proposed rule making, we were not required by law or regulation to issue a final regulation. However, in light of recent legislation that affected this policy and consideration of the public comments received in response to the interim final, we are changing several aspects of the policy as stated in the interim final. Therefore, we are publishing final regulations to announce these changes and have them codified in regulation.

D. Accounting Statement and Table

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), in the table below, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this final rule. Table A provides our best estimate of the decrease in Medicaid payments as a result of the changes presented in this proposed rule. Savings are classified as transfers to the Federal Government and transfers to State Governments. Table B demonstrates the annualized savings for each the State and Federal government based on the discounted 3% and 7% rates as required by OMB.

TABLE A

	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
	$ millions				
Federal	45	50	55	65	70
State	40	40	45	45	55
Total	85	90	100	110	125

TABLE B

Discount—	Annualized Federal savings ($millions/year)	Annualized State savings ($millions/year)
	FY 2007–2011	FY 2007–2011
0 percent	57.0	45.0
3 percent	56.6	44.8
7 percent	56.1	44.5

E. Conclusion

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

Comment: Several commenters disagreed with CMS' determination of the regulatory impact. The commenters stated that several assumptions under which the impact was calculated were incorrect. The commenters stated that it is unlikely that all Medicaid applicants/recipients who are citizens will be able to provide proof of citizenship due to lack of documentation, extreme physical and/or mental illness and lack of adequate community support. The commenters stated that, accordingly, many recipients will leave the system and many eligible individuals may never apply. Many commenters stated that these individuals will seek care in other settings such as the emergency department, charity care facilities and, in the case of American Indian/Alaska Natives, Indian Health Service facilities. Therefore, according to the commenters, the impact may be a significant reduction in Medicaid expenditures at the expense of other sources of care in the community.

Several commenters requested that CMS clarify how it determined its cost

estimate for States in a way that yields savings. The commenters stated that implementing the new regulations will create considerable new costs. Several States indicated that their analysis of this provision resulted in a significant increase in costs. Their estimates were partly based on hiring new staff to process more in-person applications. The States expect that most applicants will no longer complete phone-in or mail-in applications for fear of losing documents in the mail. The States also stated that they will incur significant costs as a result of purchasing documents for poor recipients and applicants who otherwise could not afford to obtain them.

One commenter stated that CMS should revise its regulatory impact statement. He stated that CMS has not provided any support for its decision to waive the Regulatory Flexibility Act requirement for an analysis of options to protect small entities. The commenter stated that it is imperative that the impact statements and cost-benefit analysis be done before these regulations are finalized.

Response: The regulatory impact statement was calculated to estimate changes in Medicaid expenditures for claims. It did not account for the administrative impact on States.

With respect to administrative costs, CMS provides federal match for administrative expenditures. We would expect States to experience higher administrative costs during the first year of implementation as they adjust to the new requirements. We also expect these costs to decrease in later years as current recipients meet the requirements and only new applicants are required to submit documentation. Furthermore, the exemption of several groups of individuals authorized under both the DRA and the TRHCA will significantly reduce the number of individuals from whom States must collect documentation. Administrative costs may be further reduced by the States' ability to cross-verify with the SAVE database, to which they already have access. Data matches with the State's vital statistics agency could further reduce administrative costs.

With respect to the commenter who stated that the savings to the Medicaid program will be significantly greater than those calculated based on many individuals either being unable to meet the requirements or being deterred from applying at all, we disagree. Nearly all States have implemented these requirements. While we heard some initial concerns about the impact of this provision on enrollment numbers, we expect this trend to reverse as States, recipients and applicants become more familiar with the requirements.

In response to the commenter who believes that we must conduct an analysis of options to protect small entities, we note that State agencies are not considered small entities. The commenter did not identify other entities he believed should be taken into account. As stated above, we also note that section 604 of the RFA applies in cases where the Administrative Procedure Act requires a general notice of proposed rulemaking.

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs-health, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Wages.

42 CFR Part 436

Aid to Families with Dependent Children, Grant programs-health, Guam, Medicaid, Puerto Rico, Virgin Islands.

42 CFR Part 440

Grant programs-health, Medicaid.

42 CFR Part 441

Aged, Family planning, Grant programs-health, Infants and children, Medicaid, Penalties, Reporting and recordkeeping requirement.

42 CFR Part 457

Administrative practice and procedure, Grant programs-health, Health insurance, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs-health, Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

■ Accordingly, the interim final rule amending 42 CFR parts 435, 436, 440, 441, 457, and 483, which was published July 12, 2006 at 71 FR 39214, is adopted as final with the following changes:

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

■ 1. The authority citation for part 435 continues to read as follows:

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

■ 2. Section 435.117 is revised to read as follows:

§ 435.117 Newborn children.

(a) The agency must provide Medicaid eligibility to a child born to a woman who has applied for, has been determined eligible and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains (or would remain if pregnant) eligible and the child is a member of the woman's household. This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility.

(b) The agency must provide Medicaid eligibility in the same manner described in paragraph (a) of this section to a child born to an otherwise-eligible qualified alien woman subject to the 5-year bar so long as the woman has filed a complete Medicaid application, including but not limited to meeting residency, income and resource requirements, has been determined eligible, is receiving Medicaid on the date of the child's birth, and remains (or would remain if pregnant) Medicaid eligible. All standard Medicaid application procedures apply, including timely determination of eligibility and adequate notice of the agency's decision concerning eligibility. A 5-year bar qualified alien receiving emergency medical services only under § 435.139 is considered to be Medicaid-eligible and receiving Medicaid for purposes of this provision. With respect to whether the mother remains (or would remain if pregnant) eligible for Medicaid after the birth of the child, the State must determine whether a 5-year bar qualified alien would remain eligible for emergency services under § 435.139. In determining whether the woman would remain eligible for these services, the State must consider whether the woman would remain eligible if pregnant. This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility.

(c) The agency must provide Medicaid eligibility in the same manner described in paragraph (a) of this section to a child born to an otherwise-eligible non-qualified alien woman so long as the woman has filed a complete Medicaid application (other than providing a social security number or demonstrating immigration status), including but not limited to meeting residency, income and resource requirements, has been determined eligible, is receiving

Medicaid on the date of the child's birth, and remains (or would remain if pregnant) Medicaid eligible. All standard Medicaid application procedures apply, including timely determination of eligibility and adequate notice of the agency's decision concerning eligibility. A non-qualified alien receiving emergency medical services only under § 435.139 is considered to be Medicaid-eligible and receiving Medicaid for purposes of this provision. With respect to whether the mother remains (or would remain if pregnant) eligible for Medicaid after the birth of the child, the State must determine whether a non-qualified alien would remain eligible for emergency services under § 435.139. In determining whether the woman would remain eligible for these services, the State must consider whether the woman would remain eligible if pregnant. This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility.

(d) A redetermination of eligibility must be completed on behalf of the children described in this provision in accordance with the procedures at § 435.916. At that time, the State must collect documentary evidence of citizenship and identity as required under § 435.406.

■ 3. Section 435.406 is amended by —
■ A. Revising paragraph (a)(1)(iii).
■ B. Adding paragraph (a)(1)(v).
■ C. Revising paragraph (a)(2).
■ D. Revising paragraph (b).

The revisions and addition read as follows:

§ 435.406 Citizenship and alienage.

(a) * * *

(1) * * *

(iii) An individual for purposes of the declaration and citizenship documentation requirements discussed in paragraphs (a)(1)(i) and (a)(1)(ii) of this section includes both applicants and recipients under a section 1115 demonstration (including a family planning demonstration project) for which a State receives Federal financial participation in their expenditures, as though the expenditures were for medical assistance.

* * * * *

(v) The following groups of individuals are exempt from the requirements in paragraph (a)(1)(ii) of this section:

(A) Individuals receiving SSI benefits under title XVI of the Act.

(B) Individuals entitled to or enrolled in any part of Medicare.

(C) Individuals receiving disability insurance benefits under section 223 of the Act or monthly benefits under section 202 of the Act, based on the individual's disability (as defined in section 223(d) of the Act).

(D) Individuals who are in foster care and who are assisted under Title IV-B of the Act, and individuals who are recipients of foster care maintenance or adoption assistance payments under Title IV–E of the Act.

(2)(i) Except as specified in 8 U.S.C. 1612(b)(1) (permitting States an option with respect to coverage of certain qualified aliens), qualified aliens as described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) (including qualified aliens subject to the 5-year bar) who have provided satisfactory documentary evidence of Qualified Alien status, which status has been verified with the Department of Homeland Security (DHS) under a declaration required by section 1137(d) of the Act that the applicant or recipient is an alien in a satisfactory immigration status.

(ii) The eligibility of qualified aliens who are subject to the 5-year bar in 8 U.S.C. 1613 is limited to the benefits described in paragraph (b) of this section.

(b) The agency must provide payment for the services described in § 440.255(c) of this chapter to residents of the State who otherwise meet the eligibility requirements of the State plan (except for receipt of AFDC, SSI, or State Supplementary payments) who are qualified aliens subject to the 5-year bar or who are non-qualified aliens who meet all Medicaid eligibility criteria, except non-qualified aliens need not present a social security number or document immigration status.

■ 4. Section 435.407 is amended by:
■ A. Adding introductory text to the section.
■ B. Removing the ''; '' and ''or'' at the end of paragraph (a)(4) and adding a period in its place.
■ C. Removing paragraph (a)(5).
■ D. Revising paragraph (b)(1).
■ E. Revising paragraph (b)(5).
■ F. Adding paragraphs (b)(11) and (b)(12).
■ G. Revising paragraph (c).
■ H. Revising paragraph (d) introductory text.
■ I. Revising paragraph (d)(2).
■ J. Revising paragraph (d)(3).
■ K. Revising paragraph (d)(4).
■ L. Revising paragraph (d)(5)(vi).
■ M. Revising paragraph (e)(1).
■ N. Removing paragraphs (e)(2) through (e)(9).
■ O. Redesignating paragraph (e)(10) as paragraph (e)(2).
■ P. Adding a new paragraph (e)(3).
■ Q. Revising paragraph (f).
■ R. Redesignating paragraphs (g), (h), (i), and (j) as paragraphs (h), (i), (j), and (k).
■ S. Adding a new paragraph (g).
■ T. Revising newly redesignated paragraph (i).

The revisions and additions read as follows:

§ 435.407 Types of acceptable documentary evidence of citizenship.

For purposes of this section, the term ''citizenship'' includes status as a ''national of the United States'' as defined by section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) to include both citizens of the United States and non-citizen nationals of the United States.

* * * * *

(b) * * *

(1) A U.S. public birth certificate showing birth in one of the 50 States, the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam (on or after April 10, 1899), the Virgin Islands of the U.S. (on or after January 17, 1917), American Samoa, Swain's Island, or the Northern Mariana Islands (after November 4, 1986 (NMI local time)). A State, at its option, may use a cross match with a State vital statistics agency to document a birth record. The birth record document may be issued by the State, Commonwealth, Territory, or local jurisdiction. It must have been recorded before the person was 5 years of age. A delayed birth record document that is recorded at or after 5 years of age is considered fourth level evidence of citizenship. (**Note:** If the document shows the individual was born in Puerto Rico, the Virgin Islands of the U.S., or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen. Collective naturalization occurred on certain dates listed for each of the territories.) The following will establish U.S. citizenship for collectively naturalized individuals:

(i) *Puerto Rico:*

(A) Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession, or Puerto Rico on January 13, 1941; or

(B) Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain.

(ii) *U.S. Virgin Islands:*

(A) Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession, or the U.S. Virgin Islands on February 25, 1927; or

(B) The applicant's statement indicating residence in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession, or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or

(C) Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or Territory, or the Canal Zone on June 28, 1932.

(iii) *Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):*

(A) Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. Territory or possession on November 3, 1986 NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time); or

(B) Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration before January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time); or

(C) Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time).

(D) **Note:** If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

* * * * *

(5) *A U.S. Citizen I.D. card.* (This form was issued until the 1980s by INS. Although no longer issued, holders of this document may still use it consistent with the provisions of section 1903(x) of the Act.) INS issued the I–179 from 1960 until 1973. It revised the form and renumbered it as Form I–197. INS issued the I–197 from 1973 until April 7, 1983. INS issued Form I–179 and I–197 to naturalized U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings. Although neither form is currently issued, either form that was previously issued is still valid.

* * * * *

(11) *A data verification with the Systematic Alien Verification for Entitlements (SAVE) Program for naturalized citizens.* A State may conduct a verification with SAVE to determine if an individual is a naturalized citizen, provided that such verification is conducted consistent with the terms of a Memorandum of Understanding or other agreement with the Department of Homeland Security (DHS) authorizing verification of claims to U.S. citizenship through SAVE, including but not limited to provision of the individual's alien registration number if required by DHS.

(12) *Child Citizenship Act.* Adopted or biological children born outside the United States may establish citizenship obtained automatically under section 320 of the Immigration and Nationality Act (8 U.S.C. 1431), as amended by the Child Citizenship Act of 2000 (Pub. L. 106–395, enacted on October 30, 2000). The State must obtain documentary evidence that verifies that at any time on or after February 27, 2001, the following conditions have been met:

(i) At least one parent of the child is a United States citizen by either birth or naturalization (as verified under the requirements of this Part);

(ii) The child is under the age of 18;

(iii) The child is residing in the United States in the legal and physical custody of the U.S. citizen parent;

(iv) The child was admitted to the United States for lawful permanent residence (as verified under the requirements of 8 U.S.C. 1641 pertaining to verification of qualified alien status); and

(v) If adopted, the child satisfies the requirements of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1) pertaining to international adoptions (admission for lawful permanent residence as IR–3 (child adopted outside the United States)), or as IR–4 (child coming to the United States to be adopted) with final adoption having subsequently occurred).

(c) *Third level evidence of citizenship.* Third level evidence of U.S. citizenship is documentary evidence of satisfactory reliability that is used when both primary and secondary evidence is unavailable. Third level evidence may be used only when the applicant or recipient alleges being born in the U.S. A second document from paragraph (e) of this section to establish identity must also be presented:

(1) *Extract of a hospital record on hospital letterhead established at the time of the person's birth that was created 5 years before the initial application date and that indicates a U.S. place of birth.* (For children under 16 the document must have been created near the time of birth or 5 years before the date of application.) Do not accept a souvenir ''birth certificate'' issued by the hospital.

(2) *Life, health, or other insurance record showing a U.S. place of birth that was created at least 5 years before the initial application date that indicates a U.S. place of birth.* (For children under 16 the document must have been created near the time of birth or 5 years before the date of application.) Life or health insurance records may show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth.

(3) *Religious record recorded in the U.S. within 3 months of birth showing the birth occurred in the U.S. and showing either the date of the birth or the individual's age at the time the record was made.* The record must be an official record recorded with the religious organization. CAUTION: In questionable cases (for example, where the child's religious record was recorded near a U.S. international border and the child may have been born outside the U.S.), the State must verify the religious record and/or document that the mother was in the U.S. at the time of birth.

(4) *Early school record showing a U.S. place of birth.* The school record must show the name of the child, the date of admission to the school, the date of birth, a U.S. place of birth, and the name(s) and place(s) of birth of the applicant's parents.

(d) *Fourth level evidence of citizenship.* Fourth level evidence of citizenship is documentary evidence of the lowest reliability. Fourth level evidence should only be used in the rarest of circumstances. This level of evidence is used only when primary, secondary and third level evidence is unavailable. With the exception of the affidavit process described in paragraph (d)(5) of this section, the applicant may only use fourth level evidence of citizenship if alleging a U.S. place of birth. In addition, a second document establishing identity must be presented as described in paragraph (e) of this section.

* * * * *

(2) *One of the following documents that show a U.S. place of birth and was created at least 5 years before the application for Medicaid.* (For children under 16 the document must have been created near the time of birth or 5 years before the date of application.) This document must be one of the following and show a U.S. place of birth:

(i) Seneca Indian tribal census.

(ii) Bureau of Indian Affairs tribal census records of the Navajo Indians.

(iii) U.S. State Vital Statistics official notification of birth registration.

(iv) A delayed U.S. public birth record that is recorded more than 5 years after the person's birth.

(v) Statement signed by the physician or midwife who was in attendance at the time of birth.

(vi) The Roll of Alaska Natives maintained by the Bureau of Indian Affairs.

(3) *Institutional admission papers from a nursing facility, skilled care facility or other institution created at least 5 years before the initial application date that indicates a U.S. place of birth.* Admission papers generally show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth.

(4) *Medical (clinic, doctor, or hospital) record created at least 5 years before the initial application date that indicates a U.S. place of birth.* (For children under 16 the document must have been created near the time of birth or 5 years before the date of application.)

Medical records generally show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth. (**Note:**An immunization record is not considered a medical record for purposes of establishing U.S. citizenship.)

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(5) * * *

(vi) The affidavits must be signed under penalty of perjury and need not be notarized.

(e) * * *

(1) Identity documents described in 8 CFR 274a.2(b)(1)(v)(B)(1).

(i) Driver's license issued by State or Territory either with a photograph of the individual or other identifying information of the individual such as name, age, sex, race, height, weight or eye color.

(ii) School identification card with a photograph of the individual.

(iii) U.S. military card or draft record.

(iv) Identification card issued by the Federal, State, or local government with the same information included on drivers' licenses.

(v) Military dependent's identification card.

(vi) Certificate of Degree of Indian Blood, or other American Indian/Alaska Native Tribal document with a photograph or other personal identifying information relating to the individual. Acceptable if the document carries a photograph of the applicant or recipient, or has other personal identifying information relating to the individual such as age, weight, height, race, sex, and eye color.

(vii) U.S. Coast Guard Merchant Mariner card.

Note to paragraph (e)(1): Exception: Do not accept a voter's registration card or Canadian driver's license as listed in 8 CFR 274a.2(b)(1)(v)(B)(1). CMS does not view these as reliable for identity.

* * * * *

(3) At State option, a State may accept three or more documents that together reasonably corroborate the identity of an individual provided such documents have not been used to establish the individual's citizenship and the individual submitted second or third tier evidence of citizenship. The State must first ensure that no other evidence of identity is available to the individual prior to accepting such documents. Such documents must at a minimum contain the individual's name, plus any additional information establishing the individual's identity. All documents used must contain consistent identifying information. These documents include employer identification cards, high school and college diplomas from accredited institutions (including general education and high school equivalency diplomas), marriage certificates, divorce decrees and property deeds/titles.

(f) *Special identity rules for children.* For children under 16, a clinic, doctor, hospital or school record may be accepted for purposes of establishing identity. School records may include nursery or daycare records and report cards. If the State accepts such records, it must verify them with the issuing school. If none of the above documents in the preceding groups are available, an affidavit may be used. An affidavit is only acceptable if it is signed under penalty of perjury by a parent, guardian or caretaker relative (as defined in the regulations at 45 CFR 233.90(c)(v)) stating the date and place of the birth of the child and cannot be used if an affidavit for citizenship was provided. The affidavit is not required to be notarized. A State may accept an identity affidavit on behalf of a child under the age of 18 in instances when school ID cards and drivers' licenses are not available to the individual in that area until that age.

(g) *Special identity rules for disabled individuals in institutional care facilities.* A State may accept an identity affidavit signed under penalty of perjury by a residential care facility director or administrator on behalf of an institutionalized individual in the facility. States should first pursue all other means of verifying identity prior to accepting an affidavit. The affidavit is not required to be notarized.

* * * * *

(i) *Documentary evidence.* (1) All documents must be either originals or copies certified by the issuing agency. Uncertified copies, including notarized copies, shall not be accepted.

(2) States must maintain copies of citizenship and identification documents in the case record or electronic data base and make these copies available for compliance audits.

(3) States may permit applicants and recipients to submit such documentary evidence without appearing in person at a Medicaid office. States may accept original documents in person, by mail, or by a guardian or authorized representative.

(4) If documents are determined to be inconsistent with pre-existing information, are counterfeit, or altered, States should investigate for potential fraud and abuse, including but not limited to, referral to the appropriate State and Federal law enforcement agencies.

(5) Presentation of documentary evidence of citizenship is a one time activity; once a person's citizenship is documented and recorded in a State database subsequent changes in eligibility should not require repeating the documentation of citizenship unless later evidence raises a question of the person's citizenship. The State need only check its databases to verify that the individual already established citizenship.

(6) CMS requires that as a check against fraud, using currently available automated capabilities, States will conduct a match of the applicant's name against the corresponding Social Security number that was provided. In addition, in cooperation with other agencies of the Federal government, CMS encourages States to use automated capabilities to verify citizenship and identity of Medicaid applicants. Automated capabilities may fall within the computer matching provisions of the Privacy Act of 1974, and CMS will explore any implementation issues that may arise with respect to those requirements. When these capabilities become available, States will be required to match files for individuals who used third or fourth tier documents to verify citizenship and documents to verify identity, and CMS will make available

to States necessary information in this regard. States must ensure that all case records within this category will be so identified and made available to conduct these automated matches. CMS may also require States to match files for individuals who used first or second level documents to verify citizenship as well. CMS may provide further guidance to States with respect to actions required in a case of a negative match.

* * * * *

■ 5. Section 435.1008 is revised to read as follows:

§ 435.1008 FFP in expenditures for medical assistance for individuals who have declared United States citizenship or nationality under section 1137(d) of the Act and with respect to whom the State has not documented citizenship and identity.

Except for individuals described in § 435.406(a)(1)(v), FFP will not be available to a State with respect to expenditures for medical assistance furnished to individuals unless the State has obtained satisfactory documentary evidence of citizenship or national status, as described in § 435.407 that complies with the requirements of section 1903(x) of the Act.

PART 436—ELIGIBILITY PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

■ 6. The authority citation for part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

■ 7. Section 436.124 is revised to read as follows:

§ 436.124 Newborn children.

(a) The agency must provide Medicaid eligibility to a child born to a woman who has applied for, has been determined eligible and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains (or would remain if pregnant) eligible and the child is a member of the woman's household. This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility.

(b) The agency must provide Medicaid eligibility in the same manner described in paragraph (a) of this section to a child born to an otherwise-eligible qualified alien woman subject to the 5-year bar so long as the woman has filed a complete Medicaid application, including but not limited to meeting residency, income and resource requirements, has been determined eligible, is receiving Medicaid on the date of the child's birth, and remains (or would remain if pregnant) Medicaid eligible. All standard Medicaid application procedures apply, including timely determination of eligibility and adequate notice of the agency's decision concerning eligibility. A 5-year bar qualified alien receiving emergency medical services only under § 435.139 of this chapter is considered to be Medicaid-eligible and receiving Medicaid for purposes of this provision. With respect to whether the mother remains (or would remain if pregnant) eligible for Medicaid after the birth of the child, the State must determine whether a 5-year bar qualified alien would remain eligible for emergency services under § 435.139 of this chapter. In determining whether the woman would remain eligible for these services, the State must consider whether the woman would remain eligible if pregnant. This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility.

(c) The agency must provide Medicaid eligibility in the same manner described in paragraph (a) of this section to a child born to an otherwise-eligible non-qualified alien woman so long as the woman has filed a complete Medicaid application (other than providing a social security number or demonstrating immigration status), including but not limited to meeting residency, income and resource requirements, has been determined eligible, is receiving Medicaid on the date of the child's birth, and remains (or would remain if pregnant) Medicaid eligible. All standard Medicaid application procedures apply, including timely determination of eligibility and adequate notice of the agency's decision concerning eligibility. A non-qualified alien receiving emergency medical services only under § 435.139 of this chapter is considered to be Medicaid-eligible and receiving Medicaid for purposes of this provision. With respect to whether the mother remains (or would remain if pregnant) eligible for Medicaid after the birth of the child, the State must determine whether a non-qualified alien would remain eligible for emergency services under § 435.139 of this chapter. In determining whether the woman would remain eligible for these services, the State must consider whether the woman would remain eligible if pregnant. This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility.

(d) A redetermination of eligibility must be completed on behalf of the children described in this provision in accordance with the procedures at § 435.916. At that time, the State must collect documentary evidence of citizenship and identity as required under § 436.406.

■ 7a. Section § 436.406 is amended by:
■ A. Revising paragraph (a)(1)(iii).
■ B. Adding paragraph (a)(1)(v).
■ C. Revising paragraph (a)(2).
■ D. Revising paragraph (b).

The revisions and addition read as follows:

§ 436.406 Citizenship and alienage.

(a) * * *

(1) * * *

(iii) An individual for purposes of the declaration and citizenship documentation requirements discussed in paragraphs (a)(1)(i) and (a)(1)(ii) of this section includes both applicants and recipients under a section 1115 demonstration (including a family planning demonstration project) for which a State receives Federal financial participation in their expenditures, as though the expenditures were for medical assistance.

* * * * *

(v) The following groups of individuals are exempt from the requirements in paragraph (a)(1)(ii) of this section:

(A) Individuals receiving SSI benefits under title XVI of the Act;

(B) Individuals entitled to or enrolled in any part of Medicare;

(C) Individuals receiving disability insurance benefits under section 223 of the Act or monthly benefits under section 202 of the Act, based on the individual's disability (as defined in section 223(d) of the Act); and

(D) Individuals who are in foster care and who are assisted under Title IV–B of the Act, and individuals who are recipients of foster care maintenance or adoption assistance payments under Title IV-E of the Act.

(2)(i) Except as specified in 8 U.S.C. 1612(b)(1) (permitting States an option with respect to coverage of certain qualified aliens), qualified aliens as described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) (including qualified aliens subject to the 5-year bar) who have provided satisfactory documentary evidence of Qualified Alien status, which status has

been verified with the Department of Homeland Security (DHS) under a declaration required by section 1137(d) of the Act that the applicant or recipient is an alien in a satisfactory immigration status.

(ii) The eligibility of qualified aliens who are subject to the 5-year bar in 8 U.S.C. 1613 is limited to the benefits described in paragraph (b) of this section.

(b) The agency must provide payment for the services described in § 440.255(c) of this chapter to residents of the State who otherwise meet the eligibility requirements of the State plan (except for receipt of AFDC, SSI, or State Supplementary payments) who are qualified aliens subject to the 5-year bar or who are non-qualified aliens who meet all Medicaid eligibility criteria, except non-qualified aliens need not present a social security number or document immigration status.

■ 8. Section § 436.407 is amended by:
■ A. Adding introductory text to the section.
■ B. Revising paragraph (a)(4).
■ C. Revising paragraph (b)(1).
■ D. Revising paragraph (b)(5).
■ E. Adding paragraphs (b)(11) and (b)(12).
■ F. Revising paragraph (c).
■ G. Revising paragraph (d) introductory text.
■ H. Revising paragraph (d)(2).
■ I. Revising paragraph (d)(3).
■ J. Revising paragraph (d)(4).
■ K. Revising paragraph (d)(5)(vi).
■ L. Revising paragraph (e)(1).
■ M. Removing paragraphs (e)(2) through (e)(9).
■ N. Redesignating paragraph (e)(10) as paragraph (e)(2).
■ O. Adding a new paragraph (e)(3).
■ P. Revising paragraph (f).
■ Q. Redesignating paragraphs (g), (h), (i) and (j) as paragraphs (h), (i), (j) and (k).
■ R. Revising newly redesignated paragraph (i).
■ S. Adding a new paragraph (g).

The revisions and additions read as follows:

§ 436.407 Types of acceptable documentary evidence of citizenship.

For purposes of this section, the term ''citizenship'' includes status as a ''national of the United States'' as defined by section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(22)) to include both citizens of the United States and non-citizen nationals of the United States.

* * * * *

(a) * * *

(4) *A valid State-issued driver's license,* but only if the State issuing the license requires proof of U.S. citizenship before issuance of such license or obtains a social security number from the applicant and verifies before certification that such number is valid and assigned to the applicant who is a citizen. (This provision is not effective until such time as a State makes providing evidence of citizenship a condition of issuing a driver's license and evidence that the license holder is a citizen is included on the license or in a system of records available to the Medicaid agency. States must ensure that the process complies with this statutory provision in section 6036 of the Deficit Reduction Act of 2005. CMS will monitor compliance of States implementing this provision.)

(b) * * *

(1) A U.S. public birth certificate showing birth in one of the 50 States, the District of Columbia, Puerto Rico (if born on or after January 13, 1941), Guam (on or after April 10, 1899), the Virgin Islands of the U.S.(on or after January 17, 1917), American Samoa, Swain's Island, or the Northern Mariana Islands (after November 4, 1986 (NMI local time)). A State, at its option, may use a cross match with a State vital statistics agency to document a birth record. The birth record document may be issued by the State, Commonwealth, Territory, or local jurisdiction. It must have been recorded before the person was 5 years of age. A delayed birth record document that is recorded at or after 5 years of age is considered fourth level evidence of citizenship. (**Note:** If the document shows the individual was born in Puerto Rico, the Virgin Islands of the U.S., or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen. Collective naturalization occurred on certain dates listed for each of the territories.) The following will establish U.S. citizenship for collectively naturalized individuals:

(i) *Puerto Rico*:

(A) Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession, or Puerto Rico on January 13, 1941; or

(B) Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain.

(ii) *U.S. Virgin Islands:*

(A) Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession, or the U.S. Virgin Islands on February 25, 1927; or

(B) The applicant's statement indicating residence in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession, or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; or

(C) Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession, or Territory or the Canal Zone on June 28, 1932.

(iii) *Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):*

(A) Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. Territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time); or

(B) Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration before January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time); or

(C) Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign State on November 4, 1986 (NMI local time).

(D) **Note:** If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile and the individual is not a U.S. citizen.

* * * * *

(5) *A U.S. Citizen I.D. card.* (This form was issued until the 1980s by INS. Although no longer issued, holders of this document may still use it consistent with the provisions of section 1903(x) of the Act.) INS issued the I–179 from 1960 until 1973. It revised the form and renumbered it as Form I–197. INS issued the I–197 from 1973 until April 7, 1983. INS issued Form I–179 and I–197 to naturalized U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings. Although neither form is currently issued, either form that was previously issued is still valid.

* * * * *

(11) *A data verification with the Systematic Alien Verification for Entitlements (SAVE) Program for naturalized citizens.* A State may conduct a verification with SAVE to determine if an individual is a naturalized citizen, provided that such

verification is conducted consistent with the terms of a Memorandum of Understanding or other agreement with the Department of Homeland Security (DHS) authorizing verification of claims to U.S. citizenship through SAVE, including but not limited to provision of the individual's alien registration number if required by DHS.

(12) *Child Citizenship Act.* Adopted or biological children born outside the United States may establish citizenship obtained automatically under section 320 of the Immigration and Nationality Act (8 U.S.C. 1431), as amended by the Child Citizenship Act of 2000 (Pub. L. 106–395, enacted on October 30, 2000). The State must obtain documentary evidence that verifies that at any time on or after February 27, 2001, the following conditions have been met:

(i) At least one parent of the child is a United States citizen by either birth or naturalization (as verified under the requirements of this Part);

(ii) The child is under the age of 18;

(iii) The child is residing in the United States in the legal and physical custody of the U.S. citizen parent;

(iv) The child was admitted to the United States for lawful permanent residence (as verified under the requirements of 8 U.S.C. 1641 pertaining to verification of qualified alien status); and

(v) If adopted, the child satisfies the requirements of section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1) pertaining to international adoptions (admission for lawful permanent residence as IR–3 (child adopted outside the United States)), or as IR–4 (child coming to the United States to be adopted) with final adoption having subsequently occurred).

(c) *Third level evidence of citizenship.* Third level evidence of U.S. citizenship is documentary evidence of satisfactory reliability that is used when both primary and secondary evidence is unavailable. Third level evidence may be used only when the applicant or recipient alleges birth in the U.S. A second document from paragraph (e) of this section to establish identity must also be presented:

(1) Extract of a hospital record on hospital letterhead established at the time of the person's birth that was created 5 years before the initial application date and that indicates a U.S. place of birth. (For children under 16 the document must have been created near the time of birth or 5 years before the date of application.) Do not accept a souvenir ''birth certificate'' issued by the hospital.

(2) Life, health, or other insurance record showing a U.S. place of birth that was created at least 5 years before the initial application date that indicates a U.S. place of birth. (For children under 16 the document must have been created near the time of birth or 5 years before the date of application.) Life or health insurance records may show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth.

(3) Religious record recorded in the U.S. within 3 months of birth showing the birth occurred in the U.S. and showing either the date of the birth or the individual's age at the time the record was made. The record must be an official record recorded with the religious organization. Caution: In questionable cases (for example, where the child's religious record was recorded near a U.S. international border and the child may have been born outside the U.S.), the State must consider verifying the religious record and/or documenting that the mother was in the U.S. at the time of the birth.

(4) Early school record showing a U.S. place of birth. The school record must show the name of the child, the date of admission to the school, the date of birth (or age at the time the record was made), a U.S. place of birth, and the name(s) and place(s) of birth of the applicant's parents.

(d) *Fourth level evidence of citizenship.* Fourth level evidence of citizenship is documentary evidence of the lowest reliability. Fourth level evidence should only be used in the rarest of circumstances. This level of evidence is used only when primary, secondary and third level evidence is unavailable. With the exception of the affidavit process described in paragraph (d)(5) of this section, the applicant may only use fourth level evidence of citizenship if alleging a U.S. place of birth. In addition, a second document establishing identity must be presented as described in paragraph (e) of this section.

* * * * *

(2) One of the following documents that show a U.S. place of birth and was created at least 5 years before the application for Medicaid. (For children under 16 the document must have been created near the time of birth or 5 years before the date of application.) This document must be one of the following and show a U.S. place of birth:

(i) Seneca Indian tribal census.

(ii) Bureau of Indian Affairs tribal census records of the Navajo Indians.

(iii) U.S. State Vital Statistics official notification of birth registration.

(iv) A delayed U.S. public birth record that is recorded more than 5 years after the person's birth.

(v) Statement signed by the physician or midwife who was in attendance at the time of birth.

(vi) The Roll of Alaska Natives maintained by the Bureau of Indian Affairs.

(3) Institutional admission papers from a nursing facility, skilled care facility or other institution created at least 5 years before the initial application date that indicates a U.S. place of birth. Admission papers generally show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth.

(4) Medical (clinic, doctor, or hospital) record created at least 5 years before the initial application date that indicates a U.S. place of birth. (For children under 16 the document must have been created near the time of birth or 5 years before the date of application.) Medical records generally show biographical information for the person including place of birth; the record can be used to establish U.S. citizenship when it shows a U.S. place of birth. (**Note:** An immunization record is not considered a medical record for purposes of establishing U.S. citizenship.)

* * * * *

(5) * * *

(vi) The affidavits must be signed under penalty of perjury and need not be notarized.

(e) * * *

(1) Identity documents described in 8 CFR 274a.2(b)(1)(v)(B)(1).

(i) Driver's license issued by State or Territory either with a photograph of the individual or other identifying information of the individual such as name, age, sex, race, height, weight, or eye color.

(ii) School identification card with a photograph of the individual.

(iii) U.S. military card or draft record.

(iv) Identification card issued by the Federal, State, or local government with the same information included on driver's licenses.

(v) Military dependent's identification card.

(vi) Certificate of Degree of Indian Blood, or other American Indian/Alaska Native Tribal document with a photograph or other personal identifying information relating to the individual. Acceptable if the document carries a photograph of the applicant or recipient, or has other personal identifying information relating to the

individual such as age, weight, height, race, sex, and eye color.

(vii) U.S. Coast Guard Merchant Mariner card.

Note to paragraph (e)(1): Exception: Do not accept a voter's registration card or Canadian driver's license as listed in 8 CFR 274a.2(b)(1)(v)(B)(1). CMS does not view these as reliable for identity.

* * * * *

(3) At State option, a State may accept three or more documents that together reasonably corroborate the identity of an individual provided such documents have not been used to establish the individual's citizenship and the individual submitted second or third tier evidence of citizenship. The State must first ensure that no other evidence of identity is available to the individual prior to accepting such documents. Such documents must at a minimum contain the individual's name, plus any additional information establishing the individual's identity. All documents used must contain consistent identifying information. These documents include employer identification cards, high school and college diplomas from accredited institutions (including general education and high school equivalency diplomas), marriage certificates, divorce decrees, and property deeds/titles.

(f) *Special identity rules for children.* For children under 16, a clinic, doctor, hospital or school record may be accepted for purposes of establishing identity. School records may include nursery or daycare records and report cards. If the State accepts such records, it must verify them with the issuing school. If none of the above documents in the preceding groups are available, an affidavit may be used. An affidavit is only acceptable if it is signed under penalty of perjury by a parent, guardian or caretaker relative (as defined in the regulations at 45 CFR 233.90(c)(v)) stating the date and place of the birth of the child and cannot be used if an affidavit for citizenship was provided. The affidavit is not required to be notarized. A State may accept an identity affidavit on behalf of a child under the age of 18 in instances when school ID cards and drivers' licenses are not available to the individual in that area until that age.

(g) *Special identity rules for disabled individuals in institutional care facilities.* A State may accept an identity affidavit signed under penalty of perjury by a residential care facility director or administrator on behalf of an institutionalized individual in the facility. States should first pursue all other means of verifying identity prior to accepting an affidavit. The affidavit is not required to be notarized.

* * * * *

(i) *Documentary evidence.* (1) All documents must be either originals or copies certified by the issuing agency. Uncertified copies, including notarized copies, shall not be accepted.

(2) States must maintain copies of citizenship and identification documents in the case record or electronic data base and make these copies available for compliance audits.

(3) States may permit applicants and recipients to submit such documentary evidence without appearing in person at a Medicaid office. States may accept original documents in person, by mail, or by a guardian or authorized representative.

(4) If documents are determined to be inconsistent with pre-existing information, are counterfeit, or altered, States should investigate for potential fraud and abuse, including but not limited to, referral to the appropriate State and Federal law enforcement agencies.

(5) Presentation of documentary evidence of citizenship is a one time activity; once a person's citizenship is documented and recorded in a State database subsequent changes in eligibility should not require repeating the documentation of citizenship unless later evidence raises a question of the person's citizenship. The State need only check its databases to verify that the individual already established citizenship.

(6) CMS requires that as a check against fraud, using currently available automated capabilities, States will conduct a match of the applicant's name against the corresponding Social Security number that was provided. In addition, in cooperation with other agencies of the Federal government, CMS encourages States to use automated capabilities to verify citizenship and identity of Medicaid applicants. Automated capabilities may fall within the computer matching provisions of the Privacy Act of 1974, and CMS will explore any implementation issues that may arise with respect to those requirements. When these capabilities become available, States will be required to match files for individuals who used third or fourth tier documents to verify citizenship and documents to verify identity, and CMS will make available to States necessary information in this regard. States must ensure that all case records within this category will be so identified and made available to conduct these automated matches. CMS may also require States to match files for individuals who used first or second level documents to verify citizenship as well. CMS may provide further guidance to States with respect to actions required in a case of a negative match.

■ 9. Section 436.1004 is revised to read as follows:

§ 436.1004 FFP in expenditures for medical assistance for individuals who have declared United States citizenship or nationality under section 1137(d) of the Act and with respect to whom the State has not documented citizenship and identity.

Except for individuals described in § 436.406(a)(1)(v), FFP will not be available to a State with respect to expenditures for medical assistance furnished to individuals unless the State has obtained satisfactory documentary evidence of citizenship or national status, as described in § 436.407 of this chapter that complies with the requirements of section 1903(x) of the Act.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: May 7, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: May 10, 2007.

Michael O. Leavitt,

Secretary.

[FR Doc. 07–3291 Filed 7–2–07; 2:56 pm]

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Part III

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 309, 310 and 318

Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle; Prohibition of the Use of Certain Stunning Devices Used To Immobilize Cattle During Slaughter; Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 309, 310, and 318

[Docket No. 03–025F]

RIN 0583–AC88

Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Disabled Cattle; Prohibition of the Use of Certain Stunning Devices Used To Immobilize Cattle During Slaughter

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Affirmation of interim final rules with amendments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is affirming, with changes, the interim final rule ''*Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-Ambulatory Cattle,*'' which was published in the **Federal Register** on January 12, 2004. The Agency is also affirming the interim final rule ''*Prohibition of the Use of Certain Stunning Devices Used to Immobilize Cattle During Slaughter,*'' also published on January 12, 2004. FSIS issued these interim final rules in response to the confirmation on December 23, 2003, of bovine spongiform encephalopathy (BSE) in an imported dairy cow in Washington State. FSIS is taking this action to make permanent interim measures implemented by the Agency to minimize human exposure to cattle materials that could potentially contain the BSE agent.

DATES: This final rule is effective October 1, 2007. Comments on the information presented under ''Paperwork Reduction Act'' must be received by September 11, 2007.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Engeljohn, Deputy Assistant Administrator, Office of Policy, Program, and Employee Development, FSIS, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–3700, (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

On January 12, 2004, FSIS issued a series of three interim final rules to minimize human exposure to materials that scientific studies have demonstrated have the potential to contain the BSE agent in cattle infected with that disease. Scientific and epidemiological studies have linked the human disease variant Cruetzfelt-Jacob Disease (vCJD) to exposure to BSE, most likely through human consumption of beef products contaminated with the BSE agent. FSIS issued the rules in response to the diagnosis on December 23, 2003, of BSE in an imported dairy cow in Washington State. The animal had been imported from Canada.

One of the rules, ''Prohibition of the Use of Specified Risk Materials for Human Food and Requirements for the Disposition of Non-ambulatory Disabled Cattle'' (69 FR 1862, January 12, 2004) (also referred to as ''the SRM interim final rule''), designates certain materials from cattle as specified risk materials (SRMs), declares that SRMs are inedible, and prohibits the use of these materials for human food (9 CFR 310.22(a) and 9 CFR 310.22(b)). The SRM interim final rule also requires that establishments that slaughter cattle, and establishments that process the carcasses or parts of cattle, develop, implement, and maintain written procedures for the removal, segregation, and disposition of SRMs and incorporate these procedures into their HACCP plans or Sanitation Standard Operating Procedures (SOPs) or other prerequisite programs (9 CFR 310.22(d)).

The materials identified as SRMs in the FSIS SRM interim final rule are the brain, skull, eyes, trigeminal ganglia, spinal cord, vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum), and dorsal root ganglia (DRG) from cattle 30 months of age and older, and the distal ileum of the small intestine and tonsils from all cattle (9 CFR 310.22(a)). The SRM interim final rule declares that SRMs are inedible because they present a sufficient risk of exposing humans to the BSE agent so as to render them ''unfit for human food'' within the meaning of section 1(m)(3) of the adulteration provisions of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601(m)(3)).

The SRM interim final rule designates the distal ileum from all cattle as an SRM because BSE infectivity has been confirmed in the distal ileum in the early stages of the disease. To ensure effective removal of the distal ileum, the SRM interim final rule originally required that the entire small intestine be removed and disposed of as inedible. However, in the preamble to the SRM interim final rule, FSIS noted that beef processors may be able to effectively remove the distal ileum from the rest of the small intestine and requested comments on this issue (69 FR 1862, 1869). The Agency again requested comments on this issue in an advance notice of proposed rulemaking published in July 2004 (''Federal Measures To Mitigate BSE Risks: Considerations for Further Action'' (69 FR 42287, 42296)).

In response to these requests, FSIS received several comments that described detailed procedures on how to remove the distal ileum from the small intestine. On the basis of these comments, FSIS evaluated this issue and determined that processors have the technology to effectively remove the distal ileum from the rest of the small intestine. Therefore, on September 7, 2005, FSIS issued an amendment to the SRM interim final rule to permit, under specific conditions, the use of beef small intestine, excluding the distal ileum, for human food (70 FR 53043).

In addition to prohibiting SRMs for use as human food, the SRM interim final rule also prohibits the slaughter for human food of non-ambulatory disabled cattle that are offered for slaughter. FSIS prohibited the slaughter of these non-ambulatory disabled cattle because surveillance data from European countries in which BSE has been detected indicate that non-ambulatory cattle are among the cattle that have a greater incidence of BSE than healthy slaughter cattle. Furthermore, because the typical clinical signs of BSE often cannot be distinguished from the typical clinical signs of other diseases and conditions that affect non-ambulatory cattle, FSIS determined that non-ambulatory disabled cattle present a sufficient risk of introducing the BSE agent into the human food supply so as to render the carcasses of these animals unfit for human food under section 1(m)(3) of the FMIA. The SRM interim final rule requires that all non-ambulatory disabled cattle that are offered for slaughter be condemned (9 CFR 309.3(e)).

In addition to the SRM interim final rule, FSIS published two other interim final rules in response to the confirmation of BSE in the cow in Washington State. One of the rules, *Prohibition of the Use of Certain Stunning Devices Used to Immobilize Cattle During Slaughter* (69 FR 1885) (also referred to as ''the air-injection stunning interim final rule''), prohibits the use of captive bolt stunning devices that deliberately inject air into the cranial cavity of cattle. The other rule, ''Meat Produced by Advanced Meat/Bone Separation Machinery and Meat Recovery (AMR) Systems'' (69 FR 1874) (also referred to as ''the AMR interim final rule''), establishes requirements for meat produced using AMR systems. In this document, FSIS is affirming

without amendment the air-injection stunning interim final rule. Because the AMR interim final rule contains several non-BSE related provisions, FSIS intends to affirm and, if necessary, amend that interim final rule in a separate document that will be published in the **Federal Register** at a later date.

Since FSIS issued the SRM, AMR, and air-injection stunning interim final rules, the Agency has implemented a number of programs to train its inspection personnel and help plants comply with new requirements. FSIS has issued several notices to its inspection personnel that detail specific aspects of the regulations, including BSE surveillance activities in cooperation with USDA's Animal and Plant Health Inspection Service (APHIS). In 2004, FSIS held five teaching workshops around the country to help primarily small and very small plants understand the regulations and help ensure compliance. As part of a continuing outreach effort to small and very small plants, FSIS produced workshop training materials, which remain available on the FSIS Web site. Additionally, FSIS developed a training CD and accompanying materials called ''The ABC's of BSE,'' which were released as part of FSIS' distance learning program.

FSIS is confident it is successfully carrying out its mission to protect public health by strictly enforcing safeguards designed to protect Americans from BSE. FSIS will continuously evaluate its policies and procedures to ensure that they remain based on the most up-to-date science available.

Since FSIS issued the interim final rules described above, two native cases of BSE have been confirmed in the United States. In June 2005, the disease was confirmed in a 12 year-old cow born and raised on a ranch in Texas. In March 2006, a second case was confirmed in a cow on a farm in Alabama. Experts confirmed through dentition that this animal was at least 10 years old. Both animals were born before the Food and Drug Administration (FDA) issued its 1997 prohibition on the feeding of most mammalian protein to ruminants.

Opportunities To Comment

When it issued the interim final rules described above, FSIS gave the public until April 12, 2004, to submit comments on the rules. The comment period was later extended to May 7, 2004 (69 FR 18245, April 7, 2004). In addition, on July 14, 2004, APHIS, FSIS, and FDA issued an Advance Notice of Proposed Rulemaking (ANPR), ''Federal Measures To Mitigate BSE Risks: Considerations for Further Action,'' (also referred to as ''the APHIS/FSIS/FDA ANPR'') that provided another opportunity for interested parties to comment on certain issues raised in the SRM interim final rule (69 FR 42287). The comment period for the APHIS/FSIS/FDA ANPR closed on September 13, 2004. In addition, when FSIS amended the SRM interim final rule to permit the use of beef small intestine, excluding the distal ileum, for human food, it gave the public until November 7, 2005, to comment on the issues raised in that rulemaking (70 FR 53043).

In developing this final rule to affirm the SRM and air-injection stunning interim final rules, FSIS considered all comments received in response to the documents described above. Based on its continued analysis of the issues, and on information provided by comments, FSIS has made certain changes to the SRM interim final rule. Those changes are summarized below and are discussed in detail in the Agency's responses to comments. As noted above, FSIS is affirming the interim provisions of the air-injection stunning interim final rule without amendment.

Summary of Amendments to SRM Interim Final Rule

In this final rule, FSIS is affirming the provisions in the SRM interim final rule and, in addition, is amending the rule to:

- Clarify that non-ambulatory disabled cattle that are offered for slaughter must be condemned but that FSIS inspection personnel will determine on a case-by-case basis the disposition of cattle that become non-ambulatory after they have passed ante-mortem inspection;
- Clarify that veal calves that are unable to rise from a recumbent position because they are tired or cold may be set apart and held for treatment;
- Exclude from the definition of SRMs materials from cattle from countries that can demonstrate that their BSE risk status can reasonably be expected to provide the same level of protection from human exposure to the BSE agent as prohibiting SRMs for use as human food does in the United States;
- Require that the spinal cord from cattle 30 months of age and older be removed from the carcass at the establishment where the animal was slaughtered;
- Clarify that an establishment's procedure for the removal, segregation, and disposition of SRMs must address potential contamination of edible materials with SRMs before, during, and after entry into the official establishment;
- Codify requirements for the sanitation of equipment used to cut through SRMs; and
- Specify the conditions under which slaughter establishments may ship carcasses or parts of carcasses that contain vertebral columns from cattle 30 months of age and older to another federally-inspected establishment for further processing.

Comments and Responses

FSIS received approximately 23,000 comments in response to the January 2004 interim final rules, the APHIS/FSIS/FDA ANPR, and the September 2005 amendment to the SRM interim final rule. Among the commenters were dairy farmers, cattle producers, meat processors, importers and exporters of meat products and by-products, members of Congress, representatives of State governments, representatives of foreign governments, organizations that represent livestock producers, organizations that represent meat processors, consumer advocacy organizations, animal welfare advocacy organizations, members of the restaurant industry, members of the academic community, private consultants, and private citizens. Most of the comments were submitted by animal welfare organizations and citizens concerned about the welfare of animals. Approximately 150 comments were submitted by entities other than animal welfare organizations or citizens concerned about the welfare of animals. The following are the issues raised by the comments and FSIS' response.

Prohibition on the Slaughter of Non-Ambulatory Disabled Cattle

Comment: Most of the comments received in response to the SRM interim final rule supported the prohibition on the slaughter of non-ambulatory disabled cattle for human food. Some of these comments stated that such a prohibition is needed to prevent human exposure to the BSE agent. These comments were from members of the restaurant industry, consumer advocacy organizations, animal welfare organizations, and a private consultant. Most supported the prohibition because, as described in the preamble to the SRM interim final rule, surveillance data from the European Union indicate that cattle that cannot rise from a recumbent position are among the cattle that have a greater incidence of BSE than healthy slaughter cattle. One comment noted that non-ambulatory cattle accounted for over half of the detected BSE cases

in both the European Union and Switzerland in 2003. The comment included references to support this statement.

Many comments also supported the prohibition on the slaughter of non-ambulatory cattle because the typical clinical signs of BSE may not always be observed in a non-ambulatory animal. According to the comments, determining the reason that an animal is non-ambulatory is often extremely difficult, if not impossible, without a full diagnostic work-up. One comment noted that neurological, metabolic, or other diseases that affect coordination and other aspects of gait often predispose an animal to injuries, such as broken limbs or soft tissue damage. The comment stated that if an animal is non-ambulatory because of a broken leg or torn ligament, the injury may be the prominent or sole presenting sign. The comment asserted that, without a complete diagnostic work-up and history of disease progression, the true underlying cause of the non-ambulatory condition may be impossible to ascertain.

This same comment also included a list of clinical signs of BSE from the United Kingdom's Department for Environment, Food, and Rural Affairs (DEFRA) Web site. The comment observed that the vast majority of signs (apprehensiveness; nervousness; reluctance to cross concrete, turn corners, enter yards, go through doorways, or permit milking; occasional kicking when milked; head shyness; high stepping gait, particularly hind legs; difficulties in rising; tremors; loss of condition, weight, or milk yield) would be difficult, if not impossible, to observe in a non-ambulatory animal.

Some comments argued that the previous system of clinical examination of non-ambulatory disabled cattle is not adequate to determine the disposition of cattle with regard to BSE. The comments asserted that when the SRM interim rule was issued, both cases of BSE that had been detected in North America at that point were non-ambulatory cattle that had been observed by veterinarians prior to slaughter, and neither had been identified as a BSE clinical suspect.

One comment stated that although the objective of the prohibition on the slaughter of non-ambulatory disabled cattle for human food is to minimize human exposure to the BSE agent, such a measure may also safeguard against other foodborne diseases, drug residues, and bioterrorism.

Most comments that opposed the prohibition on the slaughter of non-ambulatory disabled cattle asserted that prohibiting the slaughter of all non-ambulatory cattle for human food is overly broad and not necessary to protect the public. These comments were submitted by individual farmers, cattle producers, custom slaughter operations, small meat processors, trade associations that represent cattle producers, trade associations that represent meat processors, and State Departments of Agriculture.

One comment argued that the provisions in the SRM interim final rule associated with non-ambulatory disabled cattle do not take into consideration the basis for the animal's non-ambulatory status or the risk mitigation measures implemented by the U.S. government to prevent the spread of the BSE agent in the U.S. human and cattle populations. Several comments stated that the fact that an animal cannot rise from a recumbent position or walk does not necessarily render its carcass unfit for human food. Some of the comments argued that otherwise healthy cattle that are non-ambulatory solely due to an acute injury, such as a broken leg or torn ligament, are no more likely to test positive for BSE than healthy slaughter cattle. These comments asserted that the carcasses of these cattle pose little risk of exposing humans to the BSE agent.

Some comments stated that Federal and state veterinarians are able to readily discern through ante-mortem or post-mortem inspection whether an animal has suffered an acute injury or is affected with a pathological condition. One comment submitted detailed guidance on establishing the clinical signs consistent with cattle suspected of having BSE. According to the comment, the guidance was developed by veterinarians that have extensive experience dealing with cattle with confirmed BSE. The comment stated that while these veterinarians noted that the clinical signs of BSE are subtle, the document establishes clear and objective guidelines for determining clinical risk factors.

One comment noted that, although the SRM interim final rule cited epidemiological data from the European Union that suggests that animals that generally fit the description of ''non-ambulatory'' are among the animals most likely to test positive for BSE, there remain significant differences among countries concerning the definition of this class of cattle. As an example, the comment provided BSE surveillance data from Switzerland that indicates that there was no difference between the BSE prevalence rate of cattle in the ''sick slaughter'' category and those from the general ''healthy population'' within the Swiss cattle herd in 2002. The comment also noted that the Swiss study cited in the SRM interim final rule that demonstrates an increased likelihood of detecting BSE in targeted testing of fallen stock and emergency-slaughtered animals compared to the general population of healthy animals only looked at cattle over 24 months of age.

Some comments recommended that FSIS limit the prohibition on the slaughter of non-ambulatory disabled cattle to the specific subgroup of cattle that are most likely to present a higher risk of testing positive for BSE. According to the comments, these would be cattle that are 30 months of age and older whose non-ambulatory status cannot be attributed to an acute injury. Many of these comments suggested that FSIS allow non-ambulatory disabled cattle younger than 30 months that are unable to rise or walk due to an acute injury to be used for human food if the animal passes ante-mortem inspection and the carcass passes post-mortem inspection.

In addition to the comments described above, on July 7, 2005, the Humane Society of the United States, Farm Sanctuary, and a private citizen petitioned FSIS to take action to issue a final rule to prohibit the slaughter of non-ambulatory disabled cattle for human food. According to the petition, the confirmation on June 24, 2005, of a second case of BSE in a non-ambulatory animal in the United States demonstrates that the issuance of a final rule to prohibit the slaughter of these animals cannot be delayed any further. The petition asserted that FSIS should promptly issue a permanent ban on the slaughter of non-ambulatory disabled cattle to ensure that the U.S food supply is safe, export markets for beef remain open, and animals are treated in a humane and compassionate manner.

Response: After careful consideration of this issue and the comments received in response to the SRM interim final rule, FSIS has decided to affirm the prohibition on the slaughter of non-ambulatory disabled cattle offered for slaughter for human food. As discussed in the preamble to the SRM interim final rule, surveillance data from the European Union indicate that cattle that cannot rise from a recumbent position are among the cattle that have a greater prevalence of BSE than healthy slaughter cattle and the typical clinical signs of BSE may not always be observed when cattle are non-ambulatory.

As noted by some of the comments, the clinical signs of BSE are often subtle, and many typical signs, such as

gait disturbances, can only be observed in an animal that is able to rise from a recumbent position and walk. FSIS agrees that if an animal with clinical BSE is non-ambulatory due to an acute injury, such as a broken leg or torn ligament, the injury may be the prominent or sole presenting sign. Furthermore, the fact that there have been confirmed cases of BSE in North America in non-ambulatory cattle that had been observed by veterinarians prior to slaughter that had not been identified as BSE clinical suspects provides evidence that the underlying reason for an animal's non-ambulatory condition cannot always be accurately ascertained when these animals are presented for slaughter.

As noted by one comment, the non-ambulatory disabled cattle that are more likely to test positive for BSE may differ depending on how a particular country defines this class of animals. However, to minimize the risk that clinical signs of BSE may not be observed in non-ambulatory cattle, FSIS is affirming the SRM interim final rule's definition of non-ambulatory disabled livestock as livestock that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column, or metabolic conditions.

This final rule affirms the requirement that non-ambulatory disabled cattle offered for slaughter be condemned but also clarifies that FSIS inspection personnel will determine on a case-by-case basis the disposition of cattle that become non-ambulatory after they have passed ante-mortem inspection. This amendment reflects current Agency practice as described in FSIS Notice 5–04, ''Interim Guidance for Non-Ambulatory Disabled Cattle and Age Determination'' (originally issued January 12, 2004, extension of effective date January 17, 2006) and FSIS Notice 05–06, ''Re-Examination of Bovine that become Non-Ambulatory after Passing Ante-Mortem Inspection'' (January 18, 2006)).

FSIS Notices 5–04 and 05–06 instruct FSIS PHVs on the actions they are to take when cattle become non-ambulatory after they have passed ante-mortem inspection. These notices provide that FSIS PHVs are to permit cattle that have passed ante-mortem inspection but that become non-ambulatory prior to slaughter from an acute injury to proceed to slaughter and post-mortem inspection if the PHV can verify that the animal suffered an acute injury. Under FSIS Notice 05–06, PHVs are to tag these cattle as ''U.S. suspects.'' If PHVs cannot verify that an animal that has passed ante-mortem inspection but that becomes non-ambulatory prior to slaughter suffered an acute injury, FSIS Notice 05–06 instructs the PHV to tag the animal as ''U.S. condemned.''

While FSIS agrees that non-ambulatory cattle younger than 30 months are less likely to present a risk of introducing the BSE agent into the human food supply than non-ambulatory disabled cattle that are 30 months of age and older, as explained in the preamble to the SRM interim final rule, although rare, there have been instances in which BSE has been confirmed in cattle younger than 30 months. Thus, FSIS has determined that it is prudent to continue to require the condemnation of cattle that exhibit some type of clinical abnormality that could be consistent with the end stages of BSE, regardless of the age of the animal.

As explained in the final regulatory impact analysis (FRIA) of this final rule, FSIS considered information presented in a recently updated version of the Harvard Risk Assessment (the 2005 model) in making its decision as to which measures are prudent for preventing potential human exposure to the BSE agent. Estimates generated using the 2005 model indicate that removal of SRMs is the most effective measure for preventing human exposure to the BSE agent and that such a measure would reduce, over a 20-year period, human exposure to the BSE agent by 99% from the baseline. The 2005 model also estimates that excluding non-ambulatory cattle from the human food supply would reduce, over a twenty-year period, human exposure to the BSE agent by approximately 3% from the baseline level.

Accordingly, FSIS has decided to affirm the prohibition on the slaughter of non-ambulatory disabled cattle because, as explained above, the typical clinical signs of BSE cannot always be observed in an animal that cannot rise from a recumbent position or walk, and BSE surveillance data from the European Union indicate that non-ambulatory disabled cattle are among the cattle sub-populations that have demonstrated the highest prevalence of BSE in countries where BSE has been identified. As discussed in the preamble to the SRM interim final rule, certain materials from cattle infected with BSE have demonstrated BSE infectivity a few months before the onset of clinical disease. Thus, it is not always possible to identify on ante-mortem inspection those cattle that are approaching the end stages of disease, which is when levels of the BSE agent are the highest. However, the Agency has determined that continuing to require the condemnation of cattle that exhibit some type of clinical abnormality that could be consistent with the end stages of BSE will reduce the potential for materials with infectious levels of the BSE agent to be introduced into the human food supply through the inadvertent contamination of edible tissue with SRMS.

Thus, after considering the available data on BSE and non-ambulatory disabled cattle, FSIS has determined that requiring the condemnation of these animals when they are offered for slaughter continues to be a prudent measure to prevent potential human exposure to the BSE agent.

Comment: Many comments argued that the prohibition on the slaughter of non-ambulatory disabled cattle for human food should not apply to non-ambulatory disabled cattle slaughtered or processed in custom operations for the owner's exclusive use if the animal is non-ambulatory as the result of an acute injury. Most of these comments were from farmers and owners of custom slaughter operations. Some of the comments suggested that FSIS allow the owner of the animal to present documentation at the time of slaughter to verify that the animal is non-ambulatory because of an acute injury. The comments suggested that this documentation could include an affidavit from a witness to the injury or from a state or local veterinarian that examined the animal shortly after the injury occurred. One comment suggested that the attending veterinarian for the farm where the animal was injured fill out an ante-mortem inspection form to document the reason for the animal's non-ambulatory condition. To ensure that non-ambulatory disabled cattle are non-ambulatory as the result of a recent injury, some comments suggested that FSIS limit the time that is permitted to elapse between the injury and the slaughter of the animal. One comment suggested that this time be limited to 12 hours.

Some comments stated that prohibiting the owners of non-ambulatory disabled cattle from having these animals slaughtered or processed in custom operations for their personal use will result in the slaughter and processing of non-ambulatory disabled cattle on the farm under insanitary conditions and without proper refrigeration, which will create a greater risk to public health than allowing these animals to be slaughtered or their products prepared in custom operations.

Other comments questioned FSIS' ability to enforce the prohibition on the slaughter of non-ambulatory disabled cattle in custom facilities, given that products produced in these facilities are exempt from the inspection requirements of the FMIA.

Some comments questioned FSIS' legal authority to prohibit the slaughter or processing of non-ambulatory disabled cattle in custom facilities for the personal use of the owner of the animal. Most of these comments were submitted by representatives of State Departments of Agriculture. These comments argued that: (1) The term ''adulterated'' as used in the FMIA only applies to carcasses, parts thereof, meat, and meat food products, and not to live animals that have not received ante-mortem inspection by a government veterinarian; (2) the FMIA exempts the slaughter of livestock and the processing of their carcasses and parts for the personal use of the owner from the inspection requirements of the FMIA; and therefore, (3) animals slaughtered in custom operations cannot be condemned by FSIS because they are not inspected. Some of these comments also asserted that a government prohibition on the slaughter or processing of any animal raised by an individual for his or her own personal use amounts to a seizure of property without just compensation.

Response: FSIS has determined that it cannot permit the custom slaughter or preparation of products of non-ambulatory disabled cattle for human food even if it is for the owner's exclusive use because the Agency considers the carcasses of these animals to be adulterated.

As explained in the background section of this document, when it issued the SRM interim final rule, FSIS determined that non-ambulatory disabled cattle present a sufficient risk of introducing the BSE agent into the human food supply so as to render the carcasses of these animals ''unfit for human food'' under section 1(m)(3) of the adulteration provisions of the FMIA. To prevent the use of adulterated carcasses for human food, the SRM interim final rule requires that all non-ambulatory disabled cattle offered for slaughter be condemned on ante-mortem inspection (9 CFR 309.3(e)).

Although the custom slaughter and preparation of products of cattle and other livestock are exempt from inspection under section 23(a) of the FMIA, meat and meat food products prepared in custom operations are still subject to the FMIA's adulteration and misbranding provisions (21 U.S.C. 623(a), 21 U.S.C. 623(d)). Thus, while FSIS inspectors are not present in custom facilities to condemn non-ambulatory disabled cattle that are offered for slaughter, custom operators are effectively prohibited from slaughtering or preparing products of non-ambulatory disabled cattle, because the carcasses of these animals are considered unfit for human food.

Therefore, FSIS not only disagrees with the comments that assert that it lacks the legal authority to prohibit the custom slaughter or preparation of products of non-ambulatory disabled cattle, the Agency has concluded that the FMIA requires that the carcasses of these animals be prohibited for human food regardless of whether the animal is slaughtered in a custom operation for the owner's exclusive use or in an official establishment for distribution in commerce.

As discussed above, while this final rule requires that all non-ambulatory disabled cattle that are offered for slaughter be condemned, it also clarifies that FSIS inspection personnel will determine the disposition of cattle that become non-ambulatory after they have passed ante-mortem inspection on a case-by-case basis (9 CFR 309.3(e)). Thus, as explained above, FSIS PHVs may permit cattle that have passed ante-mortem inspection but that become non-ambulatory because of an acute injury prior to slaughter to proceed to slaughter and post-mortem inspection if the PHV can verify that the animal suffered an acute injury.

As noted above, FSIS inspectors are not present in custom operations to examine cattle that become non-ambulatory after they have been offered for slaughter. However, if an animal becomes non-ambulatory from an acute injury after its owner has delivered it to a custom operation for slaughter, the custom operator may slaughter the animal for human food if both the operator and the owner of the animal did not observe any other clinical abnormalities that could be consistent with BSE before the animal sustained the acute injury.

Comment: Some comments suggested that, instead of prohibiting the slaughter of all non-ambulatory disabled cattle, FSIS should require that all non-ambulatory disabled cattle be tested for BSE, and if the test result is negative, the Agency should allow the carcass to be used for human food. The comments noted that FSIS' ''test and hold'' policy, which requires that the carcasses of cattle tested for BSE be retained until the test results are known, would apply. Some comments stated that FSIS should facilitate the testing of non-ambulatory disabled cattle on the farm and use the results to determine the disposition or marketing of the animal.

Other comments agreed with FSIS' conclusion in the SRM interim final rule that, because of limitations in the available testing methods, testing non-ambulatory cattle for BSE would not provide the same level of protection from human exposure to BSE as excluding non-ambulatory disabled cattle from the human food supply.

Response: FSIS disagrees with the comments that suggested that it should permit non-ambulatory disabled cattle that test negative for BSE to be slaughtered for human food. As was explained in the preamble to the SRM interim final rule, under the BSE tests that are available today, certain tissues of cattle infected with BSE may contain the BSE agent even though the diagnostic test does not indicate that the animal has the disease. Thus, FSIS has determined that the BSE tests that are available today are not appropriate for use as a food safety measure.

Comment: Some comments argued that since SRMs are the only materials in which BSE infectivity has been confirmed, rather than prohibiting the slaughter of non-ambulatory disabled cattle, FSIS should require that all materials that have been designated as SRMs be removed from non-ambulatory disabled cattle regardless of the age of the animal. As stated by the comments, removal of SRMs is the action that has the greatest impact on ensuring that materials that may contain the BSE agent do not enter the human food supply.

Response: Although the BSE agent has only been confirmed in certain materials of cattle infected with BSE, unintentional contamination of edible materials with SRMs could potentially occur during slaughter and processing. As noted above, non-ambulatory disabled cattle are among the cattle that are more likely to test positive for the BSE agent than healthy slaughter cattle. Thus, these animals are more likely to be in the end stages of the disease, which is when infective tissues are known to contain the highest levels of the BSE agent. Therefore, FSIS has determined that requiring the condemnation of cattle that exhibit some type of clinical abnormality that could be consistent with BSE will reduce the potential for materials with infectious levels of the BSE agent to be introduced into the human food supply through the inadvertent contamination of edible tissue with SRMs.

Comment: Some comments stated that the prohibition on the slaughter of non-ambulatory disabled cattle will hamper USDA's surveillance testing for BSE by

removing access to these animals at slaughter establishments.

Response: Experience with APHIS' testing for BSE has demonstrated that this has not been the case. Surveillance for BSE in the United States has always targeted those cattle populations where the disease is most likely to be found. The goal of APHIS' enhanced BSE surveillance program, which began on June 1, 2004, was a one-time effort designed to give a snapshot of the cattle population in the United States and to help define whether BSE is present in the cattle population and, if so, at what level. The program tested as many animals in the targeted population as possible over a 12- to 18-month period. Although there have been fewer non-ambulatory disabled cattle available for testing at official slaughter establishments since FSIS issued the SRM interim final rule, APHIS has increased the number of samples collected from non-ambulatory and other high-risk cattle at farms, slaughter facilities, rendering facilities, livestock auctions, veterinary clinics, and public health laboratories.

As discussed in more detail below, based on the information obtained through both the enhanced surveillance program and the BSE surveillance conducted by the United States in the 5 years before the enhanced surveillance program was implemented, USDA has concluded that the prevalence of BSE in the United States is extremely low. Therefore, in July 2006, USDA's APHIS announced that it would begin transitioning its enhanced BSE surveillance program to an ongoing surveillance program (*http://www.aphis.usda.gov/newsroom/hot_issues/bse/downloads/BSE_ongoing_surv_plan_final_71406%20.pdf*). APHIS' ongoing BSE surveillance program, which samples approximately 40,000 animals each year, continues to sample the cattle populations where the disease is most likely to be found. The targeted population for APHIS' ongoing surveillance includes cattle exhibiting signs of CNS disorders or any other signs that may be associated with BSE, including emaciation or injury, and dead cattle, as well as non-ambulatory cattle. Samples from the targeted population are being taken from the same locations as those used during the enhanced surveillance program.

Comment: A few comments requested that FSIS clarify that the prohibition on the slaughter of non-ambulatory disabled cattle does not apply to veal calves that are unable to stand on arrival at the slaughter establishment because they are tired or cold. The comments stated that FSIS should allow the establishment to rest these animals or warm them up prior to ante-mortem inspection. Other comments stated that cattle that have become non-ambulatory for reasons related to stress or fatigue, and have no other clinical signs associated with BSE, should be given the opportunity to recover from the fatigue to determine if they can become ambulatory.

Response: The prohibition on the slaughter of non-ambulatory disabled cattle applies to all cattle that are offered for slaughter, including veal calves. However, the regulations that prescribe requirements for the disposition of condemned livestock permit livestock condemned on account of certain conditions to be set apart and held for treatment (9 CFR 309.13 (b)). These animals are permitted to proceed through normal slaughter procedures if, following treatment, FSIS inspection personnel find that the condition that required condemnation has resolved.

Since it issued the SRM interim final rule, FSIS has permitted veal calves that cannot stand because they are tired or cold to be set aside for treatment. In this final rule, FSIS is revising 9 CFR 309.13 to clarify that this is an accepted practice. The regulations that prescribe requirements for the disposition of condemned livestock also permit condemned livestock to be released for a purpose other than slaughter if permission is obtained by the local, State, or Federal official that has jurisdiction over the movement of the animal (9 CFR 309.13). Thus, cattle and calves that are unable to stand when they arrive at slaughter may, if permission is obtained, be released from the establishment for treatment.

Comment: Several comments from cattle farmers and ranchers asserted that the prohibition on the slaughter of non-ambulatory disabled cattle has placed a serious economic burden on livestock owners. Many of these comments, particularly those from dairy farmers, stated that prior to the implementation of the new regulations, when a healthy cow suffered an acute injury, farmers were able to send the animal to slaughter and receive compensation for it. According to the comments, as a result of the rule, livestock owners must not only incur a loss when a healthy animal becomes non-ambulatory, but also incur costs associated with destroying the animal and disposing of its carcass.

Several comments from small meat processors and custom operations said that the prohibition on the slaughter of non-ambulatory disabled cattle places a serious economic burden on them. These comments stated that because they do not slaughter or process a large number of animals, they stand to lose a significant source of revenue, and some stated that a prohibition on the slaughter of non-ambulatory disabled cattle will cause them to go out of business.

Response: FSIS acknowledges that prohibiting the slaughter of all non-ambulatory disabled cattle offered for slaughter has certain economic effects on farmers, small meat processors, and custom operators. However, as discussed above, the carcasses of non-ambulatory disabled cattle offered for slaughter are adulterated and as such cannot be used for human food. The final regulatory impact analysis section of this document contains a more complete description of the economic impact of prohibiting the slaughter of non-ambulatory disabled cattle for human food.

Materials Designated as SRMs

Comment: Several comments concurred with the list of materials that FSIS designated as SRMs. Some comments indicated that removal of these materials is supported by the Harvard Risk Assessment.

One comment stated that the 30-month cut-off for exclusion of SRMs provides very strong protection of human health, given that fewer than 0.01% of BSE cases have been recorded in cattle under 30 months of age. The comment also said that in regions such as North America, where BSE is very rare, and where measures to prevent its spread have been in place for a number of years, it is improbable that cattle will be exposed to high doses of the BSE agent. Therefore, the commenter postulates that short incubation periods are unlikely in the United States, which makes a 30-month age cut-off for SRMs adequate and reasonable.

Response: FSIS agrees that the current scientific understanding supports these comments. As explained in more detail below, FSIS is affirming the 30-month age and older classification for certain SRMS.

Comment: Some comments stated that the materials designated as SRMs if they are from cattle 30 months of age and older should be considered SRMs if they are from cattle 12 months of age and older. The comments asserted that the pathogenesis of BSE is not clearly understood, and that there is still scientific uncertainty regarding when during the incubation period infectivity occurs. The comments noted that cattle as young as 21 months have tested positive for BSE in both Japan and the United Kingdom.

Some of the comments also noted that the post-mortem tests that are available today are only capable of identifying the presence of the BSE agent near the end of the incubation period. As stated by the comments, cattle younger than 30 months of age in the early stages of BSE that do not test positive for the disease may still be harboring the BSE agent.

Some comments argued that permitting the brain or spinal cord from cattle of any age for human food carries an unjustifiable risk of exposing humans to the BSE agent. These comments suggested that FSIS prohibit brain and spinal cord from all cattle for human food.

Response: In the SRM interim final rule, FSIS designated all materials that have demonstrated BSE infectivity as SRMs, regardless of the level or proportion of infectivity contained in each tissue. However, because BSE infectivity has only been confirmed in certain tissues when cattle are approaching the end of the disease incubation period, or after cattle have developed overt clinical disease, FSIS designated some tissues as SRMs only if they are from cattle 30 months of age and older. As discussed in detail in the preamble to the SRM interim final rule and in the APHIS/FSIS/FDA ANPR, the Agency has determined that a 30-month-and-older age classification for certain SRMs is reasonable because BSE surveillance data from European countries demonstrate that cattle younger than 30 months are unlikely to be in the later stages of BSE and, thus, are unlikely to contain high levels of BSE infectivity. Materials that have demonstrated infectivity in the early stages of disease are SRMs regardless of the age of the animal. In addition, prevalence estimates from USDA's APHIS enhanced BSE surveillance program also support the 30 month-and-older age classification for certain SRMs. BSE surveillance data from the European Union and the United States are discussed below.

FSIS is aware of the cases of BSE in animals 21 and 23 months of age reported by Japan mentioned by the comments. FSIS took comment on the significance of these cases. The response to those comments is provided later in the preamble to this final rule. In short, a report issued by the European Food Safety Authority (EFSA), Scientific Panel on Biological Hazards, states that ''it is unclear whether the very young cases [reported in Japan] were adequately identified and formally confirmed.'' [1]

BSE surveillance in the European Union. As discussed in the preamble to the SRM interim final rule and the APHIS/FSIS/FDA ANPR, although rare, BSE has been confirmed in cattle younger than 30 months. As explained in those documents, the occurrence of BSE in young animals is most likely the result of exposure to a high infective dose of the BSE agent at a young age.

BSE surveillance data from the European Union indicate that most cases of BSE detected in animals younger than 30 months involve cattle that were most likely exposed to the BSE agent at a time when their countries-of-origin had significant levels of circulating BSE infectivity. As the level of BSE disease in the European Union has decreased, so has the number of confirmed cases in cattle younger than 30 months.[2] This most likely reflects a reduction in the amount of circulating BSE infectivity that occurred after full implementation by most E.U. countries of measures to prevent the spread of BSE.

These analyses of BSE surveillance data from the European Union indicate that when disease prevalence is low, and effective measures for preventing the spread of BSE are in place, it is unlikely that there will be a sufficient amount of circulating BSE infectivity to result in clinical cases in young animals.

BSE surveillance in the United States. As discussed below, analysis of USDA's APHIS BSE surveillance testing program has led FSIS to conclude that the BSE prevalence in the United States is extremely low. Based on the low estimated prevalence of BSE in the United States, FSIS has determined that U.S. cattle younger than 30 months are unlikely to contain high levels of the BSE agent and that a 30-month-and-older age classification for certain SRMs remains appropriate for the United States.

USDA's APHIS has conducted surveillance for BSE disease since 1990. Surveillance has always targeted those cattle populations where the disease is most likely to be found. The level of surveillance in the United States has increased steadily from 1990 and jumped significantly in 2004 when USDA implemented enhanced surveillance following the detection of BSE in an imported cow in December 2003.

As stated above, the goal of USDA's enhanced BSE surveillance program, which began on June 1, 2004, was to test as many animals in the targeted population as possible over a 12- to 18-month period. This program was designed to provide a snapshot of the domestic cattle population to help define whether BSE is present in the United States and, if so, at what level.

Based on the information gained during both the enhanced surveillance program and the BSE surveillance conducted in the United States in the five years before the enhanced surveillance program was implemented, APHIS recently concluded that the prevalence of the disease in this country is extremely low, less than one case per million adult cattle. Two models were used to estimate the prevalence, and the most likely values calculated by these models estimate that the number of cases is between 4 and 7 infected animals out of 42 million adult cattle.[3] APHIS' analysis was submitted to the scrutiny of a peer review process, and the expert panel agreed with the appropriateness of APHIS' assumptions and the factors it considered, as well as with the estimate of BSE prevalence. APHIS has transitioned into an ongoing BSE surveillance program designed to test a targeted sample of approximately 40,000 targeted animals each year, a level consistent with international animal health standards.[4]

Comment: Some commenters indicated that expanding the list of SRMs to include materials from cattle 12 months of age and older is consistent with recommendations made in a report by an international expert BSE panel (the International Review Team or IRT) that was convened at the request of the

[1] The EFSA Journal 2005 220, 1–21, Annex to the Opinion, Report of the Working Group on the assessment of the age limit in cattle for the removal of certain specified risk materials (SRM) (see 1.2.3. Age distribution of young BSE cases outside the EU, p. 11). Available on the Internet at: *http://www.efsa.eu.int/science/biohaz/biohaz_opinions/opinion_annexes/933/biohaz_report_ej220_srmremove_en1.pdf.*

[2] European Commission (EC), 2005; Report on the monitoring and testing of ruminants for the presence of transmissible spongiform encephalopathy (TSE) in 2004, European Commission Health and Consumer Protection Directorate-General; European Commission (EC), 2004; Report on the monitoring and testing of ruminants for the presence of transmissible spongiform encephalopathy (TSE) in 2003, European Commission Health and Consumer Protection Directorate-General; European Commission (EC), 2003; Report on the monitoring and testing of ruminants for the presence of transmissible spongiform encephalopathy (TSE) in 2002, European Commission Health and Consumer Protection Directorate-General (*http://europa.eu.int/comm/food/food/biosafety/bse/mthly_reps_en.htm).*

[3] ''An Estimate of the Prevalence of BSE in the United States,'' Animal and Plant Health Inspection Service, USDA, July 20, 2006. Available on the Internet at: *http://www.aphis.usda.gov/peer_review/content/printable_version/BSE_Prevalance_scientific_doc_after.pdf.*

[4] OIE Terrestrial Animal Health Code 2006, Appendix 3.8.4, Surveillance for Bovine Spongiform Encephalopathy.

Secretary of Agriculture to review actions taken by the United States in response to a single finding of BSE. The commenters noted that the IRT report recommended that the brain, skull, spinal cord, and vertebral column of all cattle over 12 months be excluded from both the human food and animal food chains unless aggressive surveillance proves the BSE risk in the USA to be minimal according to [former] standards of the World Organization for Animal Health (the OIE). [5]

Response: As noted by the commenters, the IRT report did recommend that the brain, skull, spinal cord, and vertebral column of all cattle over 12 months be excluded from both the human food and animal food chains unless aggressive surveillance indicates otherwise. However, as discussed above, USDA's APHIS has conducted the aggressive surveillance recommended by the IRT, and the extremely low prevalence estimates, in conjunction with the E.U. experience, provide evidence that a 30-month-and-older age classification for certain SRMs is a prudent measure for preventing human exposure to the BSE agent in the United States. The 30-month-and-older age classification for SRMs that have demonstrated BSE infectivity in the end stages of the disease incubation is accepted internationally in BSE standards set by various countries and is consistent with OIE recommendations.

In addition, FSIS' regulations contain measures that reduce the potential for cattle younger than 30 months to introduce the BSE agent into the human food supply. Under 9 CFR 309.4 of the ante-mortem inspection regulations, all livestock with signs of a neurological disease must be condemned. Thus, the regulations prohibit the slaughter of those cattle younger than 30 months having any characteristics consistent with the end stages of BSE, i.e., those with clinical signs consistent with the disease. Furthermore, the prohibition on the slaughter of non-ambulatory disabled cattle, which FSIS is affirming in this document, ensures that non-ambulatory cattle younger than 30 months that may have clinical signs consistent with BSE that are difficult to observe do not enter the human food supply. Thus, the regulations require the condemnation of all cattle that exhibit some type of clinical abnormality that could be consistent with the end stages of BSE, regardless of the age of the animal.

Comment: One comment noted that a recently published study suggests that there may be another form of transmissible spongiform encephalopathy in cattle, referred to as bovine amyloidotic spongiform encephalopathy (BASE). According to the comment, given the possibility of an additional strain of BSE, together with the continued lack of scientific understanding concerning the pathogenesis of the disease, FSIS must minimize human exposure to all animal materials that could potentially harbor the BSE agent. The comment argued that as long as there is uncertainty, SRMs from cattle over 12 months of age should be excluded from both the human and animal food chain.

Response: There is very little data on the BASE strain of BSE described by the comment. The data that are available do not indicate that cattle with this form of BSE are more likely to contain high levels of the infective agent early in the incubation period than cattle with the ''typical'' BSE strain. Further study on the BASE form of BSE is needed to determine its significance.

Comment: One comment stated that a ban on SRMs regardless of the age of the animal would significantly improve enforcement of the regulations and would eliminate the need to determine the age of each animal offered for slaughter. Another comment said that the only plausible explanation for not prohibiting SRMs from cattle of all ages is an implicit cost/benefit analysis. According to the comment, the FMIA does not allow the Agency to rely on a cost/benefit analysis. It requires that the Agency remove all adulterated materials from the market.

Response: FSIS disagrees with these comments. With regard to the comment that stated that the FMIA requires that the Agency remove all adulterated materials from the market without consideration of costs or benefits, the SRM interim final rule does require that all adulterated materials be excluded from the human food supply. Under the SRM interim final rule, certain materials are only considered adulterated if they are from cattle 30 months of age and older.

FSIS disagrees that prohibiting materials designated as SRMs for human food regardless of the age of the animal is needed to improve enforcement of the regulations, as was suggested by one of the comments. Under the regulations, establishments must develop, implement, and maintain written procedures to ensure that SRMs are completely removed from the carcass, segregated from edible materials, and disposed of as inedible. FSIS is responsible for ensuring that the establishment's procedures are adequate and effective, and is responsible for taking appropriate action if they are not. As discussed in more detail later in this document, the Agency has developed effective procedures for verifying the age of cattle offered for slaughter.

Comment: One comment noted that in its 2002 ''Current Thinking Paper'' on BSE, FSIS identified prohibiting the brain and spinal cords from cattle 24 months of age and older for human food, and prohibiting the vertebral column from cattle 24 months of age and older as a source material in mechanical meat recovery systems, as measures that the Agency was considering implementing to minimize potential human exposure to the BSE agent. The comment stated that FSIS must offer some justification as to why the Agency determined that a 30-month age cut-off for SRMs is appropriate in preventing potential human exposure to the BSE agent when it had previously stated that a 24-month age cut-off was necessary to protect public health.

Another comment stated that Germany, Italy, and France test all cattle older than 24 month of age that are slaughtered for human food for BSE. According to the comment, this suggests that these countries have concluded that there is a significant risk that cattle between 24 and 30 months of age may transmit the BSE agent to humans.

Response: FSIS made its ''current thinking paper'' on BSE available to the public January 17, 2002. The 24-month age cut-off for SRMs as described in that document was based on the best information available at the time and was intended to address the fact that, in rare instances, BSE had been confirmed in cattle younger than 30 months in the European Union.[6]

However, the E.U. BSE surveillance data that were available at the time that FSIS issued the paper were limited because they generally reflected cases detected by means of traditional passive surveillance.[7] In January 2001, the European Union implemented more systematic testing for BSE, which has increased the number of BSE cases detected. Thus, more complete

[5] The OIE guidelines no longer provide for a minimal BSE risk category. Since the IRT issued its report, the OIE has revised its BSE risk categories. OIE now has three BSE risk categories instead of five: negligible risk, controlled risk, and undetermined risk.

[6] Food Safety and Inspection Service (FSIS): Current Thinking On Measures That Could Be Implemented To Minimize Human Exposure To Materials That Could Potentially Contain the Bovine Spongiform Encephalopathy Agent, January 15, 2002 (see page 8). Available on the Internet at *http://www.fsis.usda.gov/oa/topics/bse_thinking.htm.*

[7] Frequently asked questions about BSE. 6 April 2001. Europa Web site: *http://europa.eu.int/comm/food/fs/bse/bse20_en.html.*

information on the age distribution of confirmed BSE cases has become available since FSIS issued its current thinking paper.

The E.U. BSE surveillance data that are available today indicate that BSE is unlikely to be confirmed in animals younger than 30 months in the European Union, which, as explained above, most likely reflects a reduction in the amount of circulating BSE infectivity that occurred after full implementation by most E.U. countries of measures to prevent the spread of BSE. For example, in E.U. BSE surveillance testing conducted in 2002, 2003, and 2004, none of the 4,355 animals that tested positive for BSE were younger than 30 months.[8] A total of 31,514,999 BSE tests were conducted in those years. In addition, as discussed above, the extremely low BSE prevalence estimates obtained from APHIS' analysis of its BSE surveillance data reinforce the conclusion that a 30-month-and-older age classification for certain SRMs is a prudent measure for preventing human exposure to the BSE agent as opposed to the 24-month age cut-off that the Agency was contemplating when it issued its current thinking paper.

As noted by one comment, Germany, Italy, and France require that cattle older than 24 months be tested for BSE if they are slaughtered for human food. However, testing for BSE conducted in these countries from 2001 through 2004 has detected only two animals younger than 30 months of age, and both were detected in 2001.[9] Of note is that these animals were 28 and 29 months of age. Furthermore, measures implemented by other European countries appear to recognize that cattle older than 30 months present the greatest risk of introducing the BSE agent into the human food supply. Under the E.U. regulations, cattle over 30 months of age must be tested for BSE if they are slaughtered for human food.[10] In addition, since 1996, the United Kingdom has prohibited the slaughter of cattle over 30 months of age for human food. This prohibition was recently replaced with a program that permits cattle over 30 months to be used for human food if these animals test negative for BSE (except for cattle born before August 1, 1996).[11] In the United Kingdom and the rest of the European Union, SRMs must still be removed from animals that test negative for BSE.

Comment: A few comments stated that FSIS should designate bone marrow as an SRM even though pathogenesis studies have not conclusively demonstrated that bone marrow contains BSE infectivity. The comments stated that FSIS should not wait for a ''conclusive'' study to take action to prevent human exposure to a potential source of BSE infectivity. One comment stated that the FMIA mandates a precautionary approach that does not require conclusive demonstration that a meat food product will cause adverse health effects.

Response: FSIS has reviewed the available research with regard to BSE infectivity in bone marrow and has determined that it does not support designating bone marrow as an SRM.

As noted in the preamble to the SRM interim final rule, in pathogenesis studies conducted in the United Kingdom, bone marrow from one set of cattle demonstrated BSE infectivity 38 months post oral exposure to the BSE agent.[12] However, because bone marrow from cattle sacrificed at earlier (32 and 36 months) and later (40 months) intervals post exposure to the BSE agent did not demonstrate infectivity, these findings are considered inconclusive. The infectivity at 38 months was detected through use of a mouse bioassay and occurred after the cattle had developed clinical signs of disease.

BSE infectivity in bone marrow has also been tested using a more sensitive cattle bioassay. In November 2003, the U.K. Spongiform Encephalopathy Advisory Committee (SEAC) reported that in the cattle bioassay, no infectivity had been reported in bone marrow of cattle up to 55–56 months post exposure to the BSE agent.[13] SEAC concluded that research from the cattle bioassay indicate that the level of infectivity in the bone marrow is at most very low, and that the single positive finding from the mouse bioassay may be an experimental artifact but cannot be discounted.

On the basis of the information on BSE infectivity in bone marrow that is described above, FSIS has concluded that there is insufficient evidence to indicate that bone marrow should be designated as an SRM. FSIS will continue to follow the research with regard to BSE infectivity in bone marrow. However, even if there is weak infectivity in the bone marrow of cattle, it likely presents little risk of exposing humans to the BSE agent because FSIS requires condemnation of the cattle most likely to contain infectivity, i.e., those with clinical signs of disease and non-ambulatory animals.

Comment: Some comments suggested that FSIS prohibit organs in close proximity to SRMs, such as the dura mater, hypophysis, pineal gland, and cerebrospinal fluid, for human food. One comment noted that the dura was harvested but not tested in pathogenesis studies conducted in the United Kingdom. According to the comment, the dura's close association with the brain and spinal cord, along with the documented evidence of its role in the human-to-human transmission of CJD, has prompted scientists to designate bovine dura as a high-risk tissue. The comment also noted that if the dura is not removed and disposed of as inedible prior to processing, it may come loose and be incorporated into ground product or contaminate surfaces where de-boning occurs.

Response: FSIS agrees that, because of their close association to the CNS, the dura mater and CSF from cattle 30 months of age and older could potentially come in contact with SRMs; contamination could result from such contact if the animal had BSE. While the dura and CSF are not designated as SRMs, establishments are required to address the potential for edible products to become contaminated with SRMs in their procedures for the removal, segregation, and disposition of SRMS.

[8] European Commission (EC), 2005; Report on the monitoring and testing of ruminants for the presence of transmissible spongiform encephalopathy (TSE) in 2004, European Commission Health and Consumer Protection Directorate-General; European Commission (EC), 2004; Report on the monitoring and testing of ruminants for the presence of transmissible spongiform encephalopathy (TSE) in 2003, European Commission Health and Consumer Protection Directorate-General; European Commission (EC), 2003; Report on the monitoring and testing of ruminants for the presence of transmissible spongiform encephalopathy (TSE) in 2002, European Commission Health and Consumer Protection Directorate-General (*http://europa.eu.int/comm/food/food/biosafety/bse/mthly_reps_en.htm).*

[9] European Commission (EC), 2002; Report on the monitoring and testing of ruminants for the presence of transmissible spongiform encephalopathy (TSE) in 2001, European Commission Health and Consumer Protection Directorate-General (*http://europa.eu.int/comm/food/food/biosafety/bse/mthly_reps_bse2001_en.htm).*

[10] Commission Regulation (EC) No 1248/2001 of 22 June 2001 amending Regulation (EC) No 999/2001 of the European Parliament and of the Council as regards epidemio-surveillance and testing of transmissible spongiform encephalopathies.

[11] United Kingdom, Department for Environment Food and Regulatory Affairs (DEFRA) Web site at *http://www.defra.gov.uk/animalh/bse/otm/index.html* (accessed November 2005).

[12] Wells GA, Hawkins DA, Green RB, Spencer YI, Dexter I, Dawson M. 1999, Limited detection of sternal bone marrow infectivity in the clinical phase of experimental Bovine Spongiform Encephalopathy (BSE). Vet Rec. Mar 13: 144 (11): 292–4.

[13] Eightieth Meeting of the Spongiform Encephalopathy Advisory Committee Meeting, November 2003. Available on the Internet at: *www.seac.gov.uk/minutes/final80.pdf.*

Anatomically, the hypophysis and pineal gland are part of the brain and thus must be removed from the carcass when the brain is removed.

Comment: A few comments suggested that FSIS designate bovine spleen and pancreas as SRMs.

Response: Neither the spleen nor pancreas from cattle has demonstrated BSE infectivity, nor are they closely associated with any materials that have been designated as SRMs. Therefore, the spleen and pancreas from cattle are not SRMs.

Comment: One comment stated that FSIS should designate the entire head from cattle 30 months of age and older as SRM and require that the cheek and head meat of cattle 12 months of age and older be removed before the skull is fragmented or split.

Response: The SRM interim final rule designates potentially infective materials, as well as certain materials that are closely associated with potentially infective materials, from cattle 30 months of age and older as SRMs. Furthermore, under the SRM interim final rule, establishments are required to address contamination of all edible materials, which would include head meat, with SRMs in their procedures for the removal, segregation, and disposition of SRMs. Therefore, FSIS has concluded that it is not necessary to designate the entire head from cattle 30 months of age and older as an SRM.

None of the materials located in the head of cattle younger than 30 months of age are considered SRMs. Therefore, FSIS does not believe that it is necessary to prescribe procedures for the removal of head meat from cattle younger than 30 months in order to minimize potential human exposure to the BSE agent.

Comment: One comment stated that FSIS must better articulate its rationale for excluding other areas of the carcass from the list of SRMs. According to the comment, there is scientific evidence to indicate that the BSE agent is not confined to the brain and spinal cords of cattle, and that it can be found in several other compartments and extra-CNS spinal nerve centers. The comment criticized FSIS for not including a discussion on whether peripheral nerves coursing throughout the carcass may potentially contain BSE infectivity.

Response: As discussed in the preamble to the SRM interim final rule, available data on the development and distribution of tissue infectivity in BSE-infected cattle are incomplete, and most of what is known comes from the pathogenesis studies conducted in the United Kingdom (69 FR 1862, 1864, January 12, 2004). When it issued the SRM interim final rule, FSIS noted that while the results of the pathogenesis studies are useful in that they provide experimental evidence of the distribution of the infective agent in BSE-infected cattle at various stages of the disease, these studies did not determine the rate at which the BSE agent increases in the tissues that have demonstrated infectivity or identify the tissues that the BSE agent must pass through to reach its ultimate destination. Of the peripheral nervous tissues tested in the pathogenesis studies, only the DRG and trigeminal ganglia demonstrated infectivity, which occurred late in the disease incubation and in cattle with clinical disease.

After FSIS issued the SRM interim final rule, a study in which highly BSE-susceptible transgenic mice challenged with a variety of tissue samples from a clinically diseased cow was published.[14] Of the tissues sampled in this study, infectivity was confirmed in the CNS, as well as in the optic nerve and the retina. In addition, samples of the facial and sciatic nerve of the peripheral nervous system (PNS) also demonstrated infectivity, although at lower levels than the CNS tissues. The study also tested tissue samples from the radial nerve of the PNS and reported no demonstrated infectivity at the time of publication.

While both the U.K. pathogenesis study and the study involving the highly BSE-susceptible transgenic mouse bioassay described above demonstrate that BSE infectivity may occur in certain PNS tissues of cattle in the end stages of BSE disease, FSIS has determined that these studies do not provide conclusive evidence that peripheral nerves coursing throughout the carcass contain BSE infectivity. In both studies, the PNS tissues that demonstrated BSE infectivity were closely associated with the CNS, and infectivity was only detected in these tissues late in the disease incubation, or when cattle had overt clinical disease. While FSIS acknowledges that these findings do not exclude the possibility that other parts of the PNS may contain infectivity at some point in the course of BSE disease, the Agency believes that the fact that infectivity has only been confirmed in PNS tissues that are closely associated with the CNS indicates that if BSE infectivity does occur in other parts of the PNS, it is most likely at low or undetectable levels.

Thus, based on the available research, FSIS believes that the primary tissues of concern for spreading the BSE agent have been identified. FSIS will continue to follow the results of future studies on BSE to further refine this determination and inform its policies with regard to BSE.

Comment: Several comments requested that FSIS continue to designate the spinal cord and DRG from cattle 30 months of age and older as SRMs but remove the vertebral column from the list of materials designated as SRMs. The comments stated that designation of vertebral column as SRM because of its proximity to the DRG is not scientifically justifiable. The comments asserted that technologies can be developed to effectively remove DRG without requiring removal of the vertebral column. One comment stated that the regulatory intent of designating the vertebral column as SRM can be achieved by designating spinal cord and DRG as SRMs and adding the following sentence: ''Unless the establishment can demonstrate through scientific methods that the spinal cord and DRG have been completely removed, the entire vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum) shall be removed.''

Response: While the comments submitted on this issue suggested that technologies can be developed to remove the DRG without requiring removal of certain parts of the vertebral column, they did not provide any evidence to demonstrate that such technologies exist or how establishments would accomplish removal of DRG without removing sections of the vertebral column. Therefore, under this final rule, the vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum) from cattle 30 months of age and older is among the materials designated as SRM. The Agency will reconsider this issue if this technology becomes available.

Comment: Some comments stated that vertebral bones should not be SRMs if they are part of a bone-in cut of meat. According to one comment, establishments should already have or, if they do not, could easily implement procedures for the thorough removal of the spinal cord and sheath from the vertebral column. The comment stated that the remaining DRG are contained within the vertebral bones and as such are not likely to be consumed by

[14] Buschmann, A, Groschup, MH. Highly Bovine Spongiform Encephalopahty-Sensitive Transgenic Mice Confirm the Essential Restriction of Infectivity to the Nervous System in Clinically Diseased Cattle. Journal of Infectious Disease, 2005; 192:934–42.

humans unless they are processed using AMR technology. As noted by the comment, another regulation issued by FSIS, i.e., the AMR interim final rule, prohibits the use of vertebral columns from cattle 30 months of age and older in the production of AMR product. The comment stated that allowing vertebral bones from cattle 30 months of age and older to remain in traditional cuts, like T-bone steaks, will not result in any increased risk of consumer exposure to the BSE agent.

Some comments stated that requiring the removal of the vertebral column from cattle 30 months of age and older imposes costs on farmers and small processors and has raised consumer satisfaction issues. One comment noted that the United Kingdom lifted its ban on bone-in beef because scientists concluded that the potential risk of human exposure to the BSE agent from bone-in beef was insignificant.

Response: FSIS disagrees that vertebral bones should not be SRMs if they are part of a bone-in cut of meat. As noted by the comments, most establishments have the technology to completely remove the spinal cord from the vertebral column, but FSIS is not aware of any that have the technology to remove the DRG without removing parts of the vertebral column.

Although the DRG are located within the vertebral bones, FSIS has determined that because they could potentially become dislodged during consumption of bone-in beef products, the DRG from cattle 30 months of age and older are still a potential source of human exposure to the BSE agent. An updated risk assessment conducted for USDA by the Harvard Center for Risk Analysis (the 2005 Harvard model) determined that consumption of bone-in-beef could account for 23% of the total potential human exposure to the BSE agent on average (based on the conditions as they existed in 2003 and assuming the introduction of 10 infected cows).[15] The 2005 Harvard BSE Update assumes that the total infectivity in bone-in-beef is the sum of the contribution of spinal cord contained in these cuts of meat and the DRG attached to the bones.

With regard to the comment that the United Kingdom has lifted its bone-in-beef ban, the United Kingdom does not permit for use as human food bone-in-beef derived from parts of the vertebral column that have been designated as SRMs. The vertebral column (excluding the vertebrae of the tail, the spinous and transverse processes of the cervical, thoracic and lumbar vertebrae and the median sacral crest, the wings of the sacrum, but including the DRG) from cattle over 24 months is considered an SRM in the United Kingdom.[16]

Comment: Comments submitted on whether FSIS should require that the entire small intestine be removed to ensure effective removal of the distal ileum were addressed in the amendment to the SRM interim final rule issued on September 7, 2005 (70 FR 53043). FSIS received seven comments in response to the amended interim final rule. Most were supportive of the Agency's decision to permit the use of beef small intestine, excluding the distal ileum, for human food. Some asserted that FSIS only considered comments submitted by the casing and meat processing industry.

Response: FSIS in fact carefully considered all comments on removal of the distal ileum that were submitted in response to the SRM interim final rule and the APHIS/FSIS/FDA ANPR and addressed the issues raised by the comments in the September 7, 2005 amendment to the SRM interim final rule (see 70 FR 53043).

Comment: Since FSIS issued the amendment to the SRM interim final rule that permits, under certain conditions, beef small intestine, excluding the distal ileum, for use as human food, establishments interested in harvesting the small intestine for human food have requested that the Agency clarify whether procedures that involve removal of the small intestine without uncoiling it comply with the requirements of the rule if the establishment can verify that, when it is uncoiled, the part of the small intestine that is not harvested for human food measures at least 80 inches from where the distal ileum attaches to the cecum.

Response: 9 CFR 310.22(a)(3)(ii) of the amended SRM interim final rule provides that the small intestine may be used for human food if the distal ileum is removed by a procedure that removes at least 80 inches of the uncoiled and trimmed small intestine as measured from the ceco-colic junction and progressing proximally towards the jejunum or by a procedure that the establishment demonstrates is effective in ensuring complete removal of the distal ileum. Procedures in which the small intestine is harvested without uncoiling it are likely to comply with 9 CFR 310.22(a)(3)(ii) if the establishment can verify that when it is uncoiled, the portion of the intestine that was not harvested for human food measures at least 80 inches from the ceco-colic junction progressing proximally towards the jejunum.

Requirements for the Removal, Segregation, and Disposition of SRMs

Comment: Some comments stated that FSIS should prescribe specific procedures for the removal, segregation, and disposition of SRMs rather than rely on private industry to implement appropriate procedures that will best achieve the requirements of the interim final rule. One comment stated that in the interim final rule, FSIS did not specify who would approve the procedures for the removal, segregation, and disposition of SRMs in the establishment's HACCP plan or Sanitation SOP.

Response: As noted in the preamble to the SRM interim final rule, FSIS did not prescribe specific procedures for the removal, segregation, and disposition of SRMs because the Agency believes that establishments should have the flexibility to implement the most appropriate procedures that will best achieve the requirements of the rule. The regulations recognize that procedures that are appropriate for some establishments to ensure that SRMs are completely removed from the carcass, segregated from edible materials, and disposed of as inedible may not be effective when used in other establishments. Therefore, FSIS disagrees that it should prescribe specific procedures for the removal, segregation, and disposition of SRMs.

While FSIS does not approve an establishment's procedures for the removal, segregation, and disposition of SRMs, the Agency is responsible for ensuring that these procedures are adequate and effective. If FSIS inspection personnel determine that an establishment's procedures are not effective in excluding SRMs from the human food supply, the Agency will take appropriate action.

Comment: One comment suggested that FSIS require that establishments address SRMs in their HACCP plans, and that the Agency create a regulatory sampling program to verify that edible portions of carcasses are not contaminated with SRMs. The comment stated that the program could be similar to the testing program required for establishments that use AMR technology.

Response: The regulations require that establishments address SRMs as part of their food safety systems, i.e., in their

[15] Harvard Center for Risk Analysis, '' Harvard Risk Assessment of Bovine Spongiform Encephalopathy Phase IA.,'' 2005. Available for viewing by the public in the FSIS docket room and on the FSIS Web site at: *http://www.fsis.usda.gov/Science/Risk_Assessments/index.asp#bse.*

[16] United Kingdom Food Standards Agency (FSA) 2005, Web site *http://www.food.gov.uk/bse/what/beef/controls.*

HACCP plans or Sanitation SOPs or other prerequisite programs. To ensure that SRMs are not present in meat products, FSIS inspection personnel verify that establishments are removing SRMs in a manner that does not result in contamination of edible tissues. Unlike AMR products, gross contamination of beef carcasses and solid cuts of meat with SRMs can often be detected visually. Therefore, FSIS has determined that it is not necessary to establish a verification sampling program for SRM removal at this time.

Comment: One comment requested that FSIS exclude references to HACCP in 9 CFR 310.22(d)(1) because there is no scientific basis for determining that abnormal prions are a hazard reasonably likely to occur when conducting a hazard analysis. The comment stated that removal of SRMs would be better covered in an establishment's Sanitation SOPs or other prerequisite program.

Response: When conducting a hazard analysis, some establishments may determine that SRMs are a hazard that is reasonably likely to occur and that should be addressed in the HACCP plan. Other establishments may determine that it is more appropriate to address the removal and disposition of SRMs in their Sanitation SOPs or other prerequisite programs. Thus, because FSIS believes that establishments should have the flexibility to implement the most appropriate procedures that will best achieve the requirements of this rule, the Agency is not removing references to HACCP in this final rule.

Comment: Some comments suggested that FSIS prescribe and supervise the methods of destruction for SRMs rather than leave those choices to the producers, slaughterers, or processors. One comment stated that because the rule does not specify how SRM disposal must be accomplished, FSIS cannot assure that once removed, SRMs are consistently disposed of in a manner that will not introduce the BSE agent into the environment. One comment noted that alkaline hydrolysis at elevated temperatures is the most effective and environmentally responsible method of destroying materials that could potentially contain the BSE agent. Another comment stated that FSIS did not evaluate alternative methods of disposition for SRMs or the consequences of each alternative.

Response: The SRM interim final rule requires that SRMs be handled and disposed of in accordance with 9 CFR part 314.1 or 9 CFR 314.3 of FSIS' regulations for the handling and disposition of condemned or other inedible products at official establishments (see 9 CFR part 314). For establishments that have the appropriate facilities, condemned or other inedible carcasses or parts must be disposed of by inedible rendering (also referred to as ''tanking'') in accordance with the procedure prescribed by 9 CFR 314.1. Under 9 CFR 314.3, those establishments that do not have tanking facilities may dispose of condemned or other inedible carcasses or parts by incineration or by denaturing using crude carbolic acid, cresylic disinfectant a formula consisting of one part DF&C No. 3 green coloring, 40 parts water, 40 parts liquid detergent, and 40 parts oil of citronella, or any other proprietary substance approved by the Administrator.

The purpose of the prescribed methods of disposal of condemned or other inedible carcasses and parts in FSIS' regulations is to ensure that condemned and other inedible materials are rendered incapable of use as human food. After these materials have been subjected to an inedible rendering process, incinerated, or denatured, further disposition is conducted in accordance with applicable Federal, state, and local laws and regulations. FSIS works with other governmental entities to ensure that the disposition of SRMs and other inedible materials complies with environmental requirements.

Comment: Some comments requested that FSIS develop compliance guidelines on the removal, segregation, and disposition of SRMs specifically for the U.S. meat packing industry.

Response: FSIS has posted compliance guidance materials for its BSE-related rules on the FSIS Technical Services Center Web page at: *http://www.fsis.usda.gov/About_FSIS/Technical_Service_Center/index.asp.*

In addition, after it issued the SRM interim final rule, FSIS held a series of teaching workshops from January through March 2004 to discuss the actions that the Agency had taken to prevent human exposure to the BSE agent. These workshops were designed to assist small and very small plants to understand the requirements of the measures implemented by FSIS to prevent human exposure to the BSE agent. Materials provided at these workshops are available on the FSIS Web site at: *http://www.fsis.usda.gov/Science/Workshop_SmallPlants_BSE/index.asp.*

Shipment of Carcasses and Parts That Contain Vertebral Columns

9 CFR 310.22(e) of the SRM interim final rule (which has been re-designated as 9 CFR 310.22(h) in this final rule) provides that materials designated as SRMs will be deemed to be from cattle 30 months of age and older unless the establishment can demonstrate that the materials are from an animal that was younger than 30 months at the time of slaughter. In the preamble to the SRM interim final rule, FSIS explained that for establishments that only process the carcasses and parts of carcasses of cattle, the Agency will verify age through establishment records that document the age of the cattle from which the carcasses or parts were derived (60 FR 1861, 1869–1870, January 12, 2004). The preamble also states that if an establishment that processes the carcasses or parts of cattle does not have records that document the age of the cattle from which the carcasses were derived, it must handle all carcasses and parts as if they were from cattle 30 months of age and older.

FSIS permits federally-inspected establishments that slaughter cattle to ship carcasses and parts that contain vertebral columns from cattle that were 30 months of age and older at the time of slaughter to another federally-inspected establishment for processing if both establishments have controls in place to ensure that the SRM portions of the vertebral column are removed and properly disposed of. When beef carcasses or parts that contain SRM vertebral columns are transported from one official establishment to another, both the transporting establishment and the receiving establishment must develop and maintain documentation and on-going verification to ensure that the SRMs are removed, segregated from edible materials, and disposed of as inedible. If establishments have implemented appropriate controls, FSIS inspection personnel at the shipping establishment will apply the mark of inspection to carcasses or parts that contain SRM vertebral bones as an accommodation to facilitate their transport to a processing facility where the SRMs can be removed and properly disposed of.

To assist with implementation of the SRM interim final rule, FSIS issued an FSIS notice that instructs its inspection program personnel on how to verify the effectiveness of controls adopted by establishments that transport or receive cattle carcasses or parts that contain vertebral columns from cattle 30 months of age and older (see FSIS Notice 68–05, ''Verification Activities at Establishments that Transport or Receive Cattle Carcasses or Parts with Vertebral Columns that Contain Specified Risk Materials (SRMs),'' October 6, 2005). FSIS Notice 68–05 instructs inspection program personnel at establishments that transport for

further processing carcasses or parts of carcasses that contain vertebral columns from cattle that were 30 months of age and older at the time of slaughter to verify that the establishment: (1) Maintains control of the carcasses or parts while they are in transit (through companies seals or under FSIS control); (2) ensures that the carcasses or parts are accompanied by documentation that clearly identifies that the carcasses or parts are from cattle that were 30 months of age and older at the time of slaughter or that clearly states that the vertebral column must be removed and disposed of as an SRM; (3) maintains records that identify the official establishment that received the carcasses or parts; (4) incorporates its procedures into its HACCP System. FSIS Notice 68–05 also provides that inspectors at establishments that process cattle carcasses and parts are to verify that the establishment (1) has implemented controls to identify carcasses or parts that contain vertebral columns with SRM portions; (2) has implemented controls to ensure that the SRM portions of the vertebral column are properly handled and disposed of; (3) has incorporated its controls into its HACCP System; and (4) maintains records that verify that the SRM portions of the vertebral column were removed and disposed of as inedible.

In January 2006, the USDA Office of the Inspector General (OIG) issued an audit report that found that establishments transporting carcasses and parts from cattle 30 months and older often did not have appropriate controls and procedures in place to ensure that SRMs were removed and properly disposed of by downstream processors.[17] The report provided an example of a receiving establishment that received a bill of lading from the transporting establishment that identified four carcasses as being from cattle that were 30 months or older at the time of slaughter when there were actually 11 such carcasses.

Following are the comments submitted on this issue and FSIS' response. As discussed in detail below, after considering the comments submitted on this issue, and the findings in the OIG report, FSIS has decided to codify and strengthens the requirements that must be satisfied for a federally-inspected establishment to ship beef carcasses that contain vertebral columns from cattle that were 30 months of age and older at the time of slaughter to another federally-inspected establishments for further processing.

Comments: Some comments argued that it is not necessary to require that processors provide documentation from their suppliers to demonstrate that beef carcasses or parts that contain vertebral bones are from cattle that were younger than 30 months of age at the time of slaughter. According to these comments, the fact that carcasses or parts bear the USDA mark of inspection is sufficient to verify that they are from cattle that were younger than 30 months at the time of slaughter because FSIS only applies the mark of inspection to carcasses or parts if they do not contain SRMs or, for carcasses or parts that do contain SRMs, if the establishment has controls in place to ensure that the SRMs will be removed at the processing establishment.

Response: As indicated in the OIG report described above, carcasses or parts transported to a processing facility may not always be accompanied by documentation that properly identifies which carcasses or parts are from cattle that were 30 months and older at the time of slaughter. Thus, to ensure that SRM vertebral columns do not inadvertently enter the human food supply, FSIS has determined that processors must either obtain documentation from their suppliers to demonstrate that carcasses or parts are from cattle that were younger than 30 months at the time of slaughter or handle all carcasses and parts as if they were from cattle 30 months and older.

Under this final rule, it is the establishment's responsibility to demonstrate that beef carcasses or parts are from cattle that were younger than 30 months of age at the time of slaughter. An establishment that merely indicates that carcasses or parts bear the USDA mark of inspection has not met this responsibility. If the establishment cannot demonstrate, through documentation from the supplier, that beef carcasses or parts are from cattle that were younger than 30 months at the time of slaughter, it must handle all carcasses and parts for which this documentation is not provided as if they were from cattle 30 months of age and older.

Comment: Some comments argued that FSIS should not allow the shipment of beef carcasses that contain SRMs to bear the mark of inspection even if the establishment has a program in place to ensure that SRMs will be removed by the receiving establishment. According to the comments, the only way to ensure that vertebral columns from cattle 30 months of age and older do not inadvertently enter the food supply is to require that these materials be removed at the time of slaughter. The comments noted that identifying marks on carcasses could be obliterated or altered, and identification and tracking information could be lost as the carcasses pass from slaughterhouse to the processor. One comment said that allowing beef carcasses and parts that contain SRMs to bear the mark of inspection could erode public confidence in the mark of inspection as a symbol of meat safety.

One comment suggested that if FSIS were to reject the suggestion to require that the vertebral column be removed at the time of slaughter, the Agency should make it clear that carcasses with SRMs must not be shipped to uninspected establishments, such as retail stores or restaurants. The comment stated that such a prohibition should be in the final rule, not in an FSIS internal document, such as an FSIS notice or directive.

Response: As stated above, after considering this issue, and the findings of the OIG audit report, FSIS has decided to continue to permit, and to codify and strengthen the requirements that must be satisfied for federally-inspected establishments to ship beef carcasses that contain vertebral columns from cattle that were 30 months of age and older at the time of slaughter to other federally-inspected establishments for further processing. As discussed above, FSIS currently permits this practice if both establishments have implemented controls to ensure that the vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum), is removed from the carcass and disposed of as inedible at the receiving establishment. To ensure that SRMs are removed to the greatest extent possible at slaughter, the Agency is amending the SRM interim final rule to clarify that the spinal cord from cattle 30 months of age and older must be removed at the establishment where the animals were slaughtered. Thus, under this final rule, the only SRMs that are permitted to be transported from one federally-inspected facility to another are vertebral columns and the DRG contained in the vertebral columns.

In addition, to ensure that beef carcasses or parts that contain vertebral bones from cattle that were 30 months of age and older at the time of slaughter do not inadvertently enter the human food supply, this final rule strengthens

[17] Animal and Plant Health Inspection Service Bovine Spongiform Encephalopathy (BSE) Surveillance Program—Phase II and Food Safety and Inspection Service Controls over BSE Sampling, Specified Risk Materials, and Advanced Meat Recovery Product—Phase III (Report no. 50601–10–KC, January 2006). Available on the Internet at: *http://www.usda.gov/oig/webdocs/50601–10-KC.pdf.*

and codifies the conditions under which establishments will be permitted to ship these carcasses or parts for further processing. Under this final rule, FSIS will permit slaughter establishments to ship beef carcasses or parts that contain vertebral columns from cattle 30 months of age and older for further processing if the slaughter establishment: (1) Maintains control of the carcasses or parts while they are in transit (e.g., through company seals) or ensures that the carcasses or parts move under FSIS control (e.g., under USDA seal or accompanied by FSIS Form 7350–1); (2) ensures that the carcasses or parts are accompanied by documentation that clearly states that the carcasses or parts contain vertebral columns from cattle that were 30 months of age or older at the time of slaughter; (3) maintains records that identify the official establishment that received the carcasses or parts; and (4) maintains records that verify that the official establishment that received the carcasses or parts removed the SRM portions of the vertebral column and disposed of them as inedible.

The first three requirements described above codify the conditions that FSIS inspection personnel at establishments that transport carcasses or parts that contain SRM vertebral columns are instructed to verify under FSIS Notice 68–05. Thus, these requirements reflect current practices. However, the fourth condition, which requires that shipping establishments maintain records that verify that the official establishment that received carcasses or parts from cattle 30 months and older removed and properly disposed of the SRMs, is a new requirement designed to strengthen existing controls. Because this new provision establishes a new recordkeeping requirement, it has been submitted to OMB for approval. This provision will not become effective until OMB approves the information and recordkeeping requirements. More detailed information on the information and recordkeeping requirements associated with this final rule, including instructions for submitting comments on these requirements, are described in the Paperwork Reduction Act Section of this document.

FSIS is adopting this additional control on the transportation of carcasses and parts that contain SRM vertebral columns, in part, in response to the OIG audit report described above. As noted above, the OIG report found that establishments transporting carcasses and parts from cattle 30 months and older often did not have appropriate controls and procedures in place to ensure that SRMs were removed and properly disposed of by downstream processors. This new provision addresses this finding by establishing an addition control that transporting establishments must implement to ensure that receiving establishments are removing and properly disposing of SRMs.

In addition, requiring that transporting establishments maintain records that verify that the receiving establishment removed and properly disposed of SRMs is consistent with other Agency policies that address situations in which products are transported from an official establishment to another facility for processing or disposition. For example, establishments that transport non-intact beef products that test positive or presumptive positive for *E. coli* O157:H7 to another official establishment, or a landfill or rendering operation, for further processing or disposal must obtain documentation from the receiving operation that indicates that the product was properly processed or disposed of.

As requested by the comment, for clarification, federally-inspected establishments are not permitted to ship for further processing beef carcasses or parts that contain vertebral columns from cattle 30 months of age and older to establishments that are not under Federal inspection, such as retail stores, restaurants, or state-inspected processing establishments. The SRMs must be removed in the Federal system.[18] Establishments that receive beef carcasses or parts for further processing are required to address removal of the vertebral column from cattle 30 months of age and older in their procedures for the removal, segregation, and disposition of SRMs.

Sanitation and Cross-Contamination

To assist with implementation of the SRM interim final rule, FSIS developed procedures to verify that cross-contamination of edible tissue with SRMs was reduced to the maximum extent practical in facilities that slaughter cattle, and in facilities that process the carcasses or parts of cattle, that are both younger than 30 months of age and that are 30 months of age and older (see FSIS Notice 10–04, ''Questions and Answers Regarding the Age Determination of Cattle and Sanitation,'' January 29, 2004, reissued January 2005). Under these procedures, if an establishment uses dedicated equipment to cut through SRMs, or if it segregates cattle 30 months of age and older from cattle younger than 30 months of age, then the establishment may use routine operational sanitation procedures (i.e., no special sanitation procedures are required). If the establishment does not segregate cattle 30 months of age and older from younger cattle, equipment used to cut through SRMs must be cleaned and sanitized before it is used on carcasses or parts from cattle younger than 30 months of age.

When it issued FSIS Notice 10–04, FSIS determined that, because of the multiple risk mitigation measures implemented in the United States to prevent the spread of BSE, these procedures reduce to the maximum extent practical cross-contamination of carcasses with high-risk tissues. However, to assist in determining whether it should strengthen these measures, FSIS requested further comment on this issue in the joint ANPR issued by APHIS, FSIS, and FDA on July 14, 2004, (see ''Federal Measures To Mitigate BSE Risks: Considerations for Further Action,'' 69 FR 42287, 42290). The Agency also issued a press release during the comment period for the SRM interim final rule that specifically requested public comment on methods to prevent cross-contamination of carcasses with SRMs.

Comment: Most of the comments received on this issue agreed that establishments must have a system in place to prevent cross-contamination between edible materials and SRMs. Some of the comments agreed with the current FSIS procedures that permit sanitation of equipment by establishments between the processing of carcasses or parts of carcasses from cattle 30 months of age and older and those from cattle younger than this age. According to the comments, while the cleaning and sanitizing procedures that are available will not inactivate the BSE agent, these procedures are adequate to prevent cross-contamination due to the multiple risk mitigation measures implemented by the U.S. government to prevent the spread of BSE. One comment stated that separate or dedicated equipment is not necessary if proper cleaning and sanitizing procedures are in place and documented.

Other comments argued that, until effective decontamination procedures are developed, FSIS should require that establishments use dedicated and visually coded equipment for the severing and removal of SRMs. Some

[18] State-inspected establishments are permitted to transport for further processing carcasses or parts that contain vertebral columns from cattle 30 months of age and older to other State-inspected establishments in the same State if the State enforces requirements that are at least equal to those imposed under the FMIA.

comments indicated that if dedicated equipment is not used, FSIS should require separate slaughter and processing lines for cattle 30 months and older and cattle younger than 30 months.

One comment included a CD–ROM with suggestions and practices to reduce cross-contamination during slaughter. Among the suggested practices were capping the stun hole, using separate equipment for the severing and removal of SRMs, keeping saws clean to prevent build-up of SRMs, using both high and low stations for removal of the spinal cord, removing both the spinal cord and dura on the kill floor, and taking care of mis-split carcasses on the kill floor.

One comment suggested that FSIS require that the spinal cord be removed on the slaughter floor using dedicated equipment. The comment argued that once spinal cord or other CNS tissue enters the boning room and contaminates the tables and equipment, the potential risk from BSE is already there and removal at this point is not completely sufficient.

Response: After considering the comments submitted on this issue, FSIS has decided to continue its current practices for verifying the effectiveness of establishments' procedures for preventing cross-contamination of edible tissue with SRMs. The Agency has concluded that, within the context of the probability that SRMs from slaughtered cattle would carry infectivity (i.e., removal of cattle most likely to have BSE and the extremely low prevalence of BSE in the United States), the current procedures appropriately reduce the potential for cross-contamination of carcasses with SRMs. To ensure that establishments conduct what the Agency has determined are appropriate sanitation procedures for equipment used to sever SRMs, the Agency is also codifying the sanitation procedures described in FSIS Notice 10–04.

Therefore, under this final rule, if an establishment does not segregate the carcasses and parts from cattle 30 months of age and older from the carcasses and parts from cattle younger than 30 months during processing operations it must either use dedicated equipment to cut through SRMs or clean and sanitize equipment used to cut through SRMs before the equipment is used on carcasses or parts from cattle younger than 30 months of age. Establishments that use dedicated equipment to cut through SRMs may continue to conduct routine operational sanitation procedures between carcasses. Establishments that segregate the carcasses and parts of cattle 30 months of age and older from cattle younger than 30 months, and that process the carcasses and parts from the younger animals first, may conduct routine operational sanitation procedures on equipment used to cut through SRMs.

Furthermore, establishments must address potential contamination of edible products with SRMs, including tonsils and the distal ileum from all cattle, as well as CNS and CNS-type tissues from cattle 30 months of age and older, in their procedures for the removal, segregation, and disposition of SRMs.

As discussed in detail above, the estimated prevalence of BSE in the United States is extremely low, and FSIS prohibits the slaughter of cattle that, if infected with BSE, are most likely to contain high levels of the BSE agent, i.e., cattle with CNS signs and non-ambulatory cattle. Thus, because cattle slaughtered in U.S. establishments are highly unlikely to be in the end stages of BSE, equipment used to slaughter or process U.S. cattle is highly unlikely to become contaminated with the BSE agent. Therefore, given the extremely low estimated U.S. BSE prevalence, FSIS has determined that the sanitation procedures prescribed in this rule are appropriate for preventing potential contamination of carcasses with the BSE agent. The Agency agrees with the comment that stated that separate or dedicated equipment is not necessary if proper cleaning and sanitizing procedures are in place and documented.

Comment: One comment stated that new technologies must be developed to detect both SRMs and the BSE agent on equipment and finished products to permit establishments to conduct testing to verify that no contamination with SRMs or prion proteins has occurred. The Agency supports the development of new technologies to detect SRMs and the BSE agent on equipment and finished products and agrees that this type of technology would be useful in verifying that no contamination with SRMs or prion proteins has occurred. While FSIS is not aware of any accurate or practical technologies that could be used to determine whether equipment or carcasses have been contaminated with SRMs or prion proteins, the Agency will continue to follow research on the development of these kinds of technologies.

Comment: One comment suggested that, to prevent edible products from coming into contact with SRMs during transport, FSIS should prohibit SRMs from being transported in the same vehicle as cattle parts destined for human food.

Response: FSIS is amending the SRM interim final rule to clarify that establishments must address contamination of edible materials with SRMs before, during, and after entry into the establishment in their procedures for the removal, segregation, and disposition of SRMs. This provision ensures that procedures for the removal, segregation, and disposition of SRMs are consistent with 9 CFR 417.3(a) of the HACCP regulations, which require that an establishment's hazard analysis include food safety hazards that can occur before, during, and after entry into the establishment.

Age Verification

In the preamble to the SRM interim final rule, FSIS stated that if the establishment has accurate records that document the age of the cattle slaughtered in the facility, FSIS inspection program personnel would accept these records as verification of the age of the cattle. If the establishment does not have records that document the age of the cattle presented for slaughter, the Agency verifies age through dental examination. Under its age verification procedures, FSIS deems cattle to be 30 months of age and older if at least one of the second set of permanent incisors has erupted (the permanent incisors of cattle erupt from 24 through 30 months of age).

Comment: Several comments concurred with FSIS' procedures for verifying the age of cattle through dental examination. The comments noted that determining age based on eruption of one of the 2nd set of permanent incisors is a conservative and appropriate approach. One commenter, a trade association that represents cattle producers, conducted research to determine whether FSIS' standard for verifying the age of cattle is the appropriate standard for today's cattle and concluded that, given the lack of a standard method for documenting age, the FSIS dentition guidelines are the best alternative. The commenter stated that it will be adding to this research, and if the data show that a new standard is appropriate, it will share the results with FSIS and propose a change in policy. The commenter also noted that it is working with the industry to develop a standard document that can be used by producers to verify the age of cattle that will be accepted by slaughter establishments and FSIS.

Response: FSIS agrees with these comments and supports the need for further research on methods for estimating the age of cattle when

reliable documentation is not available. The Agency also supports the development of a standard document that can be used to verify the age of cattle at slaughter.

Comment: Some comments disagreed with FSIS' method for verifying the age of cattle through dentition. Most of the comments asserted that the method is inaccurate because many cattle have all four permanent incisors by the time they are 24 months old. According to the comments, under FSIS' method for aging cattle, many cattle are deemed to be 30 months of age and older when they are probably 24 months or less. One comment noted that dentition varies from herd-to-herd and animal-to-animal due to genetics, diets, and the varied geographic locations in which animals are raised. Another comment indicated that the dentition standards used by FSIS were established more than 50 years ago and do not reflect the advancements in animal genetics that may account for early maturity, nor do they reflect the development of new hybrid breeds over the past 50 years.

One comment questioned the amount of research that FSIS completed when developing its guidelines for verifying age through dentition. The comment said that, according to a leading veterinary medicine anatomy textbook, the permanent incisors of cattle erupt from 18 to 48 months rather than 24 months to 30 months of age. The comment went on to note that another veterinary text states that the second pair of permanent incisors is fully developed, and the gingiva at the base of the third deciduous incisors is receding from the gum line, when the animal is approximately 29½ months of age. The comment asserted that these guidelines would provide a more accurate method to verify the age of cattle than the method adopted by FSIS.

Another comment stated that good veterinary practice recognizes that cattle develop their first set of permanent incisors at 18 to 24 months, their second set at 24 to 30 months, and their third set at 30 to 42 months. The comment asserted that it would be more accurate for FSIS to verify the age of cattle based on the eruption of the fifth permanent incisor rather then the eruption of the third permanent incisor. Another comment also suggested that FSIS deem cattle to be 30 months of age and older based on the eruption of the fourth set of permanent incisors.

Response: FSIS acknowledges that under the Agency's age verification procedures some cattle younger than 30 months will be deemed to be 30 months of age and older. As noted by the comments, dentition may vary from herd-to-herd and animal-to-animal depending on genetics, diet, and the geographic locations. However, despite its limitations, the Agency has determined that the dentition evaluation adopted in these rules is the best and most practical means of estimating the age of cattle at slaughter in the absence of reliable records. Thus, FSIS will continue to use current dentition evaluation procedures to verify the age of cattle when records are not available.

The procedures adopted by FSIS to verify the age of cattle offered for slaughter are based on data from veterinary anatomy texts and academic articles.[19] These sources indicate that the second set of permanent incisors erupt when cattle are between 24 to 30 months of age. Based on this information, FSIS adopted a conservative approach and considers cattle in which at least one of the second set of permanent incisors has erupted to be 30 months of age or older. This approach is accepted internationally and is consistent with the dentition standards used in Canada.[20]

Comment: Some comments strongly suggested that FSIS inspection personnel rely more heavily on producer documentation to verify the age of cattle. Some comments requested that FSIS restate the pre-eminence of documented birth records over approximating age through dentition. The comments stated that FSIS should not use dentition to verify supportable documentation, such as breeding or birth records.

Response: If establishments use accurate and reliable documentation to determine the age of cattle at slaughter, FSIS will not use dentition to verify the accuracy of the records. After it issued the SRM interim final rule, FSIS issued FSIS Notice 10–04 ''Questions and Answers Regarding the Age Determination of Cattle and Sanitation'' (January 29, 2004) to clarify that documentation will be the primary means to determine the age of cattle at slaughter. The notice makes clear that if reliable documentation is provided at slaughter, FSIS inspectors should not use dentition to verify the age of cattle.

Comment: Some comments requested that FSIS clarify the type of records that the Agency considers acceptable for determining age. The comments suggested that herd calving record books be included as acceptable evidence of age.

Response: The FSIS Notice described above (FSIS Notice 10–04) describes the type of documents that can be used to provide an accurate and reliable basis for determining the age of cattle. Included among the acceptable forms of documentation are records that certify that an entire herd was born on a farm during a specific time (e.g., certification that a group of Angus cattle were born during the calving season of Spring 200X or Fall 200X), together with information from the feedlot that identifies each animal individually (e.g., eartags). As provided in the notice, when calving birthing ranges are provided, the oldest possible age based on the ranges should be assigned to the group of cattle.

Comment: Some comments asserted that FSIS' method for verifying the age of cattle frequently overestimates the age of cattle that are younger than 30 months, resulting in an economic loss to cattle producers. One comment stated that certain meatpackers have indicated that they intend to deduct 15 cents per pound per head for any animal that is determined to be over 30 months of age by dentition. According to the comment, the implementation of the rule is devaluing a group of cattle (heiferettes) that previously returned a premium over their current class (cull cows). The comment also noted that after Canada implemented similar procedures for determining the age of cattle offered for slaughter, cattle in Canada with more than two permanent incisors are now being sold for a total prices of 8 to 20 cents (Canadian) per pound live weight.

This same comment stated that cattle feeders are losing nearly $200.00 per head for any animal found to have more than two permanent incisors, which is a per head loss of nearly 20%. The comment also claimed that ranchers are losing up to $360.00 per head for any animal found to have more than two permanent incisors, which amounts to a per head loss of nearly 50%. The comment estimated that the costs associated with FSIS' method for verifying the age of cattle using dentition will cost the cattle producing industry in excess of $1,035,936,000.00. One comment submitted by a rancher indicated that he takes a discount of $60.00 to $100.00 per head on cattle deemed to be 30 months of age and older, which could force him to discontinue his business unless he is able to purchase cattle that have documentation of age.

[19] See references to the FSIS Technical Services Center document ''Using Dentition to Age Cattle, '' which is available on the FSIS Web site at: *http://www.fsis.usda.gov/Frame/FrameRedirect.asp?main=http://www.fsis.usda.gov/OFO/TSC/bse_information.htm.*

[20] Canadian Food Inspection Agency, Meat Hygiene Directive, Chapter 4, Annex IV. Available on the Internet at *http://www.inspection.gc.ca/english/anima/meavia/mmopmmhv/chap4/annexne.shtml.*

Response: FSIS discusses in detail the economic impacts of age verification in the final regulatory impact analysis (FRIA) of this final rule. The FRIA explains that generally, in any group of steers and heifers, some cattle will appear to be 30 months of age and older based on dentition even if all of the animals in the group are younger than 30 months of age. The FRIA states that estimates of the proportion of steers and heifers that will appear to be 30 months of age and older based on dentition range from 1 to 5 percent (Hodges and Seward, 2004).

The FRIA notes that after FSIS implemented the SRM interim final rule, the USDA Market News Service (of the Agricultural Marketing Service (AMS)) began to report discounts for cattle 30 months of age and older (including those determined by dentition). Weekly values have ranged from $35 to $50 per cwt (carcass weight), which translates to an approximate discount of $175 to $250 per head for a 500-pound cow or bull carcass (e.g., on the lower end, $35 per cwt times 5 cwt equates to $175).

The comments on this issue and the analysis in the FRIA demonstrate the advantage of using accurate records rather than dentition to determine the age of cattle. Nonetheless, while FSIS' dentition standards are conservative, the Agency has determined that they are the most appropriate way to estimate the age of cattle in the absence of accurate documentation. As mentioned above, the dentition standards adopted by the Agency are internationally accepted and based on data from veterinary anatomy texts and academic articles. These standards are also objective and practical to implement. Furthermore, according to one study, determining physiological maturity by the number of permanent incisors may be a more accurate technique of sorting beef carcasses into less variable age groups than the USDA bone ossification-based maturity system used for beef grading.[21]

If cattle producers are interested in preventing potential financial losses associated with the use of dentition to estimate the age of their cattle, they may prefer to maintain records that can be used to accurately document the age of their animals. As stated above, if reliable documentation is available at slaughter, FSIS inspectors will rely on documentation, not dentition, to verify the age of cattle.

Comment: One comment stated that dentition should only be used to verify the age of cattle imported into the United States from countries that are not classified as ''BSE-free,'' such as Canada. The comment asserted that because the United States has never had a native case of BSE,[22] the use of dentition to age U.S. cattle unnecessarily penalizes American producers and feeders without offering any substantial public health benefits to the public or long term benefits to cattle producers.

Response: As discussed earlier in this document, two native cases of BSE have been confirmed in the United States since FSIS issued the SRM interim final rule. Therefore, the statement that the United States has never had a native case of BSE is no longer accurate. Furthermore, FSIS disagrees that its dentition evaluation procedures unnecessarily penalize American producers and feeders. As discussed in detail above, although the dentition standards adopted by FSIS may be conservative, the Agency has determined that these standards are the most appropriate means to estimate the age of cattle at slaughter in the absence of accurate documentation.

Comment: One comment was submitted by a company that has developed a new technology that it claims will permit the creation of secure and auditable records of the dentition of cattle when they arrive at the feedlot. According to the company, these records would allow slaughter establishments to determine the age of cattle offered for slaughter on the basis of dental exam at the feedlot.

According to the comment, literature shows that the standard error of the association of age with dentition is smaller with animals at younger ages. The comment asserted that because cattle usually enter feedlots between 10 and 16 months of age, dentition exam could be used more accurately at those ages to assign a maximum possible age. Since the dentition exam on these cattle would typically show no permanent incisor eruption, the comment suggested that cattle with no permanent incisors upon arrival to the feedlot be assigned a maximum age of 24 months. Then, said the commenter, cattle with an auditable record of their dentition examination at the feedlot could be deemed as being under 30 months of age at slaughter if their dentition examination upon arrival to the feedlot showed no permanent incisors and if they are sent to slaughter within six months of their arrival at the feedlot.

The comment noted that it has already submitted a notification to the FSIS New Technology Staff (NTS) of its new technology. The commenter submitted a copy of a letter from the FSIS NTS stating that the NTS has no objection to the use of the new technology. However, as stated in the letter, the regulations and implementing notice do not include documentation of dentition examination prior to slaughter as a method for verifying the age of cattle presented for slaughter. Therefore, the comment requested that FSIS allow the use of its new technology as a method to verify the age of cattle presented for slaughter.

Response: FSIS considers auditable records of the dentition examination of cattle at the feedlot as a form of documentation that can be used to estimate the age of cattle at slaughter. Thus, the Agency does not object to the use of the technology described above to verify the age of cattle offered for slaughter. To assist with implementation of this final rule, FSIS intends update the guidance provided in FSIS Notice 10–04 to issue to clarify that auditable records of dentition examination on the feedlot are an acceptable form of documentation for verifying the age of cattle.

Importation of Products From Countries With a ''Negligible BSE Risk''

Comment: FSIS received a number of comments from countries that export meat food products to the United States, as well as from importers of meat food products, requesting that FSIS exempt countries that present a ''negligible BSE risk'' from the requirements of the SRM interim final rule.[23] According to the comments, a country's negligible BSE risk status provides the same level of protection from human exposure to the BSE agent as does exclusion of SRMs and non-ambulatory disabled cattle from the human food supply in the United States.

The comments asserted that application of the SRM interim final rule to all establishments that export meat food products to the United States regardless of a country's BSE risk status is without scientific justification and requires that certain countries implement costly and unnecessary

[21] Lawrence, TE, 2001. A comparison of the USDA ossification-based maturity system to a system based on dentition, J. Anim. Sci., 79:1683–1690.

[22] This statement reflects the situation at the time that FSIS issued the SRM interim final rule.

[23] The comments requested that FSIS exempt countries with a ''BSE-free'' or ''provisionally free'' risk status. However, the OIE BSE risk categories have been revised since FSIS issued the SRM interim final rule. To reflect these revisions, instead of referring to countries as having a ''BSE-free'' or ''provisionally free,'' risk status, FSIS will use the term ''negligible BSE risk.''

measures. According to the comments, application of the U.S. BSE measures to countries that can demonstrate that they present a negligible BSE risk violates the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement) because it is more trade restrictive than necessary to achieve the appropriate level of sanitary protection required by the United States.

Many comments noted that providing an exemption for countries with a negligible BSE risk would be consistent with guidelines established by the OIE, which recommend that countries restrict the importation of potentially infective materials on the basis of the BSE risk classification of the region of origin. Some comments stated that providing an exemption for countries with a negligible BSE risk would be consistent with the position already adopted by Canada. The comments also stated that exempting countries with a negligible BSE risk would be consistent with U.S. efforts to achieve uniformity and consistency in international standards. As noted by the comments, E.U. regulations exclude from the definition of SRMs materials from animals from countries that fall within the European Union's lowest risk range of BSE risk categories.

Many of the comments also submitted information on standards that FSIS could use to determine a foreign country's BSE risk status. Some comments suggested that FSIS apply guidelines for determining the BSE risk status of a country or zone established by the OIE. The comments stated that FSIS could rely on evaluations conducted by the OIE Ad-hoc Group for BSE to determine whether a country meets the OIE criteria for negligible BSE risk status, or the Agency could conduct its own evaluations using the OIE criteria. Some comments suggested that FSIS adopt criteria similar to the criteria used by Canada for determining whether a country qualifies for an exemption from that country's BSE-related requirements. Other comments recommended that FSIS consider countries to have a negligible BSE risk if they are not listed by APHIS in 9 CFR 94.18(a) as regions that present a risk of introducing BSE into the United States. One comment suggested that, if a country's BSE risk is to be evaluated by U.S. authorities, one U.S. agency should be responsible for conducting the assessment. According to the comment, USDA's APHIS would be the most appropriate agency because of it has experience in conducting this type of evaluation.

Response: FSIS has been persuaded by these comments. The Agency agrees that it is possible for a country's BSE risk status to provide the same level of protection from human exposure to the BSE agent as excluding SRMs from the human food supply does in the United States. The Agency also agrees that restricting the importation of potentially infective materials on the basis of the BSE risk of the region of origin is more consistent with international guidelines than an approach that does not consider a country's BSE risk.

Therefore, after careful consideration of this issue and the comments received in response to the SRM interim final rule and the APHIS/FSIS/FDA ANPR, FSIS has decided to amend the SRM interim final rule to exclude from the definition of SRMs materials from cattle from foreign countries that can demonstrate that their BSE risk status can reasonably be expected to provide the same level of protection from human exposure to the BSE agent as prohibiting SRMs for use as human food does in the United States.[24]

Section 20 of the FMIA prohibits the importation of carcasses, parts, meat, and meat food products that are adulterated or misbranded, and that do not comply with all other requirements of the FMIA and its implementing regulations (21 U.S.C. 620(a)). Under the FMIA, the Secretary of Agriculture (and FSIS by delegation) is authorized to treat as equivalent to a U.S. requirement, an alternative measure proposed by an exporting country if the country provides scientific evidence or other information, in accordance with risk assessment methodologies agreed to by the Secretary and the exporting country, to demonstrate that the alternative measure achieves the level of protection that the Secretary considers appropriate (21 U.S.C. 620(e)(1)(B)).

FSIS' import regulations specify that a country's eligibility to export meat and meat products to the United States must be based on an equivalence evaluation (9 CFR 327.2(a)). To determine equivalence, FSIS conducts two types of evaluations. The Agency conducts an initial evaluation to determine whether a foreign meat inspection system is equivalent in the case of a country that is not presently eligible to export meat products to the United States. FSIS also conducts evaluations to determine whether an individual sanitary measure is equivalent in the case of a country that has already established its equivalence and is requesting that FSIS recognize an alternative method of eliminating or abating a particular food safety hazard.[25]

The initial equivalence evaluations of foreign meat inspection systems are a prerequisite for trade. Countries that have completed this initial equivalence process and that are eligible to export meat and meat products to the United States are listed under 9 CFR 327.2(b) of FSIS' import regulations. After a country is listed in 9 CFR 327.2(b) as eligible to export meat and meat products to the United States, the country may request that FSIS conduct an evaluation to determine whether an alternative sanitary measure proposed by the country is equivalent to a U.S. requirement. FSIS will allow a country to adopt an alternative sanitary measure if the country provides sufficient scientific evidence to demonstrate that the alternative measure achieves the same level of protection that is provided by the U.S. requirement.

FSIS adopted regulations that prescribe requirements for the removal, segregation, and disposition of SRMs as a measure to prevent potential human exposure to the BSE agent. When it issued the SRM interim final rule, FSIS explained that because of the way that BSE infectivity occurs in BSE-infected cattle, and the fact that a case of BSE has been detected in an imported animal in the United States, the Agency has determined that certain materials from cattle present a sufficient risk of exposing humans to the BSE agent that is prudent and appropriate to find that these materials are unfit for human food within the meaning of section 1(m)(3) of the adulteration provisions of FMIA. As discussed earlier in this document, since FSIS issued the SRM interim final rule, BSE has been confirmed in two native U.S. animals. Thus, given these additional cases, FSIS has concluded that the materials designated as SRMs in this final rule continue to present a sufficient risk of exposing humans to the BSE agent so as to render them ''unfit for human food'' under the FMIA.

However, not all countries have the same situation with regard to BSE as the United States. Based on past import histories, import controls, animal health risk mitigations, animal surveillance, and other factors, some countries may be able to demonstrate that their BSE risk status is such that materials from their cattle population that would be designated as SRMs in the United States do not present a sufficient risk of

[24] Materials may be derived from any animal from the country's cattle population if the animal has been inspected and passed for human food.

[25] FSIS may also consider an alternative sanitary measure as part of an initial equivalence evaluation if the applicant country were to propose alternative sanitary measures as part of its initial equivalence submission.

exposing humans to the BSE agent to render these materials ''unfit for human food'' as defined under the adulteration provisions of the FMIA. Thus, the BSE risk status of these countries would accomplish the same objective as the U.S. requirement for the removal, segregation, and disposition of SRMs, which is to prevent human exposure to the BSE agent.

Therefore, because the BSE risk status of certain countries may be equivalent to U.S. requirements with regard to SRMs, FSIS has decided to exclude from the definition of SRMs, materials from cattle from a country that can demonstrate that its BSE risk status can reasonably be expected to provide the same level of protection from human exposure to the BSE agent as excluding SRMs from the human food supply does in the United States. Because a country's BSE risk status would be considered as an individual alternative sanitary measure to the U.S. requirement for the removal, segregation, and disposition of SRMs, only those countries that are listed in 9 CFR 327.2(b) as eligible to export meat and meat products to the United States are eligible to request this exemption.

When FSIS implements a measure to eliminate or abate a food safety hazard, an exporting country must either adopt the same measure or notify the Agency that it proposes to apply a different measure that provides the same level of protection. Thus, countries that believe that they are eligible to have materials from their cattle excluded from FSIS' definition of SRMs should notify FSIS' Office of International Affairs (OIA) and provide that office with sufficient scientific evidence to support its claimed BSE risk status. FSIS will then develop criteria to evaluate the equivalence request.

In developing equivalence criteria, FSIS will consider evidence that the country proposes to submit in support of its BSE risk status, including a BSE risk status evaluation, if one was conducted, or any other supporting documentation. An exporting country may submit an evaluation of its BSE risk status conducted by the OIE, another country, or any other appropriate entity. Countries may also conduct their own evaluations. However, any evaluation and supporting documentation submitted by a country must contain sufficient scientific evidence to demonstrate that the country's BSE risk status can reasonably be expected to achieve the same level of protection from human exposure to the BSE agent as excluding SRMs from human food does in the United States.

An evaluation of a country's BSE risk status would consider whether appropriate measures are in place to manage identified risks. This would include consideration of import policies and import history to determine the likelihood of the introduction of BSE into the country. It could also include (among other things) consideration of any of the following: effective surveillance efforts; measures to identify and effectively control pathways for the amplification of BSE; appropriate awareness programs; effective epidemiological investigations as necessary, with appropriate tracing, control and destruction of risk animals; continuing risk considerations with corresponding revisions of existing mitigations; appropriate public health control measures commensurate with risk; and the infrastructure sufficient to define and implement any of the above.

As part of the equivalence process, FSIS officials with technical program expertise and, where appropriate, technical experts from other agencies, such as APHIS and FDA, consider the evidence provided by an exporting country to demonstrate that its alternative sanitary measure provides the same level of protection as the U.S. measure. During the process, FSIS may request more information from the country to facilitate the evaluation. Upon completion of the review process, FSIS makes an equivalence determination and notifies the exporting country of its decision. The Agency also provides the basis for the decision, whether positive or negative. FSIS documents the equivalence process.

In addition to equivalence requirements, FSIS' import regulations also provide that compliance with the conditions for importation of products under FSIS' regulations does not excuse the need for compliance with applicable requirements under other laws, including the provisions in APHIS' regulations that prohibit or restrict the importation of certain animals and animal products for animal health purposes (9 CFR 327.2(b)). Thus, foreign countries that comply with all of FSIS' requirements with regard to BSE must also comply with any requirements related to BSE imposed by APHIS and FDA. Therefore, to ensure, to the greatest extent possible, that FSIS' import policies with regard to BSE are consistent with policies implemented by USDA's APHIS and HHS' FDA, FSIS intends to consult with these agencies whenever a country requests to have materials from its cattle population excluded from FSIS' definition of SRMs.

As part of this consultation process, FSIS may request that technical experts from APHIS and FDA review the BSE risk evaluation and other evidence of equivalence submitted by the exporting country. FSIS will consider APHIS' and FDA's conclusions as to whether information submitted by the exporting country provides sufficient scientific evidence to support the country's claimed BSE risk status. FSIS will also consider whether APHIS or FDA impose any BSE-related restrictions on imports from the country and, if so, the basis for those restrictions.

After FSIS is finished considering the evidence submitted by a country in support of its BSE risk status, the Agency will: (1) Recognize that the country's BSE risk status is equivalent to excluding SRMs from the human food supply in the United States or (2) request more information to facilitate consideration of the submission or (3) reject equivalence of the country's BSE risk status and provide appropriate reasons for that decision. FSIS will notify the exporting country of its judgment within a reasonable period of time, although the time that it takes FSIS to complete its equivalence determination may vary depending on the evidence submitted by the country and its specific situation with regard to BSE. FSIS will also provide the country with basis for its decision should the judgment be that the country's BSE risk status is not equivalent.

FSIS retains a sovereign right to decide whether the exporting country's sanitary measure is equivalent to its own provided that the process is fair and transparent and the decision is based on sufficient scientific evidence. Exporting countries must receive an equivalence determination from FSIS before any alternative sanitary measure is implemented in the country. Following a judgment of alternative sanitary measure equivalence based upon document analysis, FSIS will verify on-site during the next regularly scheduled audit that the alternative sanitary measure has been appropriately implemented. Thereafter, FSIS and the exporting country should advise each other of any changes in their programs or infrastructure that may affect the original determination of equivalence.

In addition, after FSIS completes its initial equivalence determination, the Agency uses a three-part process to verify that an exporting country's meat inspection system and proposed alternative sanitary measures continue to be equivalent. The first part of this process is a recurring document analysis, which is used to gradually repeat and update initial equivalence determinations. The second is on-site meat inspection system audits

conducted at least annually in every country that exports meat and poultry products to the United States. The third is port-of-entry re-inspections in which FSIS randomly samples meat product as they enter the United States. These re-inspections provide evidence of how the foreign inspection system is functioning.

Because FSIS, APHIS, and FDA have different regulatory responsibilities, it is not practical for one U.S. Government agency to be responsible for conducting all aspects of every evaluation of a foreign country's BSE risk. However, FSIS' approach for considering evidence of an exporting country's claimed BSE risk status is consistent with the approach used by USDA's APHIS to determine a foreign country's animal health risk status related to BSE. When it considers a country's BSE risk, APHIS evaluates an individual country's specific situation and analyzes risk based on the overall effectiveness of actions taken by the country to prevent the introduction and spread of BSE. APHIS also takes into consideration the OIE guidelines, as well as evaluations conducted by other countries.

FSIS has determined that the type of comprehensive approach used by APHIS to consider a country's animal health risk status is also an appropriate approach for FSIS to use to determine whether materials from cattle from countries considered to be of negligible risk will present no greater risk of exposing humans to the BSE agent than do beef products permitted for human food in the United States, including those materials that would be designated as SRMs if they were from cattle from the United States.

Comment: One comment suggested that the prohibition on the slaughter of non-ambulatory disabled cattle may have been motivated to some degree by animal welfare objectives in that automatic condemnation of these animals will deter attempts to ship non-ambulatory cattle and perhaps persuade truckers to do more to prevent injury during transport. The comment stated that if this is the case, some countries have implemented alternative measures that address the animal welfare implications associated with the transportation of non-ambulatory animals. According to the comment, when making equivalence determinations, FSIS should give due consideration to countries, such as Canada, that prohibit non-ambulatory animals from leaving the farm.

Response: As discussed below, above, FSIS is affirming the prohibition on the slaughter of non-ambulatory disabled cattle because the Agency has determined that it is a prudent measure to prevent potential human exposure to the BSE agent. Thus, under this final rule, if a foreign country can demonstrate that its BSE risk status can reasonably be expected to achieve the same level of protection from potential human exposure to the BSE agent as requiring the condemnation of non-ambulatory disabled cattle that are offered for slaughter does in the United States, the country will not be required to prohibit the slaughter of all non-ambulatory disabled cattle for human food in order to be eligible to export beef products to the United States.

Comment: One comment asked how FSIS will provide assurance that products imported into the United States were produced in compliance with the requirements in the SRM interim final rule.

Response: FSIS ensures that imported meat in the U.S. marketplace is safe, wholesome, unadulterated, and properly labeled by (1) determining whether foreign countries and their establishments have implemented a food safety system and inspection requirements equivalent to those in the United States and (2) re-inspecting imported meat and poultry products from those countries through random sampling of shipments. The FSIS regulations in 9 CFR 327.2 provide that countries eligible to export meat to the United States must have a meat inspection system that has been determined by FSIS to be equivalent to the U.S. meat inspection system. The FSIS equivalence determination is based on a review of the foreign country's relevant laws and regulations and on an on-site audit of the foreign country's inspection system.

Once a country is listed as eligible to export meat and meat products to the United States, it is responsible for certifying individual exporting establishments to FSIS and for providing annual recertification documentation. FSIS regularly conducts on-site audits of the eligible foreign inspection systems to ensure they remain equivalent to the U.S. system.

Air-Injection Stunning

Comment: Most of the comments received in response to the air-injection stunning interim final rule were supportive and encouraged FSIS to make the interim provisions permanent. Some comments indicated that even though the U.S. beef slaughter industry no longer uses air-injection stunning devices, the regulation is still important to prohibit any future use of these devices and to ensure the safety of imported beef products into the United States.

One comment concurred with FSIS' decision to reject the option of a performance standard for CNS emboli that may occur after stunning. As noted by the comment, a performance standard and testing for CNS emboli would be costly and unwieldy to both industry and government enforcement officials.

Response: FSIS agrees with these comments. Accordingly, in this final rule, FSIS is adopting, without changes, the provisions of the air injection stunning interim final rule.

Comment: One comment noted that the Canadian Food Inspection Agency (CFIA) has prohibited the use of air-injection stunning equipment for any red meat species processed in federally-registered Canadian establishments since May 2000. The comment also indicated that CFIA prohibits the destruction of brain matter using a rod (referred to as ''pithing'') because this procedure can cause dislocation of portions of brain and release emboli into the circulatory system of stunned cattle.

Response: U.S. requirements for stunning cattle are consistent with the Canadian requirements. The pithing method of stunning is not permitted in the United States and it is not listed as an approved humane method of slaughter in 9 CFR part 313.

Comment: One comment criticized FSIS for not including a discussion of CNS micro-emboli in the preamble to the rule. According to the comment, trauma sufficient to cause unconsciousness will cause damage that ranges from contusions and ultra structural changes, including the disruption of the blood-brain barrier to frank tissue destruction and accompanying hemorrhage. The comment asserted that other types of stunning devices, such as penetrating captive bolt stunners that do not inject air and non-penetrating captive bolt stunners, may result in CNS micro-emboli.

Response: In the preamble to the air-injection stunning interim final rule, FSIS addressed the potential for captive bolt stunning devices that do not use air-injection to result in CNS micro-emboli in its discussion of the Harvard Risk Assessment study. In that discussion, the Agency noted that the original Harvard study (2001/2003) (also referred to as the Harvard-Tuskegee study) estimated that for each BSE-infected animal stunned with a standard captive bolt stunner (without air injection), there is a 50 percent probability that a very small fraction of the BSE agent will be transferred to the

blood (see 69 FR 1885, 1888). The Harvard-Tuskegee study assumes that this small fraction is what would be contained within micro-emboli that might occur. As noted in the discussion, the Harvard-Tuskegee study concluded that the stunning method used on cattle is not a major potential source of human exposure to the BSE agent, but that potential human exposure to the BSE agent would increase with greater use of air-injection stunning.

Since FSIS issued the air-injection stunning rule, information has become available to the Agency that indicates that the use of both penetrating and non-penetrating captive bolt stunning on cattle may result in CNS tissue emboli. A report of the EFSA Working Group on BSE risk from dissemination of brain particles in blood and carcass reported that recent studies have shown that brain damage caused by both penetrating and non-penetrating captive bolt stunning in cattle can result in occurrence of CNS tissue emboli in venous blood draining the head.[26] The EFSA report also concludes that while experimental studies have indicated that widespread distribution of CNS emboli via systemic arterial circulation may occur, this has not been confirmed under commercial conditions. The report recommends that further validation studies on the occurrence of stunning-associated CNS emboli be conducted under commercial conditions and that these studies should focus on the involvement of systemic arterial circulation in the distribution of CNS emboli.

Thus, further research is needed to assess how various methods used to stun cattle at slaughter in the United States affect the risk of potential human exposure to the BSE agent. The Agency supports the need for additional research on stunning methods and CNS emboli. FSIS will use the results of future studies to evaluate the stunning methods permitted for use on cattle in the United States and, if necessary, will take appropriate action to ensure that stunning devices are not a significant potential source of human exposure to the BSE agent.

Comment: One comment stated that if FSIS is not aware of any U.S. slaughter establishments that use air-injection stunning, why did the Agency issue a rule to prohibit this practice? The comment asserted that the rule appears to be unnecessary and may negatively affect consumer confidence in the safety of the U.S. beef production system.

Response: As indicated by one of the comments above, even though the U.S. beef slaughter industry no longer uses air-injection stunning devices on cattle, prohibiting the use of these devices is still important to ensure that they are not used in the future and to ensure the safety of imported beef products into the United States.

Comment: One comment asked how FSIS will ensure that certified foreign establishments in countries that permit the use of air-injection stunning are not using air injection stunning devices on cattle whose products are exported to the United States.

Response: Foreign countries that import meat food products into the United States must employ sanitary measures that can reasonably be expected to provide the same level of protection from human exposure to BSE that is achieved domestically. Therefore, foreign establishments that use air-injection stunning on cattle are prohibited from exporting meat food products to the United States. FSIS regularly conducts on-site audits of eligible foreign inspection systems to ensure they remain equivalent to the U.S. system.

MS(Beef)

Comment: Most comments submitted in response to the SRM interim final rule's prohibition on the use of MS(beef) for human food expressed support for this provision. Some comments suggested that instead of banning MS(beef), FSIS should consider prohibiting the use of cattle skulls and vertebral columns in the production of this product. One comment stated FSIS could revise the specifications for MS(beef) to prohibit the incorporation of CNS-type tissues and apply controls similar to those for beef produced using AMR systems.

Response: Because they are SRMs, skulls and vertebral columns (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum) from cattle 30 months of age and older are prohibited for use as source materials in AMR systems. However, skulls and vertebral columns from cattle younger than 30 months are permitted to be used as a source material in AMR systems if they do not contain any CNS-type tissues. Under the AMR interim final rule, beef AMR product that does not qualify to be labeled or used as ''meat,'' but that meets the requirements of 9 CFR 319.5 (the requirements for MS(species)), may be used for human food if skulls or vertebral column bones that contain CNS-type tissues from cattle younger than 30 months of age were not used as a source material in the production of the product and the product does not contain spinal cord or DRG from bones of cattle younger than 30 months (9 CRF 318.24(c)(2)(iii)). While this product, which has the characteristics of MS(beef) without CNS-type tissues, cannot bear the name MS(beef), it may bear a common or usual name that is not false or misleading.

Hand De-Boned Meat

In the SRM interim final rule, FSIS noted that because of its proximity to the vertebral column, some hand de-boned meat may contain DRG depending on the technique used to remove the meat from the bone. The Agency requested comments on whether it should prohibit hand de-boned meat from the vertebral columns of cattle 30 months of age and older for use as human food (69 FR 1862, 1868).

Comment: Some comments stated that as long as standard boning procedures are followed, hand de-boned meat from the vertebral columns of cattle 30 months of age and older is safe and should not be prohibited for human food. One comment suggested that FSIS allow companies to determine whether hand de-boned meat from the vertebral bones of cattle 30 months of age and older is acceptable based on the individual design of the plant's HACCP plan. Another comment argued that FSIS should prohibit hand de-boned meat from the vertebral column of cattle 30 months of age and older for human food until data on whether it may contain DRG is more conclusive.

A comment submitted by the Canadian Food Inspection Agency (CFIA) noted that hand de-boning of parts of the vertebral column can result in DRG tissue being excised, particularly in the lumbar region. The comment stated that CFIA and Health Canada would welcome the opportunity to compare data with FSIS and to collaborate in an assessment of the risk associated with this practice and identification of appropriate risk management measures.

Response: After considering this issue, FSIS has determined that there are insufficient data to demonstrate that hand de-boned meat presents a risk of exposing humans to the BSE agent. Therefore, in this final rule, FSIS will continue to permit hand de-boned meat from the vertebral column of cattle 30 months of age and older for human food. However, because of the DRG's close association to the vertebral bones, the Agency requires that establishments

[26] Annex to the EFSA Journal (2004). Report of the EFSA Working Group on BSE risk from dissemination of brain particles in blood and carcasses, adopted on 21 October 2004. (pp. 16–17) (*http://www.efsa.eu.int*).

that produce hand de-boned beef from the vertebral column of cattle 30 months of age and older address the potential for contamination of edible materials with SRMs, including the DRG, in their procedures for the removal, segregation, and disposition of SRMs.

FSIS appreciates and accepts the CFIA's offer to compare data on the potential for DRG to become dislodged when meat is hand de-boned. The Agency intends to work with CFIA to further assess the risk associated with DRG in hand de-boned meat and to identify appropriate risk mitigation measures.

BSE in Japanese Cattle Younger Than 30 Months

Comment: In the preamble to the SRM interim final rule, FSIS requested comments on the implications, if any, of the reported 21- and 23-month-old cases of BSE in Japan (69 FR 1862, 1864). One comment submitted on this issue stated that it endorsed recommendations made by an OIE Expert Group convened in Paris on December 2, 2003. According to the comment, the OIE group concluded that the so-called atypical BSE cases reported in Japan were no cause for changes in the international standards for trade in cattle and cattle products.

Another comment suggested that FSIS investigate the findings of the 21- and 23-month old Japanese cattle that were reported as testing positive for BSE and publicly clarify that these results were reached using inadequate methodology. The comment asserted that the tissue samples from these animals were later confirmed as negative by the International Reference Laboratory in Weybridge, England.

Response: The two Japanese cases of BSE in animals 21- and 23-months old were reported in 2003 and were detected as part of Japan's program to test all cattle slaughtered for human food for BSE. While FSIS is not aware of any data to indicate that these animals were later confirmed as negative by the U.K. International Reference Laboratory, a report issued by the European Food Safety Authority (EFSA), Scientific Panel on Biological Hazards, states that ''it is unclear whether the very young cases [reported in Japan] were adequately identified and formally confirmed.'' [27] This same report concluded that these cases ''seem to be epidemiologically peculiar as their cohort would have been expected to yield further cases.'' FSIS has concluded that the available evidence surrounding the two very young cases of BSE reported in Japan is insufficient to support any changes in the measures implemented by FSIS to prevent human exposure to the BSE agent.

Testing Cattle for BSE

Comment: Some comments stated that all cattle offered for slaughter should be tested for BSE and their carcasses should be permitted for use as human food only if the test result is negative. The comments noted that the carcasses would be held pending the test result in accordance with FSIS' ''test and hold'' policy. Some comments suggested that cattle over 20 months of age be tested for BSE. Others suggested that testing be limited to cattle over 30 months. One comment stated that establishments should not be required to remove SRMs if an animal tests negative for BSE.

Other comments agreed with statements made by FSIS in the preamble to the SRM interim final rule on the limitations of available test methods for BSE. The comments agreed that removal of SRMs provides more protection from human exposure to the BSE agent than testing cattle for BSE at slaughter.

Response: As discussed in the SRM interim final rule, the BSE tests that are available today are not appropriate for use as a food safety measure. Thus, the Agency believes that cattle should only be tested for BSE at slaughter as part of USDA's surveillance for BSE. FSIS agrees with the comments that assert that removal of SRMs at slaughter provides more protection from human exposure to the BSE agent than testing cattle for BSE.

The earliest point at which current testing methods can detect a positive case of BSE is 2 to 3 months before the animal begins to demonstrate clinical signs. The incubation period for BSE—the time between initial infection and the manifestation of clinical signs—is generally very long, on average about 5 years. Therefore, there is a long period in the life of an infected animal when tests with the current methodology would not detect the disease. Thus, testing all slaughter cattle for BSE might offer misleading assurances to the public and to U.S. trading partners.

In contrast, the current test technology provides highly meaningful and reliable results when used for surveillance purposes on animals within USDA's targeted populations—specifically, adult animals exhibiting some type of clinical abnormality that could be consistent with BSE. This targeted approach is based on the assumption that if the disease is rare in the most likely population, it will be even more unlikely to be found in the non-targeted population. Thus, USDA's APHIS is able to calculate the estimated prevalence of BSE in the U.S. cattle population as a whole from fewer samples when those samples are drawn from the target population. The current testing technology enables APHIS to assess the prevalence within the context of surveillance and therefore the effectiveness of various risk mitigation measures that have been implemented.

Comment: A few comments stated that there is a need to develop improved tests for BSE. The comments stated that a live animal test must be developed so that cattle can be tested for BSE at slaughter. Another comment said that enhanced diagnostics for BSE must be developed to minimize the possibility of false negatives. The comment provided the example of the use of sodium phosphotungstic acid to preferentially precipitate prions. Another comment said that the discovery of a normal-appearing animal in Italy with an apparently new strain of BSE that may elude tests used in the United States underscores the need for more sensitive and rapid tests that are in widespread use in Europe.

Response: FSIS agrees and supports the development of improved BSE tests and agrees that there is a need for an accurate and reliable live animal test.

Comment: Some comments stated that USDA should permit private companies to test cattle for BSE at slaughter.

Response: USDA's APHIS is responsible for approving the use and distribution of approved BSE test kits. However, as stated above, FSIS believes that the BSE tests that are available today are not appropriate for use as a food safety measure.

Reassess Measures as Needed

Comment: Several comments suggested that FSIS make appropriate adjustments to the SRM interim final rule if new scientific findings or the results of the increased surveillance indicate that the regulations should be modified. The comments stated that if no additional cases of BSE are confirmed under APHIS' enhanced surveillance, FSIS should evaluate whether the removal of SRMs from cattle older than 30 months of age is warranted given the near-zero risk posed to the public and the high costs imposed on producers. One comment said that FSIS should rescind the SRM interim final rule if no additional BSE cases are confirmed in the United

[27] The EFSA Journal 2005 220, 1–21, Annex to the Opinion, Report of the Working Group on the assessment of the age limit in cattle for the removal of certain specified risk materials (SRM) (see 1.2.3. Age distribution of young BSE cases outside the EU, p. 11). Available on the Internet at: *http://www.efsa.eu.int/science/biohaz/biohaz_opinions/opinion_annexes/933/biohaz_report_ej220_srmremove_en1.pdf.*

States. Another stated that FSIS should permit the use of some, if not all, SRMs and permit vertebral bones from cattle 30 months of age and older in the production of beef AMR product if no additional cases are confirmed.

One comment said that any action to prevent human exposure to the BSE agent should be evaluated based on its public health outcome. According to the comment, a human health risk assessment should be conducted to determine the extent of public health protection that the SRM interim final rule provides before FSIS issues a final rule. Another comment stated that FSIS should leave the current measures in place regardless of the outcome of APHIS' enhanced BSE surveillance.

A few comments suggested that FSIS work with Canada and Mexico to harmonize BSE regulations in North America. One comment stated that FSIS should harmonize its requirements for SRM removal with the OIE standards to the maximum extent possible.

Response: FSIS will continue to evaluate the science, international standards for, and the risk of BSE in the United States on an ongoing basis to ensure that the measures implemented by the U.S. government to minimize potential human exposure to the BSE agent continue to provide the appropriate level of protection. The Agency, in coordination with APHIS and FDA, will make appropriate adjustments to this final rule if new scientific findings or information on the risk of BSE in the United States indicate that prescribed measures should be modified, added, or eliminated.

Humane Handling of Livestock

Comment: Most of the comments received in response to the SRM interim final rule were from animal welfare advocacy organizations and private citizens concerned about the welfare of animals. These comments expressed support for the interim prohibition on the slaughter of non-ambulatory disabled cattle for human food and requested that FSIS make it permanent. The comments also requested that FSIS extend the prohibition to cover all livestock species under FSIS'' jurisdiction, i.e., sheep, swine, goats, and horses and other equines, and to require that all non-ambulatory animals be immediately and humanely euthanized on arrival at a slaughter facility. According to the comments, a permanent prohibition on the slaughter of non-ambulatory disabled cattle and other non-ambulatory livestock is necessary to ensure that these animals are handled in a humane manner.

Response: FSIS has carefully considered the humane handling implications of the interim prohibition on the slaughter of non-ambulatory disabled cattle and has concluded that the comments have merit. Thus, the Agency has determined requiring the condemnation of non-ambulatory disabled cattle that are offered for slaughter may be necessary ensure that these animals are humanely handled in connection with slaughter as required under the Humane Methods of Slaughter Act (HMSA) of 1978 (7 U.S.C. 1901 *et seq.*).

However, because FSIS did not discuss issues related to the humane handling of non-ambulatory disabled cattle or other non-ambulatory disabled livestock that are offered for slaughter in the SRM interim final rule or in the July 14, 2004, FSIS/APHIS/FDA ANPR, this final rule affirms the prohibition on the slaughter of non-ambulatory disabled cattle that are offered for slaughter as a measure to prevent potential human exposure to the BSE agent. FSIS intends to initiate a separate action in which it will discuss measures that may be necessary to ensure that non-ambulatory disabled cattle and other non-ambulatory disabled livestock are humanely handling in connection with slaughter.

Comment: Some comments suggested that FSIS amend the regulations in 9 CFR 309.13 that permit condemned livestock to be set apart and treated, or to be released from the establishment premises if permission is granted, to exclude all non-ambulatory disabled livestock.

Response: FSIS disagrees with these comments. Some non-ambulatory livestock that have been condemned may be affected with reversible conditions. The Agency believes that livestock that are condemned on the account of conditions such as ketosis, swine erysipelas, leptospirosis, inflammatory conditions, or the other conditions identified under 9 CFR 309.13, should continue to be permitted to be set apart and held for treatment under supervision of an FSIS program employee or an official designated by the area supervisor.

Comment: Some comments noted that prohibiting the slaughter of non-ambulatory disabled cattle for human food provides an incentive for cattle producers and transporters to engage in responsible husbandry and management practices to prevent cattle from becoming non-ambulatory before they are slaughtered. One comment stated that USDA should prohibit the transport of non-ambulatory disabled cattle from the farm.

Response: Although the purpose of requiring the condemnation of non-ambulatory disabled cattle that are offered for slaughter is to prevent potential human exposure to the BSE agent, FSIS agrees with the comments that stated that prohibiting the slaughter of non-ambulatory disabled cattle may provide incentives for cattle producers to adopt animal husbandry practices that prevent cattle from becoming non-ambulatory. The Agency also agrees that it may provide incentives for transporters to handle cattle in a manner that prevents them from becoming non-ambulatory.

Comments Concerning Livestock Other Than Cattle

Comment: One comment asked that the slaughter of all non-ambulatory disabled livestock be prohibited to prevent potential human exposure to the BSE agent. The comment argued that, in addition to the BSE variant discovered in the cow in Washington State, there are likely other variants of BSE that afflict cattle, as well as other poorly understood or unidentified TSE variants that affect other livestock species. According to the comment, variants of BSE or other TSEs may be linked to cases of the classical or the ''sporadic'' form of CJD in the United States and elsewhere.

The comment also stated that researchers in the United Kingdom have recently discovered a type of scrapie that resembles BSE. The comment argued that scientists cannot rule out the possibility that this is a new form of BSE that has adapted to sheep. As stated by the comment, prion diseases in sheep can be transmitted from animal to animal and, as a result, a form of BSE acquired prior to the feed ban may be circulating in the United States. The comment also noted that TSE agents are more widely distributed in the tissues of sheep than they are in cattle.

The comment also argued that the fact that requirements in the interim final rule on AMR systems also apply to pork demonstrates that FSIS acknowledges that materials from livestock other than cattle may pose a BSE risk.

Response: When FSIS issued the SRM interim final rule, the prohibition on the slaughter of non-ambulatory disabled cattle for human food was limited to cattle because the Agency was not aware of any data to indicate that livestock other than cattle could contract BSE under natural conditions. Thus, the Agency did not believe that extending the prohibition on the slaughter of non-ambulatory disabled cattle to other livestock would be appropriate in this rulemaking.

On January 28, 2005, a suspected case of BSE in a goat slaughtered in France in 2002 was confirmed by a panel of European scientists.[28] In response to this finding, the European Commission proposed to increase testing for BSE among goats for at least six months to determine if this one positive case was an isolated incident. As of the date of the publication of this document, no additional cases of BSE have been confirmed under natural conditions in livestock species other than cattle. Therefore, the Agency has concluded that there are insufficient data to indicate that a prohibition on the slaughter of non-ambulatory disabled livestock other than cattle is needed to minimize human exposure to the BSE agent. The Agency will continue to follow the research with regard to BSE in livestock species other than cattle and will use the findings of future research to inform its policies with regard to BSE.

FSIS disagrees that requirements in the interim final rule on AMR systems indicate that the Agency acknowledges that materials from livestock other than cattle may pose a BSE risk. One of the objectives of the AMR interim final rule is to define the criteria that products produced using AMR systems must comply with to be represented as ''meat.'' The preamble to the AMR rule makes clear that the presence of ''CNS-type tissues,'' i.e., CNS tissue, DRG, and trigeminal ganglia, from livestock other than cattle 30 months of age and older in AMR product renders the product misbranded (69 FR 1874, 1881).

Comment: A few comments stated that the change in the regulation that replaces ''seriously crippled animals commonly termed ''downers'' in § 309.2(b) with ''non-ambulatory disabled livestock'' unnecessarily and inappropriately broadens the rule's scope. The comments noted that the SRM interim final rule, as written, applies the definition of non-ambulatory disabled livestock to swine even though there is no scientific link between swine and BSE. The comment suggested that FSIS consider species-specific language that recognizes that swine or other amenable species can be ''temporarily disabled'' and still be suitable for slaughter for human food. The comment requested that FSIS amend the definition of non-ambulatory disabled livestock to recognize the differences in species and the conditions that may warrant the condemnation of those animals on a species and case-by-case basis.

Response: The definition of non-ambulatory disabled livestock does not broaden the scope of the rule to require the immediate condemnation of non-ambulatory disabled livestock other than cattle. The regulations at 9 CFR 309.2(b) provide that all seriously crippled animals and non-ambulatory disabled livestock shall be identified as U.S. Suspects unless they are required to be classed as condemned under 9 CFR 309.3. The regulations in 9 CFR 309.3 require that all non-ambulatory disabled cattle be condemned. However, non-ambulatory disabled livestock other than cattle may be identified as U.S. Suspects, set apart, and slaughtered separately from livestock that have passed ante-mortem inspection (9 CFR 309.2(n)). If an FSIS veterinarian finds that the meat and meat food products from a U.S. Suspect are not adulterated, these products may be used for human food (9 CFR 311.1).

Animal Feed

Comment: Several comments requested that FSIS prohibit the use of SRMs and non-ambulatory disabled cattle in animal feed and pet food. Other comments suggested that FSIS work with FDA to completely remove all SRMs, as well as non-ambulatory and dead stock from the animal feed chains. One comment stated that the U.S. government should ban the feeding of any mammalian protein to all mammals and prohibit the use of poultry litter in animal feed.

Response: The FDA is responsible for regulating animal food and feed in the United States. On October 6, 2005, FDA published a proposed rule to amend its animal feed regulations to prohibit from use in the food or feed of all animals certain high risk cattle materials that can potentially carry the BSE agent (''*Substances Prohibited From Use in Animal Food or Feed,*'' 70 FR 58570). The issues raised by these comments are addressed in that rulemaking. FSIS with APHIS will continue to work closely with FDA on its rulemaking.

Surveillance, Disposal of Dead Cattle, and Cattle Identification

Comment: Some comments noted that surveillance for BSE is essential for establishing the prevalence of the disease and for evaluating the effectiveness of control measures. One comment said that FSIS should test all high-risk cattle 30 months of age and older for BSE and randomly sample healthy cattle over 30 months of age to determine the true prevalence of the disease and to evaluate risk management measures in this country. One comment said that testing all non-ambulatory disabled cattle for BSE regardless of the reason for their non-ambulatory status may bias the representative population of potentially infected cattle. As stated by the comment, young injured cattle are unlikely to have BSE. Another comment suggested that USDA test all non-ambulatory disabled cattle.

One comment stated that USDA should require licensing of all entities, including farms and ranches, that dispose of cattle. As stated by the comment, FSIS has some authority over registration and recordkeeping of handlers of 4–D livestock and should explore extending this to disposal of these livestock to aid surveillance.

A few comments asserted that APHIS' BSE surveillance testing on the farm provides no incentive for farmers or ranchers to voluntarily subject their non-ambulatory cattle to testing. According to the comments, the program offers only risk and no compensation. The comments suggested that USDA establish a program for producers to submit animals that die on the farm for testing for BSE.

Response: USDA's APHIS has primary responsibility for BSE surveillance activities in the United States and is responsible for developing the BSE sampling protocols. We forwarded these comments to APHIS for consideration as they designed their current BSE surveillance program. As discussed above, APHIS has now transitioned to an ongoing BSE surveillance program, which samples approximately 40,000 animals each year, and continues to sample the cattle populations where the disease is most likely to be found. The targeted population for APHIS' ongoing surveillance includes cattle exhibiting signs of CNS disorders or any other signs that may be associated with BSE, including emaciation or injury, and dead cattle, as well as non-ambulatory cattle. Samples from the targeted population are taken from the same locations as those used during the enhanced surveillance program.

FSIS has and continues to assist APHIS in implementing its BSE surveillance program by, among other activities, collecting brain samples of all cattle condemned on ante-mortem inspection, including non-ambulatory disabled cattle and cattle that show signs of CNS disease, and verifying that ante-mortem condemned cattle that are to be tested by APHIS at an off-site sample collection location arrive at the location.

[28] Case of BSE in goat confirmed: Commission extends testing programme, Europa Web site, January 28. 2005. *http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/105&format=HTML&aged=0&language=EN&guiLanguage=fr.*

As noted by the comments, FSIS has some authority over registration and recordkeeping of handlers of 4–D livestock. FSIS does not believe further regulatory action is required as suggested by the comment.

Comment: One comment stated that USDA should develop, implement, and enforce safe and effective methods for destroying animals that are found to have a TSE. Another comment suggested that all dead cattle on farms be transported to a federally regulated facility for disposal.

Response: USDA's APHIS is the agency primarily responsible for ensuring the proper disposition of animals that have confirmed TSEs. At the same time, APHIS, FSIS, FDA, and the Environmental Protection Agency (EPA), coordinate efforts to ensure that the carcasses of animals with TSEs and other diseases are properly disposed of.

Comment: Several comments expressed support for a national cattle identification system. Some comments stated that USDA should implement an identification system for all livestock, not just cattle, and that is should be mandatory. One comment stated that animals at slaughter should be required to have identification records and that the records should be retained for 7 years.

Response: Since April 2004, USDA has been in the process of implementing the National Animal Identification System (NAIS), a voluntary animal identification and tracking system that will be used in all States and that will operate under national standards. When fully operational, the system will be capable of tracing a sick animal or group of animals back to the herd or premises that is the most likely source of infection. It will also be able to trace potentially exposed animals that were removed from that herd or premises. Information regarding the NAIS can be found on the Internet at: *http://animalid.aphis.usda.gov/nais/index.shtml.*

Other Comments

Comment: One comment suggested that FSIS require that the packaging of beef products bear labeling to warn the American public about the potential risk of BSE. Another comment stated that the labeling of products that contain brain or spinal cord from cattle younger than 30 months of age should include a warning about the potential BSE risk. Another comment said that country-of-origin labeling for meat products would be invaluable for tracking individual animals or herds implicated in disease transmission.

Response: As discussed in detail above, the estimated BSE prevalence in the United States is extremely low, less than one case per million cattle. On the basis of these prevalence estimates, in conjunction with effective implementation of the risk mitigation measures discussed here, FSIS has determined that beef and beef products produced in the United States are, and will remain, highly unlikely to be contaminated with the BSE agent. Therefore, the Agency disagrees that beef products or products that contain brain or spinal cord from cattle less than 30 months should bear warning labels about the potential BSE risk.

Under the Farm and Security and Rural Investment Act of 2002 and the 2002 Supplemental Appropriations Act, USDA is required to implement a mandatory country of origin labeling program (COOL).[29] USDA's Agricultural Marketing Service (AMS) published a proposed rule on the COOL program on October 30, 2003 (68 FR 61944–61985, Docket No. LS–03–04). Under the proposal, retailers would be required to notify their customers of the country of origin of all beef (including veal), lamb, pork, fish, and selected other perishable commodities being marketed in their stores. In addition, the AMS proposal identifies criteria that these commodities must meet to be considered of U.S. origin. In January 2004, President Bush signed Public Law 108–199, which included a provision to delay until September 2006 the implementation of mandatory COOL for all covered commodities except wild and farm-raised fish and shellfish. On November 10, 2005, President Bush signed Public Law 109–97, which delayed implementation of mandatory COOL for all covered commodities except wild and farm-raised fish and shellfish until September 30, 2008.

Comment: One comment stated that the U.S. government must trace CJD in humans.

Response: The U.S. Centers for Disease Control and Prevention (CDC) conducts surveillance and does tracing for CJD and other human TSEs in the United States. Information on surveillance for CJD in the United States is available on the CDC Web site at: *http://www.cdc.gov/ncidod/dvrd/vcjd/index.htm.*

Comment: One comment suggested that USDA encourage farmers to feed cattle natural, organic feed. Another comment stated that USDA should phase out all growing and raising of animals for human consumption.

Response: These comments are outside the scope of this rulemaking and outside the scope of FSIS' regulatory authority.

Comment: One comment requested that USDA eliminate the requirement that beef imported from Canada be processed on dedicated equipment if establishments slaughter cattle 30 months of age and older and cattle younger than 30 months in the same facility.

Response: This comment was addressed by APHIS in its final rule, ''*Bovine Spongiform Encephalopathy; Minimal-Risk Regions and Importation of Commodities*'' (70 FR 459–553, January 4, 2005). In that rulemaking, APHIS removed the proposed requirement that meat derived from bovines in a BSE minimal-risk region that are slaughtered in that region come from animals slaughtered at a facility that either slaughters only bovines less than 30 months of age or complies with an approved segregation process.

2005 Risk Assessment

Background. In the Final Regulatory Impact Analysis (FRIA) of this final rule, FSIS used an updated version of the 2001 and 2003 Harvard Risk Assessment models developed by the Harvard Center for Risk Analysis (HCRA) of the Harvard School of Public Health and the Center for Computational Epidemiology at Tuskegee University to develop baseline and mitigation estimates of potential human exposure to the BSE agent. The update is referred to here as ''the 2005 model.'' The Agency used estimates generated by the 2005 model to assess the benefits associated with the measures adopted in this final rule.

In the 2005 model, the HCRA developed a new baseline, analyzed the effects of the measures implemented by USDA and FDA in response to the confirmation of the BSE case in Washington State, and analyzed recommendations made by an international expert BSE panel that was convened at the request of the Secretary of Agriculture to review the actions taken by the United States in response to the confirmation of the BSE case in Washington State.

The authors submitted the 2005 model to FSIS in June 2005, and a peer review of the 2005 model and resulting assessment was completed in September 2005. The final products were submitted to FSIS following the peer review.

On July 12, 2006, FSIS published a notice in the **Federal Register** announcing that the Agency was making

[29] AMS USDA, ''Country of Origin Labeling—Current Status of Country of Origin Labeling,'' available at *http://www.ams.usda.gov/cool/status.htm.*

the 2005 Harvard BSE Update (i.e., the 2005 model) available to the public (71 FR 39282). In the notice, FSIS gave the public until August 11, 2006, to submit comments on the updated risk assessment. The notice also announced that the Agency would be holding a technical meeting to provide information on the 2005 model and resulting assessment. This meeting was held on July 25, 2006.

In response to a comment submitted on August 1, 2006, FSIS extended the comment period on the 2005 model to October 27, 2006, which is 45 days from the date on which the Agency made the transcript of the July 25, 2006, technical meeting publicly available. The transcripts of the public meeting were posted on the FSIS Web site on September 12, 2006 (*http://www.fsis.usda.gov/PDF/BSE_Transcript_072506.pdf*).

FSIS received six comments on the 2005 model. The commenters included a consumer advocacy organization, two animal welfare organizations, a cattle producer trade association, a consultant, and a private citizen. In response to some of these comments, revisions were made to the 2005 model.

This document refers to the analyses conducted before the 2005 model was revised in response to public comments as ''the pre-public comment runs of the 2005 model'' and the analyses that were conducted after the 2005 model was revised as ''the post-public comment runs of the 2005 model.'' Both the pre-public comment and post-public comment runs of the 2005 model are discussed below.

Pre-public comment runs of the 2005 model. The pre-public comment runs of the 2005 model use the base case provided by Harvard (i.e., prior to the revisions made in response to public comments). The pre-public comment runs yielded an estimated mean total potential human exposure of 3,800 cattle oral ID_{50}s to the BSE agent over 20 years following the hypothetical introduction of 500 BSE-infected cattle into the U.S. This base case yielded an average of 180 new BSE cases in the U.S. over 20 years.

The pre-public comment runs found that the food safety measures enacted by USDA all reduce potential human exposure to BSE infectivity but have little effect on spread of BSE in the cattle population. Removing non-ambulatory disabled cattle from the human food supply reduces predicted potential human exposure by about 3% (leaving a mean of 3,700 cattle oral ID_{50}s). The pre-public comment runs found that removing SRMs from cattle 30 months of age and older almost completely eliminates potential human exposure, reducing it to 11 cattle oral ID_{50}s. Prohibiting the use of skulls and vertebral columns from cattle 30 months of age and older in advanced meat recovery (AMR) systems reduces potential human exposure by approximately two-fifths to 2,200 ID_{50}s. It is worth noting that these are relative reductions to what is already a small risk in absolute terms, especially in light of the fact that these simulations reflect the assumed introduction of 500 infected cattle into the U.S. None of the combined measures yielded substantial improvements over their components.

The 2005 model evaluates two measures under consideration by FDA, including a prohibition on the use of ruminant blood in ruminant feed, and the requirement that plants producing both prohibited material (i.e., ruminant-derived material) and non-prohibited material use dedicated production lines. The pre-public comment runs indicate that neither of these actions would have much impact on the spread of BSE. The 2003 Harvard report concluded that blood contributes relatively little to the spread of BSE. Similarly, earlier work done by the HCRA suggests that cross-contamination is a relatively minor factor.

As discussed earlier in this document, the IRT (the International Review Subcommittee convened by the Secretary of Agriculture) suggested the possibility of a ban on SRMs from animals 12 months and older for both human food and animal feed. The 2005 model evaluates the impact of this ban assuming perfect compliance. The pre-public comment runs of the 2005 model suggest that this measure would reduce potential human exposure to the BSE agent by more than 99% relative to the base case. Because the model assumed that the ban also removes SRMs from dead stock prior to their rendering, the measure achieves a substantial reduction in the spread of BSE among cattle, decreasing the number of new infected BSE cases in the U.S. to 35 from 180. The pre-public comment runs found that the removal of all animal-derived protein from cattle feed, as suggested by the IRT, would decrease the number of new BSE cases from 180 to 170 over 20 years. The remaining cases result primarily from mis-feeding of rations containing ruminant proteins (feed intended for other species) to cattle. This measure has a small-predicted impact on potential human exposure.

Post-public comment runs of the 2005 model. For the post-public comment runs, the 2005 model was revised to incorporate poultry litter as a potential pathway for the spread of BSE in the United States. The model's revised base case assumes that 40% of prohibited meat and bone meal produced by either mixed or prohibited-only renderers is used in poultry feed. It also assumes that 1% of chicken litter is recycled back to cattle feed.

The poultry litter assumption is based on information provided by stakeholders to FDA. FDA shared this information with an interagency (APHIS, FDA, and FSIS) group that reviewed the data and incorporated them into the post-comment revisions of the 2005 model.

In addition, for the post-public comment runs, the 2005 model base case was revised to lower the rate that animals with clinical signs of BSE are detected on ante-mortem inspection. The 2005 post-public comment model's revised base case assumes that ante-mortem inspection detects 50% of ambulatory animals with clinical BSE signs, and 25% of non-ambulatory animals with clinical BSE signs. A revised sensitivity analysis investigates the impact of assuming ante-mortem inspection fails to detect any animals with clinical signs of BSE.

FSIS used the post-public comment revised base case and new mitigation measures to estimate of potential human exposure to the BSE agent. Like the base case used for the pre-public comment runs, the revised base case for the post-public comment runs does not reflect the measures to minimize human exposure to the BSE agent implemented by FSIS in the SRM interim final rule.

The post-public comment runs of the 2005 model lead to an increase in the estimated number of infected cattle and an increase in potential human exposure. Specifically, when the two modifications discussed above (i.e., inclusion of the poultry litter pathway and inclusion of the less optimistic assumptions regarding ante-mortem inspection) were added to the model, the base case from the post-public comment runs yielded an increase in the estimated mean total potential human exposure to the BSE agent over 20 years following the hypothetical introduction of 500 BSE-infected cattle into the U.S. from 3,800 to 6,600 cattle oral ID_{50}s. These modifications also resulted in an increase from 180 to 200 in the average number of new BSE cases in the U.S. over 20 years.

However, although both the number of BSE cases and the level of human exposure increased in the post-public comment runs, conclusions with regard to prohibiting the use of SRMs for human food remain the same. More specifically, even with the revised base

case, the post-public comment runs show that excluding the materials designated as SRMs in this final rule almost completely eliminates potential human exposure to the BSE agent if compliance is perfect. Similarly, the post-public comment runs found that neither lowering the age classification for SRMs from cattle 30 month of age and older to 12 months of age and older, nor from 30 months of age and older to 24 months of age and older, provides additional benefits in reducing the level of potential human exposure to the BSE agent. Thus, the results of the 2005 model, regardless of the base case used, have not led the Agency to change its conclusion that the measures adopted in this final rule are prudent for preventing potential human exposure to the BSE agent.

The 2005 pre-public comment and 2005 post-public comment models are available for viewing by the public on the FSIS Web site at: *http://www.fsis.usda.gov/Science/Risk_Assessments/index.asp.* Also available on the Web site are the comments received on the 2005 model, and FSIS' response to these comments.

Summary of the Final Rule

In this final rule, FSIS is affirming, with amendments, the SRM interim final rule. The Agency is also affirming the air-injection stunning interim final rule. As discussed earlier in this document, the Agency intends to affirm and, if necessary, amend the AMR interim final rule in a separate document that will be published in the **Federal Register** at a later date. In addition, FSIS also intends to address the humane handing implications of the slaughter of non-ambulatory disabled cattle and other non-ambulatory disabled livestock in a separate action.

In this final rule, FSIS is affirming, without amendment, the provisions in 9 CFR 309.2(b) of the SRM interim final rule which replace the term ''downer'' with ''non-ambulatory disabled livestock'' and which define ''non-ambulatory disabled livestock'' as livestock that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column, or metabolic conditions. The Agency is revising paragraph 9 CFR 309.3(e) to clarify that non-ambulatory disabled cattle that are offered for slaughter must be condemned but that FSIS inspection personnel will determine the disposition of cattle that become non-ambulatory after they have passed ante-mortem inspection on a case-by-case basis. As discussed earlier in this document, this amendment reflects the current Agency practice.

In addition, FSIS is amending 9 CFR 309.13(b) of the regulations that prescribe requirements for the disposition of condemned livestock to add veal calves that cannot rise from a recumbent position or that cannot walk because they are tired or cold to the list of conditions for which condemned livestock may be set aside and treated.

FSIS is affirming, with amendments, the provisions of the SRM interim final rule that define SRMs and prescribe requirements for the handling and disposition of SRMS. The Agency is amending 9 CFR 310.22(a) to exclude from the definition of SRMs materials from cattle from foreign countries that can demonstrate that their BSE risk status can reasonably be expected to provide the same level of protection from human exposure to the BSE agent as prohibiting SRMs for use as human food does in the United States. As discussed earlier in this document, countries that believe that they have the appropriate BSE risk status to qualify for this exemption should submit evidence to support their claimed BSE risk to FSIS' Office of International Affairs.

FSIS is affirming without changes the list of materials designated as SRMs in 9 CFR 310.22(a)(1). These materials are the brain, skull, eyes, trigeminal ganglia, spinal cord, vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum), and dorsal root ganglia of cattle 30 months of age and older. 9 CFR 310.22(a)(2) designates the distal ileum of the small intestine and the tonsils of all cattle as SRMs. The Agency is removing 9 CFR 310.22(a)(3) and re-designating the provisions in that paragraph that prescribe the conditions under which the small intestine, excluding the distal ileum, from cattle may be used for human food as 9 CFR 310.22(d).

The Agency is affirming, with minor grammatical changes, 9 CFR 310.22(b), which declares that SRMs are inedible and prohibits their use for human food. FSIS is also affirming the provisions in 9 CFR 310.22(c) that specify that SRMs must be removed and disposed of as inedible in accordance with 9 CFR 314.1 or 9 CFR 314.3. In addition, the Agency is amending 9 CFR 310.22(c) to require that the spinal cord from cattle 30 months of age and older be removed from the carcass at the establishment where the animal was slaughtered.

FSIS is re-designating 9 CFR 310.22(d) of the SRM interim final rule, the requirements for the removal, segregation, and disposition of SRMs, as 9 CFR 310.22(e) and moving the conditions under which the small intestine, excluding the distal ileum, may be used for human food, formerly found in 9 CFR 310.22(a)(3), to 9 CFR 310.22(d).

Specifically, 9 CFR 310.22(d)(1) provides that the small intestine from cattle may be used for human food if it is derived from cattle that were inspected and passed in an official establishment in the United States, or in a certified foreign establishment, and it is otherwise eligible for importation into the United States under 9 CFR 327.1(b) of FSIS' import regulations (9 CFR 310.22(d)(1)(i)) and the distal ileum has been removed by a procedure that removes at least 80 inches of the uncoiled and trimmed small intestine as measured from the ceco-colic junction and progressing towards the jejunum or by a procedure that the establishment demonstrates is effective in ensuring complete removal of the distal ileum (9 CFR 310.22(d)(1)(ii)). FSIS is also amending 9 CFR 310.22(d)(1) to add a paragraph (d)(1)(iii), which clarifies that if the conditions described above are not met, the small intestine must be removed and disposed of as inedible.

9 CFR 310.22(d)(2) provides that requirements for the removal of the small intestine prescribed in 9 CFR 310.22(d)(1) do not apply to materials from cattle from countries that can demonstrate that their BSE risk status provides the same level of protection from human exposure to the BSE agent as prohibiting SRMs for use as human food does in the United States.

FSIS is re-designating paragraph 9 CFR 310.22(e) of the SRM interim final rule, which specifies that materials that are SRMs will be deemed to be from cattle 30 months of age and older unless the establishment can demonstrate through documentation that the materials are from an animal that was younger than 30 months of age at the time of slaughter, as 9 CFR 310.22(h). FSIS is affirming with minor grammatical changes, most of the requirements for the removal, segregation, and disposition of SRMs in 9 CFR 310.22(d) of the SRM interim final rule and re-designating them as 9 CFR 310.22(e). In 9 CFR 310.22(e)(1), the Agency is adding a provision to clarify that an establishment's procedures for the removal, segregation, and disposition of SRMs must address potential contamination of edible materials with SRMs before, during, and after entry into the establishment.

FSIS is adding a new paragraph, 9 CFR 310.22(f), that prescribes requirements for the sanitation of

equipment used to cut through SRMs. 9 CFR 310.22(f)(1) prescribes requirements for establishments that do not segregate the carcasses or parts from cattle 30 months of age and older from the carcasses or parts from cattle younger than 30 months. 9 CFR 310.22(f)(1) requires that such establishments either (1) use dedicated equipment to cut through SRMs (9 CFR 310.22(f)(1)(i)) or (2) clean and sanitize equipment used to cut through SRMs before the equipment is used on carcasses or parts from cattle younger than 30 months (9 CFR 310.22(f)(1)(ii)). Under 9 CFR 310.22(f)(2), establishments that segregate the carcasses or parts from cattle 30 months of age and older from the carcasses or parts from cattle younger than 30 months, and that process the carcasses of the younger cattle first, may use routine operational sanitation procedures on equipment used to cut through SRMs.

FSIS is also adding a new paragraph 310.22(g) that specifies the conditions under which slaughter establishments may ship beef carcasses or parts that contain vertebral columns from cattle 30 months of age and older to another federally-inspected facility for further processing. FSIS is adding these provisions to ensure that establishments that ship carcasses or parts that contain vertebral columns from cattle that were 30 months of age and older at the time of slaughter implement the appropriate controls to prevent the inadvertent introduction of SRMs into the human food supply.

Under 9 CFR 310.22(g), establishments may ship carcasses or parts of carcasses that contain vertebral columns from cattle 30 months of age and older to another federally-inspected establishment for further processing if the establishment: (1) Maintains control of the carcasses or parts while these materials are in transit or ensures that the carcasses or parts move under FSIS control (310.22(g)(1)); (2) ensures that the carcasses or parts are accompanied by documentation that clearly states that they contain vertebral columns from cattle that were 30 months of age or older at the time of slaughter (9 CFR 310.22(g)(2)); (3) maintains records that identify the official establishment that received the carcasses or parts (9 CFR 310.22(g)(3)); and (4) maintains records that verify that the receiving establishment removed and properly disposed of the SRM portions of the vertebral column (9 CFR 310.22(g)(4)). Establishments that do not meet these conditions must remove the SRM portions of the vertebral column from cattle 30 months of age and older prior to shipping the carcass. Establishments that receive beef carcasses or parts must address removal of the vertebral column from cattle 30 months of age and older in their procedures for the removal, segregation, and disposition of SRMs.

FSIS is affirming without amendment the provisions in 9 CFR 311.27 of the SRM interim final rule that prohibit for use as human food the parts and carcasses of cattle slaughtered for humane reasons in the absence of an inspector. FSIS is affirming without amendment the interim provisions in 9 CFR 313.15(b)(2) and 9 CFR 310.13(a)(2)(iv)(C) that prohibit the use of stunning devices that deliberately inject compressed air into the cranial cavity of cattle.

FSIS is amending 9 CFR 318.6(b)(1) and 9 CFR 318.6(b)(8) to reflect the re-designation of the requirements on the use of the small intestine for human food from 9 CFR 310.2(a)(3) to 9 CFR 310.22(d). 9 CFR 318.6(b)(1) prescribes requirements for the use of animal casings as containers of meat food products and 9 CFR 318.6(b)(8) prescribes requirements for the use of intestines in meat food products and edible rendering. Finally, FSIS is affirming the prohibition on the use of MS (beef) for human food in 9 CFR 319.5(b).

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be economically significant and, therefore, it has been reviewed by the Office of Management and Budget. This final rule affirms the air-injection stunning interim final rule and affirms, with changes, the SRM interim final rule. As discussed above, because the AMR interim final rule contains several non-BSE related provisions, FSIS intends to affirm and, if necessary, amend that interim final rule at a later date. The Agency will include a regulatory impact analysis of the final AMR rule at that time. The complete regulatory impact analysis for this final rule is available through the FSIS Web site at *http://www.fsis.usda.gov/regulations/2007_Interim_&_Final_Rules_Index/.*

Summary of the Final Regulatory Impact Analysis

In developing this Final Regulatory Impact Analysis (FRIA), FSIS reviewed the public comments received on the Preliminary Regulatory Impact Analysis (PRIA) and the interim final rules. In addition, FSIS developed and analyzed a set of regulatory alternatives for the FRIA.

The FRIA shows that the actions of this final rule require about 3,512 establishments that slaughter cattle or process bone-in beef products to take measures to minimize human exposure to cattle materials that could potentially contain the BSE agent. The FRIA estimates that the total annual average cost of the measure adopted in this final rule is $171.2 million annualized over 5 years at an interest rate of 7 percent.[30] The primary impacts of this final rule are the exclusion of SRMs from use in the human food supply; the prohibition of the slaughter of non-ambulatory disabled cattle that are offered for slaughter; and modifications of HACCP plans or Sanitation SOPs or other prerequisite programs and recordkeeping requirements. The FRIA found that there is no cost associated with the air-injection stunning final rule because air injection stunning devices are no longer in use in the United States.

The FRIA assesses the benefits of the measures adopted in this final rule. The measures adopted in this final rule are reasonable and necessary measures to ensure food safety. In doing so, they help to assure domestic and foreign consumers that the U.S. food supply is safe.

FSIS used the 2005 Harvard BSE Risk Assessment model, which is described above, to develop baseline and mitigation estimates of potential human exposure to the BSE agent for this rule. As discussed in detail above, the 2005 model was modified in response to comments.

Both the pre-public comment and post-public comment runs of the 2005 model estimated that the measures adopted in this final rule will result in a greater than 99 percent (at the mean) relative reduction in potential human exposure to the BSE agent when compliance is 100%. Because the amount of the BSE agent necessary to cause disease in humans is unknown, FSIS has not estimated monetary values for reductions in human morbidity and mortality associated with this final rule. No known cases of vCJD have been associated with consuming beef products in the United States.

[30] The estimated costs are higher compared with those estimated for the PRIA of the interim final rule because more establishments needed to take measures than what the PRIA anticipated. However, the PRIA accounted for the removal of the entire small intestine instead of just the distal ileum portion of the small intestine. The savings of only removing the distal ileum offset partially the extra costs of more establishments (state-inspected and custom-exempt) needing to take the measures contained in the final rule. FSIS changed the small intestine provision in September 2005.

The FRIA does estimate a benefit for the restoration of beef export markets (gross sales), which may, in part, have been affected by the measures implemented in this final rule. However, because of the many other factors that are also relevant to regained market access, the affects on the restoration of beef export markets that may be attributed to the measures implemented in this final rule are difficult to determine. In pre-BSE 2003, beef export markets totaled $3,861.9 million annually for veal, beef, and beef variety meats. Then, in post-BSE 2004, these beef export market sales dropped about 79 percent or $3,053.8 million to $808.1 million. However, in 2005, the U.S. had restored its beef export market sales to a total of $1,365.3 million. Compared to 2004, this is an increase of about 69 percent or $557.2 million in beef export market sales.

In addition, the FRIA shows that this final rule is cost-effective when compared to considered regulatory alternatives. Further, the FRIA addresses how this final rule affects about 3,278 very small, 197 small, and 37 large establishments of a total of about 3,512 establishments affected.[31]

FSIS expects that the aggregate beef price impacts of the measures contained in the final rule are not significant. FSIS estimates that the affected establishments have a relatively insignificant increase in operating costs, given that this increase is typically a relatively small share of the total operating costs affected. In addition, the removal of SRMs from the supply of variety meats is not expected to have a significant impact on prices, given the availability of substitutes (e.g., brains from cattle younger than 30 months of age, and the remaining small intestine excluding the distal ileum). Furthermore, FSIS estimates that only a relatively small share of the beef variety meat supply is affected. In addition, the removal of non-ambulatory disabled cattle from the food supply is not expected to have a significant impact on beef prices given the relatively small share of beef supply affected (less than 0.15 percent).

[31] FSIS defined small and very small establishments by its HACCP (Hazard Analysis and Critical Control Points) size definition. Establishments that have fewer than 10 employees or generate less than $2.5 million in annual sales are ''very small'' establishments; establishments that have between 10 and 499 employees or generate more than $2.5 million in annual sales are ''small'' establishments; and establishments that have 500 or more employees are ''large'' establishments. The size definition classification is different from the Small Business Administration's categorization of small and large business due to the unique nature of the meat and poultry slaughter and processing industry.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. In this final rule: (1) All state and local laws and regulations that are inconsistent with this rule will be pre-empted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Requirements

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), FSIS has reviewed the information and recordkeeping requirements in this final rule and has determined that the paperwork requirements associated with the regulations that require that establishments develop written procedures for the removal, segregation, and disposition of SRMs, have already been accounted for in the Specified Risk Materials information collection approved by the Office of Management and Budget (OMB). FSIS has also determined that the paperwork requirements for the regulations that require that establishments maintain daily records sufficient to document the implementation and monitoring of their procedures for the removal, segregation, and disposition of SRMs, and any corrective actions taken, have also been accounted for in the Specified Risk Materials information collection approved by OMB. The OMB approval number for the Specified Risk Materials information collection is 0583–0129.

In this final rule, FSIS is adding a new regulation that requires that federally-inspected slaughter establishments that transport carcasses or parts that contain vertebral columns from cattle 30 months of age and older to another federally-inspected establishment for further processing maintain records that verify that the official establishment that received the carcasses or parts removed and properly disposed of the portions of the vertebral column designated as SRMs. This is a new recordkeeping requirement that FSIS has submitted to OMB for approval.

Title: ''Specified Risk Materials Transport Documentation''.

Type of Collection: New.

Abstract: In this final rule, FSIS is requiring that slaughter establishments that transport carcasses or parts that contain vertebral columns from cattle that were 30 months of age and older at the time of slaughter to another federally-inspected establishment for further processing maintain documentation that verifies that the receiving establishment removed and properly disposed of the SRM portions of the vertebral column. This is a new information and recordkeeping requirement.

Under the current regulations, establishments that slaughter cattle, and establishments that process the carcasses and parts of cattle, are required to maintain daily records sufficient to document the implementation and monitoring of their procedures for the removal, segregation, and disposition of SRMs. Under this final rule, establishments that transport carcasses or parts from cattle 30 months of age and older for further processing will have to obtain these records from the receiving establishment in order to verify that the receiving establishment removed and properly disposed of the SRMs.

Estimate of burden: FSIS estimates that it will take establishments that receive for further processing carcasses or parts that contain vertebral columns from cattle 30 months of age and older approximately 2 minutes a day to submit to the transporting establishment records that document the implementation and monitoring of the receiving establishment's procedures for the removal, segregation, and disposition of SRMs. FSIS estimates that it will take the transporting establishments approximately 2 minutes a day to file this documentation once it is received.

Respondents: Official establishments that transport vertebral columns from cattle that were 30 months of age and older to another official establishment for further processing, and official establishments that receive for further processing carcasses or parts that contain vertebral columns from cattle that were 30 months of age at the time of slaughter.

Estimated Number of Respondents: 70.

Estimated Number of Responses per Respondent: 300 annually.

Estimated Total Annual Burden on Respondents: 700 hours.

Copies of this information collection assessment can be obtained from John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 112 Annex, 300 12th Street, SW., Washington, DC 20250.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both John O'Connell, Paperwork Reduction Act Coordinator, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

To be most effective, comments should be sent to OMB within 60 days of the publication date of this final rule.

Government Paperwork Elimination Act (GPEA)

FSIS is committed to achieving the goals of the GPEA, which requires that Government agencies, in general, provide the public with the option of submitting information or transacting business electronically to the maximum extent possible. Under this final rule, records that document the implementation and monitoring of an establishment's procedures for the removal, segregation, and disposition of SRMs may be maintained on computers, provided that the establishment implements appropriate controls to ensure the integrity of the electronic data. Allowing establishments to comply with the required record-keeping requirements will reduce data collection time and information processing and handling by the regulated industry and FSIS.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this rule, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/2007_Interim_&_Final_Rules_Index/index.asp.*

The Regulations.gov Web site is the central online rulemaking portal of the United States government. It is being offered as a public service to increase participation in the Federal government's regulatory activities. FSIS participates in Regulations.gov and will accept comments on documents published on the site. The site allows visitors to search by keyword or Department or Agency for rulemakings that allow for public comment. Each entry provides a quick link to a comment form so that visitors can type in their comments and submit them to FSIS. The Web site is located at *http://www.regulations.gov/.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, public meetings, recalls, and other types of information that could affect or would be of interest to our constituents and stakeholders. The update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service that provides an automatic and customized notification when popular pages are updated, including **Federal Register** publications and related documents. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/* and allows FSIS customers to sign up for subscription options across eight categories. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

List of Subjects

9 CFR Part 309

Meat inspection.

9 CFR Part 310

Meat inspection, Meat and meat products, Reporting and recordkeeping requirements.

9 CFR Part 318

Meat inspection, Meat and meat products, recordkeeping requirements.

■ Accordingly, the interim final rules amending 9 CFR Chapter III, which were published on January 12, 2004, at 69 FR 1862 and 69 FR 1885, and amended on September 7, 2005, at 70 FR 53043, are adopted as a final rule with the following changes:

PART 309—ANTE-MORTEM INSPECTION

■ 1. The authority citation for part 309 is revised to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 2. Section 309.3 is amended by revising paragraph (e) to read as follows:

§ 309.3 Dead, dying, disabled, or diseased and similar livestock.

* * * * *

(e) Non-ambulatory disabled cattle that are offered for slaughter must be condemned and disposed of in accordance with § 309.13. FSIS inspection personnel will determine the disposition of cattle that become non-ambulatory after they have passed ante-mortem inspection on a case-by-case basis.

■ 3. Paragraph (b) of § 309.13 is amended by adding a new second sentence to read as follows:

§ 309.13 Disposition of condemned livestock.

* * * * *

(b) * * * Veal calves that are unable to rise from a recumbent position and walk because they are tired or cold may also be set apart and held as provided in this paragraph. * * *

* * * * *

PART 310—POST-MORTEM INSPECTION

■ 4. The authority citation for part 310 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

■ 5. Section 310.22 is revised to read as follows:

§ 310.22 Specified risk materials from cattle and their handling and disposition.

(a) The following materials from cattle are specified risk materials, except when they are from cattle from a country that can demonstrate that its bovine spongiform encephalopathy (BSE) risk status can reasonable be expected to provide the same level of protection from human exposure to the BSE agent as prohibiting specified risk materials for use as human food does in the United States:

(1) The brain, skull, eyes, trigeminal ganglia, spinal cord, vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum), and dorsal root ganglia from cattle 30 months of age and older and

(2) The distal ileum of the small intestine and the tonsils from all cattle.

(b) Specified risk materials are inedible and prohibited for use as human food.

(c) Specified risk materials must be removed from the carcasses of cattle, segregated from edible materials, and

disposed of in accordance with § 314.1 or § 314.3 of this subchapter. The spinal cord from cattle 30 months of age and older must be removed from the carcass at the establishment where the animal was slaughtered.

(d) *Requirements for use of the small intestine for human food.* (1) The small intestine from all cattle may be used for human food if:

(i) It is derived from cattle that were inspected and passed in an official establishment in the United States or in a certified foreign establishment in a country listed in 9 CFR 327.2(b) as eligible to export meat and meat products to the United States and it is otherwise eligible for importation under 9 CFR 327.1(b), and

(ii) The distal ileum is removed by a procedure that removes at least 80 inches of the uncoiled and trimmed small intestine as measured from the ceco-colic junction and progressing proximally towards the jejunum or by a procedure that the establishment demonstrates is effective in ensuring complete removal of the distal ileum.

(iii) If the conditions in paragraphs (d)(1)(i) or (ii) of this section are not met, the entire small intestine must be removed from the carcass, segregated from edible materials, and disposed of in accordance with §§ 314.1 or 314.3 of this subchapter.

(2) The requirements in paragraph (d)(1) of this section do not apply to materials from cattle from countries that can demonstrate that their BSE risk status can reasonably be expected to provide the same level of protection from human exposure to the BSE agent as prohibiting specified risk materials for use as human food does in the United States.

(e) *Procedures for the removal, segregation, and disposition of specified risk materials.* (1) Establishments that slaughter cattle and establishments that process the carcasses or parts of cattle must develop, implement, and maintain written procedures for the removal, segregation, and disposition of specified risk materials. These procedures must address potential contamination of edible materials with specified risk materials before, during, and after entry into the establishment. Establishments must incorporate their procedures for the removal, segregation, and disposition of specified risk materials into their HACCP plans or Sanitation SOPs or other prerequisite programs.

(2) Establishments that slaughter cattle and establishments that process the carcasses or parts of cattle must take appropriate corrective action when either the establishment or FSIS determines that the establishment's procedures for the removal, segregation, and disposition of specified risk materials, or the implementation or maintenance of these procedures, have failed to ensure that specified risk materials are adequately and effectively removed from the carcasses of cattle, segregated from edible materials, and disposed of in accordance with paragraph (c) of this section.

(3) Establishments that slaughter cattle and establishments that process the carcasses or parts of cattle must routinely evaluate the effectiveness of their procedures for the removal, segregation, and disposition of specified risk materials in preventing the use of these materials for human food and must revise the procedures as necessary whenever any changes occur that could affect the removal, segregation, and disposition of specified risk materials.

(4) *Recordkeeping requirements.* (i) Establishments that slaughter cattle and establishments that process the carcasses or parts of cattle must maintain daily records sufficient to document the implementation and monitoring of the procedures for the removal, segregation, and disposition of the materials listed in paragraph (a) of this section, and any corrective actions taken.

(ii) Records required by this section may be maintained on computers provided that the establishment implements appropriate controls to ensure the integrity of the electronic data.

(iii) Records required by this section must be retained for at least one year and must be accessible to FSIS. All such records must be maintained at the official establishment for 48 hours following completion, after which they may be maintained off-site provided such records can be made available to FSIS within 24 hours of request.

(f) *Sanitation of equipment used to cut through specified risk materials.* (1) If an establishment that slaughters cattle, or that processes the carcasses or parts from cattle, does not segregate the carcasses and parts from cattle 30 months of age and older from the carcasses and parts from cattle younger than 30 months during processing operations it must:

(i) Use dedicated equipment to cut through specified risk materials; or

(ii) Clean and sanitize equipment used to cut through specified risk materials before the equipment is used on carcasses or parts from cattle younger than 30 months of age.

(2) If an establishments that slaughters cattle, or that process the carcasses or parts from cattle, segregates the carcasses and parts of cattle 30 months of age and older from cattle younger than 30 months of age during processing operations, and processes the carcasses or parts from the cattle younger than 30 months first, it may use routine operational sanitation procedures on equipment used to cut through specified risk materials.

(g) Slaughter establishments may ship beef carcasses or parts that contain vertebral columns from cattle 30 months of age and older to another federally-inspected establishment for further processing if the establishment shipping these materials:

(1) Maintains control of the carcasses or parts while they are in transit or ensures that the carcasses or parts move under FSIS control;

(2) Ensures that the carcasses or parts are accompanied by documentation that clearly states that the carcasses or parts contain vertebral columns from cattle that were 30 months of age and older at the time of slaughter;

(3) Maintains records that identify the official establishment that received the carcasses or parts;

(4) Maintains records that verify that the official establishment that received the carcasses or parts removed the portions of the vertebral column designated as specified risk materials in paragraph (a)(1) of this section and disposed of them in accordance with § 314.1 or § 314.3 of this subchapter.

(h) The materials listed in paragraph (a)(1) of this section will be deemed to be from cattle 30 months of age and older unless the establishment can demonstrate through documentation that the materials are from an animal that was younger than 30 months of age at the time of slaughter.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

■ 6. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 38f, 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 318.6 [Amended]

■ 7. Section 318.6 is amended as follows:

■ a. In the third and fourth sentences of paragraph (b)(1) remove ''9 CFR 310.22(a)(3)'' and add ''9 CFR 310.22(d)'' in its place.

■ b. In the second sentence in paragraph (b)(8) remove ''9 CFR 310.22(a)(3)'' and add ''9 CFR 310.22(d)'' in its place.

Done at Washington, DC, on July 5, 2007.

David P. Goldman,

Acting Administrator.

[FR Doc. 07–3350 Filed 7–12–07; 8:45 am]

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Federal Register

Friday,
July 13, 2007

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Special Requirements for Private Use Transport Category Airplanes; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2007–28250, Notice No. 07–13]

RIN 2120–A161

Special Requirements for Private Use Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal would amend the airworthiness standards for transport category airplanes by adding new cabin interior criteria for operators of private use airplanes. These standards may be used instead of the specific requirements that affect transport category airplanes operated by air carriers. The proposed standards would supplement the requirements for operation under the air traffic and general operating rules. This proposal is intended to provide alternative criteria for transport category airplanes that are operated for private use while continuing to provide an acceptable level of safety for those operations.

DATES: Send your comments on or before October 11, 2007.

ADDRESSES: You may send comments identified by Docket Number FAA–2007–28250 using any of the following methods:

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to the Document Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this proposed rule, contact Alan Sinclair, Airframe and Cabin Safety Branch (ANM–115), Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–33566; telephone (425) 227–2195, facsimile (425) 227–1320; e-mail: *alan.sinclair@faa.gov.* For legal questions concerning this proposed rule, contact Douglas Anderson, Office of Regional Council (ANM–7), 1601 Lind Avenue, SW., Renton, Washington 98057–33566; telephone (425) 227–2166; facsimile (425) 227–1007; e-mail: *douglas.anderson@faa.gov.*

SUPPLEMENTARY INFORMATION: Later in this preamble under the Additional Information section, we discuss how you can comment on this proposal and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of this proposal and related rulemaking documents.

Authority for This Rulemaking

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

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, the FAA is charged with prescribing regulations promoting safe flight of civil aircraft in air commerce by prescribing minimum standards required in the interest of safety for the design and performance of aircraft; regulations and minimum standards in the interest of safety for inspecting, servicing, and overhauling aircraft and regulations for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it prescribes new safety standards for the design and operation of transport category airplanes.

Background

Transport category airplanes are required to comply with the standards of Title 14 Code of Federal Regulations (14 CFR) part 25 to be eligible for a type certificate (TC) in this category. To the extent considered appropriate for safety, part 25 requirements contain different provisions based on passenger capacity discriminants. These requirements do not distinguish between airplanes operated in air carrier service and airplanes operated for private use. Aviation industry representatives have stated that the part 25 standards are written with only air carrier operation in mind, and have questioned whether the one level of airworthiness requirement for transport category airplanes is, in fact, appropriate for all types of operation. These proposals address airworthiness standards related to cabin interiors for transport category airplanes in private use passenger operation. These proposals would add new cabin interior criteria for operators of private use airplanes. These standards may be used as an alternative to specific requirements that affect transport category airplanes under the air traffic and general operating rules. These proposals would continue to provide an acceptable level of safety for those operations.

No cost is associated with these proposals, which are a voluntary alternative means for certificating the cabin of transport category private use airplanes. People who choose to use the alternative means may incur minor incremental costs for more fire extinguishers, cooktop design criteria, and a potential cost for a flight attendant, compared to the existing cabin certification method. The established potential benefit of these proposals is time and cost savings to the cabin certification process.

With limited exception, the type certification (TC) requirements for transport category airplanes have historically been separate from, and independent of, operational standards. That is, the type certification requirements do not consider the type of

operation intended for the airplane. Title 14 CFR 91.501(b) describes operational requirements for large and turbine powered multi-engine airplanes not required to be operated under 14 CFR parts 121 and 135.

To get a TC, transport category airplanes must comply with part 25. To the extent considered appropriate for safety, part 25 requirements contain differences based on passenger capacity discriminants, but do not distinguish between airplanes operated in air carrier service and airplanes operated in private use.

The aviation industry has asked the FAA to consider differentiating between the airworthiness requirements related to cabin interior for different types of operation. Title 49 United States Code (49 U.S.C. 44701(d)) directs the FAA to consider differences between air transportation and other air commerce. The provision does not require the FAA to adopt regulations that always provide a higher level of safety for air carriers than for other operations. It does, however, establish the principle that our regulations should establish a higher level of safety for air carriers whenever we determine that it is appropriate to do so. This proposal is intended to address the issue as applicable to airworthiness standards related to cabin interiors for transport category airplanes in private use passenger operations.

General Discussion of the Proposal

Regulatory Development

Some design standards for transport category airplanes differ based on passenger capacity. Often these standards were adopted based on the need to improve the safety of air carrier operations. Historically, most airplanes operated in non-air carrier operations have been smaller transport category airplanes, with low passenger capacities. In recent years, the number of large transport category airplanes operated in non-air carrier operation has increased substantially. The requirements for crashworthiness and cabin safety for all sizes of transport category airplanes have evolved so much in the last 20 years that the burden of compliance is now more significant. Since non-air carrier operation airplanes typically have customized interiors, the costs associated with certification of a specialized airplane interior cannot be amortized over many airplanes the way that an ordinary interior is for air carrier operators. When the requirements were less stringent, cost was not a significant issue. Under the current regulations, however, the cost of interior certification has become significant.

The FAA proposes to provide alternative criteria for part 25 transport category airplanes that are used only in private use. The proposal covers airplanes that are *not* operated for compensation or hire or offered for common carriage. We define a common carrier as a carrier that ''holds itself out'' to the public or to a part of the public, as willing to provide transportation within the limits of its facilities. Common carriage (e.g., a commercial operator or air carrier) is discussed in Advisory Circular (AC) 120–12A, ''Private Carriage Versus Common Carriage of Persons or Property.''

The FAA has thoroughly reviewed all associated design and operational requirements in part 25. This review was an effort to determine differences in mode of operation and airplane size to determine whether alternative standards for cabin interiors are viable for transport category airplanes operated only for private use. Based on this review, the FAA is proposing requirements that may not provide the same level of safety as that afforded occupants of transport category airplanes operated by air carriers. Nevertheless, the FAA has tentatively determined that the level of safety that would be provided is sufficient given the operating environment and the current cost of compliance. These proposals relate to cabin safety issues only. These issues include firm handholds throughout the airplane cabin, passenger injury criteria for side facing seats, flight attendant direct view of the cabin, passenger information signs, emergency exit locations and markings, interior compartment doors, aisle widths, material flammability compliance, fire detection, cooktops and fire extinguishers. The airplanes that would be certificated under this proposal may not meet all current part 25 standards. The proposal will, however, continue to provide an acceptable level of safety because the overall level of safety addressed by part 25 has continually increased over the years. Additionally, this proposal does not relax rules for the overall structural requirements of the airplane.

In developing these proposals, the FAA reviewed all the current type certification standards. The FAA also reviewed standards that had been proposed in the 1970s for a ''new part 24.'' That proposal offered an intermediate classification between transport (part 25) and small (part 23) airplanes. The FAA also reviewed the differences among the 14 CFR parts 91, 121, 125 and 135 operating rules.

In considering why requirements for private use airplanes could be different from commercial airplanes, the FAA identified the following potential factors:

Airplane size. The physical size of the airplane might dictate the proximity of passengers to exits, accessibility of equipment, and ability of the crew to communicate with the passengers, as well as other factors. Privately operated airplanes have traditionally been the smaller transport category airplanes subject to certification to transport standards. Many are only nominally heavier than the weight threshold currently specified in § 23.3. In airplanes of this size, passengers are already near exits and the emergency equipment is usually near the passengers' seats. In recent years, however, the size of private use airplanes has grown to include all transport category airplanes up to the largest airplanes produced. Therefore, it is not possible to base standards on the assumption that private use airplanes will continue to be physically small. However, to the extent it makes sense to do so, the requirements proposed here account for the physical size of the airplane.

Passenger capacity. The passenger capacity of the airplane might be significantly reduced in private use from that typically found in air carrier operation. Corresponding to airplane size, private use airplanes have traditionally had low passenger capacities. A maximum capacity of 9 or 19 is typical, with actual seating arrangements often being much lower.

The move to larger transport category airplanes for private use has allowed accommodation of higher passenger capacities while preserving a high level of comfort. In reviewing the current standards applicable to airplane interior considerations based on airplane passenger capacity, passenger capacity influences many interior configuration regulations contained in part 25. (See Table.)

PASSENGER CAPACITY DISCRIMINANTS

Regulation Part 25, Section	Passenger capacity						
	9 seats or less	10 seats or less	10 seats or more	19 or fewer	20 or more	More than 20	More than 44
25.772 Pilot compartment doors						X	
25.787 Stowage compartments			X				
25.803 Emergency evacuation							X
25.807 * Emergency exits							
25.812 Emergency lighting	X		X				
25.813 Emergency exit access				X	X		
25.815 Width of aisle		X		X	X		
25.851 * Fire extinguishers							
25.853 Compartment interiors					X		
25.854 Lavatory fire protection					X		

* These regulations have progressive requirements based on passenger capacity.

The FAA also notes an inconsistency in application of the standards. There is no common passenger discriminant criterion for differentiating among passenger capacities. For example, § 25.772, Pilot compartment doors, applies a threshold of ''more than 20 seats,'' while other rules, such as § 25.815, Width of aisle, establishes an applicability threshold at 19 passengers. The FAA cannot find a technical rationale for this difference. We also cannot find a technical rationale for the difference of the use of the term ''20 or more'' or ''more than 20'' to describe the break point. We are however proposing some changes to the part 25 standards in this action. Also, the passenger capacity-to-exit ratio may be favorable for some private use airplanes, resulting in further flexibility under this proposal.

Passenger familiarity. For private use airplanes, many passengers will likely use the same airplane frequently and, presumably, be more familiar with its interior features than the general public would be with the myriad of commercial airplane interiors. Therefore, the private use passengers' ability to use equipment, and knowledge of exit operation of a specific airplane, is generally presumed to be more sophisticated than the general public's. Passenger familiarity is a matter of particular concern to the FAA because at least some passengers will be unfamiliar with the airplane's safety features. However, because of the small number of passengers, the operators can provide a more detailed safety briefing than is typical on commercial flights. Additionally, since most passengers will most likely be frequent passengers, the overall safety awareness of the passenger complement is likely to be higher than that for air carrier operations.

Reduced frequency of operation. The likelihood of an accident is lower in the aggregate the less often the airplane flies, although the likelihood per flight may be the same. However, under the current regulations, an accident is a presumed condition for cabin safety, and the low likelihood of an accident cannot be used to argue in favor of reduced or eliminated requirements. This philosophy is bolstered by the FAA's review of accident data for transport category airplanes in private use and commercial use, which did not reveal any differences warranting different requirements based on flight frequency.

Obligation to provide the highest level of safety. The distinction between private use airplanes and those held out for the commercial category of passengers is not unique. Building standards differ between publicly occupied and used structures and private homes; standards for cruise ships differ from those for pleasure craft. In large part, the current aviation operating rules recognize this, and the standards for operation under part 91 differ from those in part 121. Persons flying on air carrier airplanes expect that the operator is maintaining and operating the airplane at the highest level of safety and further expect that the FAA is enforcing common standards for such operations. Conversely, a person operating his or her own airplane is ultimately responsible for his or her own safety and compliance with the regulations. Owners' expectations are that the airplane conforms to its type design requirements as received; after that, it is incumbent on the owner/operator to maintain the airplane.

There are also some areas where private use airplanes differ significantly from air carrier transport airplanes, and where the existing requirements are inadequate. In particular, private use airplanes tend to be compartmentalized with some of the compartments sporadically occupied during flight. In these cases, there is a potential for a fire in these compartments to grow undetected by passengers or crew. The materials used in these airplanes often do not meet the latest standards for heat release and smoke emissions. Therefore, the fire would grow faster than it would if the latest standards for material were met. As a result, the threat from fire is greater in a private use airplane than in an air carrier transport airplane. Therefore, the FAA has tentatively determined that added fire detection requirements are needed for private use airplanes and the number of installed fire extinguishers should correlate with the overall fuselage size as well as with the number of passengers.

Another area where the current requirements may not be adequate is the installation of certain non-required, non-essential equipment. This equipment is typically either multi-media entertainment electronics, such as videocassette recorders and compact disk players, or galley systems, such as cooktops and cookware, not covered by the existing regulations. While the FAA has issued advisory material related to non-required, non-essential equipment, that advisory material cannot mandate new requirements. In the past, the FAA has adopted special conditions for these types of installations. However, because of their prevalence, we are proposing new standards to address these types of equipment to avoid common and routine applications for special conditions.

Discussion of Proposed Regulatory Requirements

Applicability

This proposal applies to airplanes operated in private use and that have a type certificate, or which are the subject of a pending application for type certificate. The type certificate establishes the overall airworthiness of the airplane and ensures that airplanes

approved under this part have a consistent level of safety. An airplane operating under the proposed requirements would have to be modified to comply with all applicable provisions of part 25 before it could enter air carrier or other for-hire common carriage service.

It is expected that most applications for approval under this proposal would be for airplanes that have recent certification bases and are of the sizes commonly used in air carrier service. However, as this proposal is not limited to those airplanes, it would be possible for airplanes with older certification bases as well as smaller transport category airplanes to get approval under this proposal.

Design Requirements

Firm Handholds

What is the underlying safety issue addressed by the current requirement?

Section 25.785 is intended to enable passengers and crew to steady themselves in the aisles as they move about the cabin, in moderate turbulence. It prescribes how an applicant complies (hand grip or rail) and narrowly defines where firm handholds are required (only in aisles). The FAA considers the seatbacks of the seats that border the main aisles sufficient to act as a handrail if a breakover resistance of at least 25 pounds is provided. Other acceptable handholds include handrails along the sidewalls or near the sidewall stowage compartments.

What concerns have private use applicants expressed about compliance with the current requirement?

The interior configurations needed by the applicants (e.g., meeting areas, bedrooms, staterooms and entertainment rooms) do not lend themselves to providing a constant handhold arrangement. Because of the size of these rooms, a handrail around the perimeter would be ineffective, providing little help, considering all the locations where people could be standing or moving about.

How has the FAA addressed those concerns?

The FAA has issued exemptions when requesters have shown there is no practical way to provide a useful handhold while maintaining the needed interior arrangement.

How does the NPRM propose to address the concerns?

This proposal would allow areas of the passenger cabin to be without firm handholds provided cabin aisles are provided with firm handholds.

The level of safety is marginally reduced by this proposal. However, the FAA has tentatively determined that a small reduction in risk is acceptable for the private use airplanes because of their limited passenger capacities, the minimal flight hours, and the passengers' familiarity with the airplane.

Side-Facing Seats/Divans

What is the underlying safety issue addressed by the current requirement?

Section 25.562, promulgated by Amendment 25–64, provides for both dynamic test conditions and occupant injury pass/fail criteria to improve occupant protection under realistic conditions (53 FR 17640, May 15, 1988). The FAA believes the dynamic test conditions, both for pulse severity and for types of tests currently required, are also representative of an accident, and therefore not dependent on seat orientation. We believe for pass/fail criteria, however, the orientation of the seat may be significant. Injury criteria are limited to head impact and spinal and femur compression loads. Head injury criteria are measured at any airplane interior installations that the head of a seated occupant could impact. The lumbar spinal load is an axially compressive load. The femur load is also compressive, and has not proven to be critical so far.

The critical injury parameters for a side-facing seat are not the same as for forward-or rear-facing seats since the direction of impact is different. For these seats, critical injuries could also result from body-to-body contact or body-to-structure contact. In addition, because of the different orientation of the body, injury may result from differences in thoracic, pelvic, and shoulder load under various accident scenarios.

The current regulations may not adequately address injury criteria for occupants of side-facing seats. The best criteria currently available for multiple occupancy seating may not provide a level of safety for those occupants of side-facing seats equal to that provided for the occupants of forward-or rear-facing seats.

What concerns have private use applicants expressed about compliance with the current requirement?

Side-facing seating has long been a standard feature of private use airplanes because it is often a more efficient way of providing the needed seating capacity. In addition, the use of multiple occupancy side-facing seats provides for an in-flight berth capability. Operators of airplanes with Amendment 25–64, in the TC basis, complain that they are at a disadvantage to operators with airplanes that do not have Amendment 25–64 in the TC basis.

How has the FAA addressed those concerns?

The FAA issued exemptions with a list of conditions to allow the use of side-facing seats. The conditions provide an acceptable, but not equivalent, level of safety.

How does the NPRM address the concerns?

Like current exemptions, this proposal would require dynamic testing and measurement of injury criteria to the extent that the FAA can currently define rational criteria for passenger-to-passenger body contact, passenger body-to-wall/furnishing contact, thoracic trauma, and pelvic injuries. The proposed criteria are drawn from the automotive standards for side impacts and research done by the FAA Civil Aeromedical Institute. The FAA will continue to conduct and sponsor research to develop standards that provide an equivalent level of safety, so such seats could be used on any transport category airplane, if appropriate.

The FAA is actively researching the injury mechanisms, and means of quantifying them, appropriate for side-facing seats. However, recognizing that this effort may take years to complete, this proposal will allow for installation of side-facing seats that may not provide the same level of safety that was intended by the current part 25 requirements. It is important to note, however, that the requirements proposed in this notice provide an improved level of safety over that provided by the regulations before Amendment 25–64.

Flight Attendant Direct View

What is the underlying safety issue addressed by the current requirement?

Section 25.785(h)(2) is intended to provide the flight attendants with the capability to monitor problems in the passenger cabin during critical phases of flight. Because the compartmentalization of cabins typically found in private use airplanes makes ''direct view'' all but impossible, § 25.785(h)(2) requires the flight attendant seat be located so the occupant can have direct view of the cabin area for which he or she is responsible.

What concerns have private use applicants expressed about compliance with the current requirement?

The configurations of private use airplanes are such that the interior is divided into individual compartments and rooms for the sake of privacy. These configurations significantly decrease the direct view of the flight attendant. The owners/operators of these private use airplanes have argued that since the operator controls the passenger complement, the safety concerns associated with carriage of the public do not exist. Therefore, there is less of a need for the flight attendants to be able to monitor the passengers continuously.

How has the FAA addressed those concerns?

The FAA has issued exemptions that allow the flight attendant's direct view to be reduced, resulting from the compartmentalization of the cabin. The exemptions have required that the seated flight attendant face the passenger cabin.

How does the NPRM address the concerns?

This proposal allows for flight attendant seats that do not have direct view, provided the flight attendant seats face the cabin. This limitation at least affords the flight attendant the opportunity to view problems in the common areas of the cabin.

The current level of safety on private use airplanes should not be reduced since the need to monitor the passengers is not as critical because of the smaller numbers that are normally carried.

Passenger Information Signs and Placards

What is the underlying safety issue addressed by the current requirement?

Section 25.791(a) requires a ''No Smoking'' placard that is intended to reduce the risk of fire and to allow the cabin crew to be able to assess the cabin condition during the critical phases of flight, i.e., taxi, takeoff and landing. ''No Smoking'' placards must be visible to each seated occupant. Recently, smoking has also been addressed as a cabin air quality and passenger health issue. Therefore, smoking is banned on all domestic commercial flights.

What concerns have private use applicants expressed about compliance with the current requirement?

Applicants contend that since they own their airplanes they should be allowed to establish if smoking is allowed. If they decide not to allow it, then a single sign prohibiting smoking should be sufficient.

How has the FAA addressed those concerns?

We have issued exemptions to allow the applicants the flexibility to establish their own smoking restrictions.

How does the NPRM address the concerns?

This proposal would replace the multiple sign requirement with a single sign requirement specifying the applicant's smoking restrictions. The sign should be visible to all occupants upon entry. For aircraft with more than one entry door, a sign would be required at each door. In addition, the preflight briefing would include mention of any smoking restrictions. This proposal does not override the lavatory placarding and ashtray requirements of §§ 25.791(d) and 25.853(g).

The current level of safety on private use airplanes would not be reduced because the limited number of passengers on these airplanes would be made aware of the smoking limitations.

Distance Between Exits

What is the underlying safety issue addressed by the current requirement?

Section 25.807(f)(4) requires that passenger emergency exits be separated by no more than 60 feet, edge to edge. This requirement is intended to provide the passengers with readily accessible exits. As stated in the preamble of Amendment 25–67, a simple evacuation demonstration does not address the potential concerns arising from excessive distance between exits, including disruption of interior features, debris in the aisle, or failure of another exit (54 FR 26688; June 23, 1989). These concerns are magnified by a greater distance between exits and are not necessarily related solely to high density seating arrangements. That is, the further the exits are apart, the higher the likelihood that an individual will not be able to get from one exit area to another in an accident. In an evacuation demonstration, the time it takes an individual to get to an exit is mainly related to the number of passengers between that person and the area the passenger is trying to reach. When the cabin is empty, these times are short. This may not be the case in an actual accident where the scenario is much less predictable. Therefore, the fact that a seating arrangement is of low density is not, in and of itself, sufficient justification for changing the requirement. However, seating density is relevant in determining the type and number of exits required.

How does the current requirement address it?

Section 25.807(f)(4) establishes quantitative limits on the distance between passenger exits.

What concerns have private use applicants expressed about compliance with the current requirement?

Owners/operators want the ability to configure the airplane to best use the interior space. This often necessitates deactivating various exits.

How has the FAA addressed those concerns?

The FAA has issued exemptions, with design limitations, to allow the applicants the needed flexibility in the design of their interiors.

How does the NPRM address the concerns?

The proposal would allow a distance greater than 60 feet between exits in a single instance on each side of the airplane fuselage (e.g., two pair of exits could not be deactivated on an airplane with 5 pairs of exits). There would, however, be stricter allowances about passenger seating locations and capacities in the airplane. Using seating density and the number of passengers as a starting point, the FAA has developed a proposal that continues to provide an acceptable level of safety for private use airplanes while allowing more than 60 feet between exits in some cases. An effect of the current rule is that no seat that is located between two exits can be more than 30 feet from an exit. This proposal would retain this effect by requiring that no seat be located further than 30 feet from the nearest exit.

A distance of more than 60 feet between adjacent passenger emergency exits on the same side of the same deck of the fuselage, as measured parallel to the airplane longitudinal axis between the nearest edges, would be allowed only one time on each side of the fuselage.

To further mitigate any safety concerns associated with allowing an increased distance between exits, the proposal also contains several limitations on passenger capacity that would reduce potential crowding in the affected areas. The proposal would reduce the number of passenger seats allowed between exit types to one-half the amount normally allowed in air carrier service.

The proposal would also reduce the number of passenger seats to 40 percent of the amount normally allowed by the

exit rating when a ''dead end'' zone is created. A dead end zone is an area that does not have a pair of exits at each end of the zone. Current guidance would allow 75 percent of the rated capacity of the single bounding pair of exits.

The proposal would also reduce the airplane's total seating capacity to one-third of the theoretical maximum allowed by § 25.807. For example, on an airplane with four pairs of Type C exits, the type-certificated passenger seating capacity will normally be 220. Assuming the number 3 exits are deactivated, leaving three active pairs of Type C exits, the theoretical maximum currently allowed by § 25.807 would be 165. This proposal, however, would limit the maximum capacity to 55. The proposal does not use the term ''approved maximum seating capacity (or configuration)'' because the resultant exit configuration is not likely to have been formally approved to the theoretically allowed maximum.

Emergency Signage and Lighting

What is the underlying safety issue addressed by the current requirement?

The intent of §§ 25.811(d) and (e) and 25.812(e) is to ensure that each passenger can find the exits during an emergency evacuation.

How does the current requirement address it?

1. *Emergency Exit Signs.* Section 25.811(d) requires three types of emergency exit signs: *locator signs* (§ 25.811(d)(1)), which are in the aisle at the approximate longitudinal station at the exit to direct a passenger to the exit; *marking signs* (§ 25.811(d)(2)), which are next to the exit to identify it when a passenger has reached that point; and *indicator signs* (§ 25.811(d)(3)), which are located on a bulkhead or divider to indicate exits are beyond that bulkhead.

2. *Floor Closeness Escape Path Markings.* Section 25.812(e)(1) requires that each passenger, after leaving his or her seat, be able to identify the emergency escape path and follow it to the first exit.

3. *Transverse Separation of the Fuselage.* Section 25.812(l) requires that no more than 25 percent of the required emergency lighting becomes inoperative after a crash landing resulting in any single transverse vertical separation of the fuselage.

What concerns have private use applicants expressed about compliance with the current requirement?

Owners/operators contend that the private use interior configurations do not easily lend themselves to strict compliance with these regulations. They want the flexibility to adapt these systems to fit inside these custom interiors without unduly compromising the desired cabin layout or look.

How has the FAA addressed those concerns?

1. *Emergency Exit Signs.* The FAA has certified smaller signs combining both the marking and locator signs by using equivalent safety findings.

2. *Floor Proximity Escape Path Markings.* The FAA has granted exemptions.

3. *Transverse Separation of the Fuselage.* The FAA has granted exemptions.

How does the NPRM address the concerns?

1. *Emergency Exit Signs.* This proposal would allow the use of smaller signs, combining both the marking and locator signs into one sign, on airplanes with configurations that have less than 20 passengers (the part 25 discriminant is 10 or fewer passengers). The sign would have to satisfy the illumination requirements for the marking sign, which are more stringent than those of the locator sign. The emergency exit signs required by §§ 25.811(d)(1), (2), and (3), must have red letters at least 1-inch high on a white background at least 2 inches high. These signs may be internally electrically illuminated, or self-illuminated by other than electrical means, with an initial brightness of at least 160 microlamberts. The color may be reversed if a sign is self-illuminated by other than electrical means.

Adequacy of the single sign and its location for both the marking and locator signs would be demonstrated during the cabin compliance inspection of the interior arrangement or in a separate sign visibility demonstration. Such arrangements have been found acceptable under equivalent safety findings in the past.

2. *Floor Proximity Escape Path Markings.* This proposal recognizes isolated compartments; that is, walled compartments with doorways where the main aisle is outside the compartment. It requires a marking system that would allow a person to exit the compartment using only marking/features less than 4 feet above the floor, but does not require a specific marking of a ''path.'' Once in the main aisle, passengers must be able to locate each exit in accordance with §§ 25.812(e)(1) and (e)(2). For exits that are inside an isolated compartment, the current rules would apply, i.e., a path must be marked.

The intent of this proposal is to recognize many passengers' familiarity with the airplane and the typical open floor plans of portions of the interior configuration, which make incorrect identification of the exit path much less likely. This proposal should have no appreciable effect on safety for this type of airplane operation.

3. *Transverse Separation of the Fuselage.* This proposal changes the percentage of lights that must remain operative after a transverse separation of the fuselage, based on type certificated maximum passenger capacity rather than the prescriptive 25 percent required by § 25.812(l).

For small cabins with low passenger capacities, the current 25 percent limit on lights rendered inoperative by a transverse separation makes compliance difficult. It does not add appreciably to safety, as the distance to any one exit is shorter than the distance for a typical large transport category airplane. For these airplanes, that require fewer emergency lights to begin with, a higher percentage of inoperative lights do not reduce the level of safety.

Interior Doors

What is the underlying safety issue addressed by the current requirement?

Section 25.813(e) states that no door may be installed in any partition between passenger compartments. Installing a door in any partition between passenger compartments could impede evacuating passengers during an emergency.

What concerns have private use applicants expressed about compliance with the current requirement?

Interior doors in private use airplanes are one of the most desirable features because of the enhanced privacy and noise isolation that doors provide over curtains. The flexibility to partition the airplane is regarded as paramount to an acceptable luxury interior.

How has the FAA addressed those concerns?

The FAA has issued several exemptions that allow interior doors between passenger compartments, under specified conditions.

How does the NPRM address the concerns?

This proposal would allow interior doors with the limitations imposed in exemptions. To be acceptable, a number of features must be incorporated in the design or operational procedures. The door must be kept in the open position by dual means during taxi, takeoff, and landing; and, if installed across a main aisle, open in a transverse direction, such as a pocket door. There must be

indication to the flightcrew on the flightdeck, whether the door is open for takeoff and landing. Finally, the door must be frangible, so that occupants on either side of the doors cannot become trapped.

The basic intent of this proposed requirement is to have a frangible door design. The requirement is to anticipate and address situations that may result in the door being completely jammed in the fully deployed position. Examples of jamming around the perimeter would include motor failure, track breakage, surround structure deformation, or structural damage (pocket door cavity, or ceiling or nearby monuments). A straightforward approach would be to show that persons of the requisite stature can physically break through the jammed door. Another approach would be to incorporate a fuse hinge device that allows the door to be swung forward or aft when the fuse is broken. Past compliance has been shown by demonstrating a female in the 5th percentile can break the fuse in the door and the resulting opening can allow egress of a male in the 95th percentile and passage of emergency equipment. Obstacles within the door swing path should be limited in their location and deployment/movement such that egress is allowed.

If a partial blockage is allowed, then the blockage should be such that the door can be moved far enough to break the mechanical fuse device prior to contacting the obstruction. In no case should the occupant egressing through the sliding pocket door have to rely on another occupant for assistance in clearing an exit path. It would be acceptable, however, for the trapped occupant to break the fuse by pushing in the forward direction, encountering resistance and then pulling the door back to provide the necessary clearance. In this situation, the door should be equipped with an appropriate handle or doorknob that will allow the door to be pulled back. Placards should be provided on both sides of the door to provide instruction on the alternative method for opening the door in the event that normal door stowage is not possible.

As stated in the exemptions, installation of a door, even with limitations, cannot provide an equivalent level of safety to not having a door. Allowing installation of interior doors in egress paths reduces the level of safety currently required in part 25 and the operating rules. However, considering the differences between private and air carrier operations, this is an area where the FAA has determined that different levels of safety are acceptable.

Main Aisle Width

What is the underlying safety issue addressed by the current requirement?

The main purpose for a minimum aisle width, as specified in § 25.815, is to allow for rapid egress from the airplane in an emergency.

Aisles also provide the means for crewmembers to access all parts of the cabin during flight to address emergency conditions and allow passengers to return to their seats during turbulence or following decompression. Not providing adequate aisles during flight may significantly impact or even prevent the accomplishment of those latter objectives.

Section 25.815 provides the minimum aisle widths for air carrier airplanes. As noted in the Table located within § 25.815, requirements for aisle width are based on passenger capacity. The rule acknowledges that with smaller numbers of passengers, fewer passengers need to traverse an aisle to reach an exit. Since the exit requirements for small passenger capacity airplanes allow fewer and smaller exits, there is limited benefit in having an aisle evacuation capability that far exceeds the evacuation capability of the exits that the aisle feeds.

For air carrier airplanes, it has been an FAA practice to require that aisle widths be determined with seats in the most critical position allowed by the design. This practice is based on the assumption that the seats could be in this position during an emergency. Therefore, a seat that reclines would have to be evaluated in the reclined position when the determination of available aisle width was made if that configuration was more critical than an upright seat back.

The practice has been less consistent for private use airplanes. Many design approvals allow a seat positioned in its adverse (critical) configuration to encroach into the required aisle. In these cases, the seat position for takeoff and landing has typically been controlled by instructional placards. The FAA is aware of current configurations in private use operation where the aisle width can be reduced to zero if, for example, seats on opposite sides of an aisle are each translated inboard. This configuration would no longer be permitted.

What concerns have private use applicants expressed about compliance with the current requirement?

Owners/operators want the ability to configure the airplane to best use the interior space and incorporate seats with design features, which do not facilitate incorporating standard aisle widths.

How has the FAA addressed those concerns?

The FAA has issued several exemptions that allow seats to reduce the required minimal aisle width in-flight. Past FAA practice has allowed airplanes in private use to be operated with seats that can translate and/or swivel into positions that reduce the aisles below the regulatory minimum in flight.

How does the NPRM address the concerns?

This proposal would eliminate the practice of allowing seats to be maneuvered into positions in flight that reduce the aisle to widths as little as zero. It would provide a minimum aisle for in-flight emergencies. However, this proposal would permit seats to be moved or adjusted during flight to positions that reduce the aisle width below the minimum required for takeoff and landing, as long as passengers are instructed in the procedure for properly positioning the seat for taxi, takeoff and landing. Finally, this proposal allows different standards for aisle width for takeoff and landing versus in-flight phases. For takeoff and landing, the aisle width requirements are the same as currently required in part 25. To maintain an acceptable aisle in flight, the FAA is proposing that no aisle be reduced to less than 9 inches between seats, with seats in any possible fixed position (as allowed by the design). A seat that can rotate, but does not lock in any position other than forward or aft, would only be considered in the forward or aft orientations. Compliance with this requirement would be mandatory.

Requiring a minimum 9-inch aisle width during flight will ensure there is an aisle for crewmembers or passengers to traverse the length of the passenger cabin to address emergencies, e.g., to fight a fire in the cabin, or to return to seats during turbulence. Although this proposal would cause private use operators to lose some of the cabin flexibility they currently enjoy, it would allow for the 9-inch minimum aisle to be displaced from the aisle provided during taxi, takeoff, and landing. For example, if moving a seat inboard

reduced the aisle width, but in turn created a secondary passage meeting the 9-inch criterion, and this passage allowed continuous travel fore and aft in the cabin (considering vertical clearance), this design would satisfy the proposal. This proposal should have an improved level of safety by ensuring aisles remain accessible in flight.

Interior Materials Heat/Release & Smoke Density

What is the underlying safety issue addressed by the current requirement?

The primary benefit of the current flammability standards in § 25.853 for passenger cabins is the increase in available evacuation time from a post crash external fuel fire accident scenario.

Section 25.853(d) requires that large area materials, as described in §§ 25.853(d)(1), (2), (3), and (4), meet the rate of heat release and smoke emission requirement of Parts IV and V of Appendix F to part 25, respectively.

What concerns have private use applicants expressed about compliance with the current requirement?

The owners/operators contend that the current flammability requirements were intended for commercial air carrier operation, where the goal is to provide the added time needed to evacuate a large number of passengers from the airplane. Also, they contend that their unique type of operation does not warrant the added certification requirements and financial burden associated with the increased flammability requirements. Finally, they do not want to be restricted in the choice of materials for their luxury interiors.

How has the FAA addressed those concerns?

The FAA has granted exemptions on private use airplanes to address relaxing flammability requirements of heat release and smoke emissions for interior materials. Exemptions have required an evacuation demonstration compliance time of 45 seconds.

How does the NPRM address the concerns?

An objective of this proposal is to provide a means to allow operators to achieve the configuration flexibility that they need. The FAA is proposing a 45-second evacuation time when compliance with the heat release and smoke emissions requirements is not demonstrated. Compliance with other flammability requirements, i.e., Part 1 of Appendix F, will still be required.

The FAA acknowledges that the level of safety is not equivalent to current part 25, but is an improvement over the large number of airplanes with type certification before Amendment 25–61 (52 FR 5422; February 22, 1987). It should also be noted that even if an airplane's type certification basis includes Amendment 25–61, the heat release and smoke emissions requirements apply only if the seating capacity of the airplane is more than 19 passengers. Therefore, many of the airplanes covered by this proposal, i.e., those airplanes with 19 or fewer passenger seats, would not be required to comply even if the type certificate was issued after Amendment 25–61 became effective.

Fire Detection

What is the underlying safety issue addressed by the current requirement?

Many private use airplanes are partitioned into rooms and, under other provisions of this proposal, could be closed off with doors. This type of design has the effect of creating several areas where the rapid detection of a fire cannot be assumed. The FAA has historically mandated installing fire detection systems in certain isolated areas, based on § 21.21(b)(2), which prohibits any feature found to be unsafe. However, because of the general nature of such a requirement, the application has not always been uniform, and all the areas that might warrant a fire detection system have not always been addressed.

Section 25.854(a) requires cabin fire detection equipment only in lavatories. Since most passenger cabins are essentially open areas with occupants throughout, it is expected that a fire occurring elsewhere in the cabin will be readily detected by the occupants. However, materials that pass the flammability test requirements of § 25.853 and part 1 of Appendix F, are self-extinguishing to prevent rapid growth of the fire until action can be taken.

What concerns have private use applicants expressed about compliance with the current requirement?

Owners/operators have expressed concern that installing too many interior fire detectors may create additional hazards, through an increase in false alarms and aborted takeoffs.

How has the FAA addressed those concerns?

The FAA has required additional fire detectors in these areas as part of the limitations listed in the exemptions granted for other private use airplanes.

How does the NPRM address the concerns?

This proposal would require installation of a fire detection system in any room not designated suitable for occupancy during taxi, takeoff, and landing, and that can be closed off from the rest of the cabin by a door. Such rooms would include large galley complexes, as well as bedrooms and conference rooms.

The detection equipment must meet the requirements of § 25.858, which establishes standards for fire detection systems for cargo or baggage compartments. The applicant would have to identify the likely source(s) of fire within a room, and show that the detection system was capable of detecting a fire within one minute. This proposal would preclude having to address every possible point in the room as a potential fire source (as is done for cargo compartments), which would remain an acceptable alternative, if the applicant did not want to go through the exercise of identifying the likely source of fires.

What is the effect of the proposal on the underlying safety issue, and, to the extent safety is reduced, why is that appropriate?

This proposal is intended to maintain the currently established level of safety for private use airplanes. It is also intended to help offset relaxing material flammability standards and allowing interior doors as proposed and discussed above.

Equipment Installations—Cooktops

What is the underlying safety issue addressed by the current requirement?

Cooktops are unusual because they present safety concerns associated with a hot surface. However, the more significant safety issue may be the containers and their contents, placed on the cooktop. Hot liquids represent an especially difficult safety issue since they can easily spill and spread over large areas. The regulations require that a design have no unsafe features.

The current regulations did not envision cooktops when they were written and do not adequately address the various safety concerns associated with the installation and operation of these devices. The existing regulation does not prohibit the installation and use of cooktops.

What concerns have private use applicants expressed regarding compliance with the current requirement?

Owners/operators want the capability to cook while on the airplane, using equipment other than ovens that are routinely installed on private use and air carrier airplanes.

How has the FAA addressed those concerns?

The FAA has developed a list of special conditions to address the known safety concerns associated with installation of cooktops and use which are listed in the appendix to the proposed rule.

How does the NPRM address the concerns?

The proposal requires certain design features that will lessen the potential hazards, including guards to keep containers in place, a spill tray, positive indication of a hot surface, means to shield the cooktop and a fire extinguishing system.

What is the effect of the proposal on the underlying safety issue, and, to the extent safety is reduced, why is that appropriate?

We believe the requirements establish an appropriate level of safety for the equipment.

Equipment Installations—Fire Extinguishers

What is the underlying safety issue addressed by the current requirement?

The intent of the regulation as defined by § 25.851(a) is to ensure that there are a sufficient number and type of fire extinguishers available to address the kinds of fires likely to occur.

Section 25.851 requires that the number of handheld fire extinguishers be proportionate to the number of passengers.

What concerns have private use applicants expressed about compliance with the current requirement?

This is a new requirement that has not been previously addressed.

How has the FAA addressed those concerns?

This is a new requirement that has not been previously addressed.

How does the NPRM address the concerns?

This proposal would require a fire extinguisher for every pair of exits certified on the original type certificate, regardless of whether the exits are deactivated in the proposed configuration. For example, if an airplane was certified with four pairs of exits, but during the interior modification the exits at door two right side and door three left side, or alternatively, the exits at door two left and right side were deactivated, a minimum of four fire extinguishers would still be required and would have to be uniformly distributed throughout the cabin. This requirement would be in addition to the extinguishers required by the cooktop section of this proposal unless the owner/operators can show the cooktop was installed near the original exits. Other areas that would require fire extinguishers to be installed, besides those already specified, would be galley complexes, remote rooms, large lavatory complexes and remote cargo areas accessible from the main deck. Compliance with this requirement is mandatory.

This proposal is intended to maintain the currently established level of safety for large private use airplanes by considering the size of the airplane as a factor in determining the number of handheld fire extinguishers rather than being only proportionate to the number of passengers. Since the assumption that the size of the airplane is proportional to the number of passengers onboard is inaccurate for many airplanes in private use, the standard method for determining the number of fire extinguishers is not adequate.

Operational Requirements

Type of Operation

This proposal addresses only airplanes that are operated for private use. Airplanes that are operated on a ''for hire'' basis, or offered for common carriage, even if no fee or other compensation is collected, could not operate under this proposal. Part 91 currently allows an airplane owner to collect compensation from another party that is operating or using the airplane. This practice would be permitted under this proposal provided the occupants are not charged for passage and the airplane is operated for private use. Airplanes that are certificated under the provisions of this proposal may not be operated under parts 135 and 121. The FAA specifically requests comments on whether the private use restriction would create areas where ambiguity can result. The fundamental intent of this proposal is that the type of affected operation does not involve the fare-paying public, or the general public even if fares are not collected. This does not preclude the operator from receiving pay to the extent consistent with part 125 and part 91, subpart F.

To ensure that the type of aircraft addressed in this proposal are not used to conduct any operations that involve the fare-paying public or the public even if fares are not collected, the FAA proposes to include an operating limitation in the Airplane Flight Manual required by § 25.1581. This limitation would prohibit any operations involving the carriage of people or property for compensation or hire in the Airplane Flight Manual required by § 25.1581. Consistent with this operating limitation, the FAA proposes to require installation of a placard that is located in obvious view of the pilot-in-command. The placard must state, ''Operations involving the carriage of people or property for compensation or hire are prohibited.''

Number of Passengers

A basic assumption of most of the proposals in this notice is that the passenger capacity of the airplanes involved will be small, both in relation to the available exits and in an absolute sense. However, there is no other explicit provision that would directly limit the passenger capacity of an airplane under this proposal if all the requirements could be met. For example, it would be possible for an airplane with an exit-limited passenger capacity of 550 to carry 200 passengers without complying with the heat release and smoke emissions requirements for interior materials, provided the evacuation capability required under this proposal were demonstrated. The FAA has tentatively concluded that the maximum passenger capacity should be limited to address issues associated with unforeseen circumstances and the potential for the airplane to be compartmentalized with passengers scattered throughout. The FAA is proposing a maximum capacity of 60 passengers to be eligible for approval under this proposal. While 60 passengers is still a large number, the FAA has determined that it is reasonable if the other criteria of this proposal have been met. The FAA has determined that the standards proposed here would provide the level of safety intended for passenger seating arrangements that do not exceed 60. Considering the potential scenarios that might occur in service that would not be addressed in an evacuation demonstration, and the other provisions of this proposal, which effectively alter the type design requirements, airplanes with more than 60 passenger seats would not be eligible for certification and operation under this proposal.

Additionally, for passenger capacities between 45 and 60, inclusive, the applicant would be required to submit an emergency evacuation analysis that demonstrates that the airplane could be evacuated in less than 90 seconds under the test criteria and procedures of § 25.803 and Appendix J to part 25.

Flight Attendant

The current requirements for general operation (§ 91.533) mandate the carriage of a flight attendant for airplanes with more than 19 passengers. Because of the additional complexity in monitoring interior configuration with isolated occupant compartments, the requirement for a flight attendant is proposed to be lowered to 10 passengers or greater for airplanes equipped with interior doors. The intent of this change is to provide both a level of oversight in the cabin as well as to relieve the flightcrew of duties that they would otherwise be required to carry out. Since many of the types of airplanes currently intended for private use are typically used in air carrier operations, the potential for an airplane with 10 to 19 passengers and equipped with interior doors would be large. This would mean that the flightcrew would have responsibilities that would be beyond what was envisioned when the passenger capacity criterion was established for part 91. By changing the standard for carriage of a flight attendant to 10 passengers for those airplanes equipped with interior doors, the basic intent of the current requirements is maintained. In addition, the operational procedures required/provided by this proposal can be more readily carried out by a dedicated cabin crewmember.

Airplanes having between 10 to 50 passengers, inclusive, would require one flight attendant who meets the requirements of § 91.533(b). Airplanes with 51 to 60 passengers would require two flight attendants who meet the requirements of § 91.533(b).

Briefings

The proposal would require briefings to describe special interior configuration to continue to provide an acceptable level of safety. For example, seats that need to be positioned in specific locations and/or orientations to provide for enough egress paths will require a briefing to teach passengers in this process.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined there is no current new information collection requirements associated with this proposed rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

This portion of the preamble summarizes the FAA's analysis of the economic impacts of this NPRM. It also includes summaries of the initial regulatory flexibility determination. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, to be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually adjusted for inflation. The FAA currently uses an inflation-adjusted value of $120.7 million in lieu of $100 million. In conducting these analyses, FAA has determined this rule: (1) Has benefits that justify its costs, is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (2) would not have a significant economic impact on a substantial number of small entities; (3) would have a neutral international trade impact; and does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Total Benefits and Costs of This Rulemaking

The benefits of this NPRM, for applicants who select it, are time and cost savings in the cabin certification process.

This NPRM provides a voluntary means for certificating the cabin of transport category private use airplanes. Applicants who select the alternative means may incur minor incremental costs for additional fire extinguishers, cooktop design criteria, and a potential cost for a flight attendant compared to the existing cabin certification method. Applicants would only select the proposed alternative if they perceive the resulting benefits to exceed the costs.

Who Is Potentially Affected by This Rulemaking?

If adopted, this rulemaking would affect:

- Purchasers of transport category private use airplanes.
- Manufacturers of transport category private use airplanes.
- Completion centers for transport category private use airplanes.
- The FAA.

Alternatives We Considered

We did not consider other alternatives because the proposal provides cost and time savings compared to the existing set of requirements.

Benefits of This Rulemaking

The benefits of this rulemaking, for applicants who select the proposal, are a reduction in the time and costs of the cabin certification process for transport category, private use airplanes. These time and cost savings to airplane purchasers could amount to about $725,000 per airplane certificated under this proposal. In addition, it is expected that the completion centers and the FAA would obtain cost and time savings if the proposal were selected by the applicant. The safety level is equivalent to that of the current process.

Costs of This Rulemaking

No required compliance costs.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a

principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

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

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This proposal is voluntary; therefore it imposes no costs. Businesses, large and small may voluntarily choose to use this proposal because of the associated cost savings. Therefore, the FAA Administrator certifies that this proposal would have no adverse impact on small business entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The FAA has assessed the potential effect of this proposed rule and determined that it would impose the same costs on domestic and international entities and thus have a neutral trade impact.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $120.7 million in lieu of $100 million.

This proposed rule does not contain such a mandate. The requirements of Title II do not apply.

Executive Order 13132, Federalism

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

Regulations Affecting Interstate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the Administrator, when modifying regulations in title 14 of the CFR in a manner affecting interstate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish such regulatory distinctions, as he or she considers appropriate. Because this proposed rule would apply to the certification of future designs of transport category airplanes and their subsequent operation, it could, if adopted, affect interstate aviation in Alaska. The FAA, therefore, specifically requests comments on whether there is justification for applying the proposed rule differently in interstate operations in Alaska.

Environmental Analysis

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

Regulations That Significantly Affect Energy Supply, Distribution, or Use

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

Plain English

Executive Order 12866 (58 FR 51735, Oct. 4, 1993) requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain unnecessary technical language or jargon that interferes with their clarity?
- Would the regulations be easier to understand if they were divided into more (but shorter) sections?
- Is the description in the preamble helpful in understanding the proposed regulations?

Please send your comments to the address specified in the **ADDRESSES** section.

Additional Information

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

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

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

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

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

You may access all documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, from the internet through the Department of Transportation's DMS referenced in paragraph 1.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 25 of Title 14, Code of Federal Regulations, as follows:

PART 25—AIRWORTHINESS STANDARDS—TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

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

2. In part 25, add SFAR No. ____ to read as follows:

* * * * *

Special Federal Aviation Regulation No. ____

1. *Applicability.* Contrary provisions of 14 CFR parts 21, 25, and 119 of this chapter notwithstanding, an applicant is entitled to an amended type certificate or supplemental type certificate in the transport category, if the applicant complies with all applicable provisions of this SFAR.

Operations

2. *General.*

(a) The passenger seating arrangement may not exceed 60.

(b) Airplanes outfitted with interior doors under paragraph 10 of this SFAR must be staffed with at least one flight attendant who meets the requirements of 14 CFR 91.533(b) of this chapter if the airplane has a capacity of 10–50 passengers, inclusive, and at least two flight attendants who meet the requirements of 14 CFR 91.533(b) of this chapter if the capacity exceeds 50 passengers.

(c) Prior to each flight, the operator must ensure that each passenger is briefed and instructed appropriately on functions to be performed by the passenger and the applicable features of the airplane.

(d) The airplane may not be offered for common carriage or operated for hire. The Airplane Flight Manual required by § 25.1581 must be revised to prohibit any operations involving the carriage of persons or property for compensation or hire.

(e) A placard stating that ''Operations involving the carriage of persons or property for compensation or hire are prohibited,'' must be located in conspicuous view of the pilot-in-command. The operators may receive remuneration to the extent consistent with parts 125 and 91, subpart F of this chapter.

(f) For seating arrangements of 45 to 60 passengers, analysis must be submitted that demonstrates that the airplane can be evacuated in less than 90 seconds under the conditions specified in § 25.803 and Appendix J to part 25.

Equipment and Design

3. *General.* Unless otherwise noted, compliance is required with the applicable certification basis for the airplane.

4. *Occupant Protection.*

(a) *Firm Handhold.* In lieu of the requirements of § 25.785(j), there must be a means provided to enable persons to steady themselves in moderately rough air while occupying aisles that are along the cabin sidewall or bordered by seats (seat backs providing a 25-pound minimum breakaway force are an acceptable means of compliance).

(b) *Injury criteria for multiple occupancy side-facing seats.* The following requirements are only applicable to airplanes that have § 25.562 in their certification basis.

(1) *Existing Criteria.* All injury protection criteria of § 25.562(c)(1) through (c)(6) apply to the occupants of side-facing seating. Head injury criteria (HIC) assessments are only required for head contact with the seat and/or adjacent structures.

(2) *Body-to-Body Contact.* Contact between the head, pelvis, or shoulder area of one seated anthropomorphic test dummy (ATD) on the adjacent seated ATD's is not acceptable during the test conducted in accordance with § 25.562(b)(1) and (b)(2). Incidental contact of the legs, feet, arms and hands that will not result in incapacitation of the occupants is acceptable.

(3) *Body-to-Wall/Furnishing Contact.* If the sofa is installed aft of a structure, such as an interior wall or furnishing that may be contacted by the pelvis, upper arm, chest, or head of an occupant seated next to the structure, then a conservative representation of the structure and its stiffness must be included in the tests. The contact surface of this structure must be covered with at least 2 inches of energy absorbing protective foam.

(4) *Thoracic Trauma.* Testing with a suitable side impact dummy (SID) (as defined by 49 CFR part 572, subpart F), or its equivalent, must be conducted, and the thoracic trauma index (TTI) injury criteria acquired with the SID must be less than 85, as defined in 49 CFR part 572, subpart F. Side impact dummy TTI data must be processed as defined in Federal Motor Vehicle Safety Standard (FMVSS) part 571.214, section S6.13.5.

(5) *Pelvis.* Pelvic lateral acceleration must not exceed 130 g. Pelvic acceleration data must be processed as defined in FMVSS part 571.214, section S6.13.5.

(6) *Shoulder Strap Loads.* Where upper torso straps (shoulder straps) are used for sofa occupants, tension loads in individual straps may not exceed 1,750 pounds. If dual straps are used for restraining the upper torso, the total strap tension loads may not exceed 2,000 pounds.

(c) *General Guidelines.*

(1) All side-facing seats require end closures.

(2) All seat positions need to be occupied for the longitudinal tests.

(3) For the longitudinal tests, conducted in accordance with the conditions specified in § 25.562(b)(2), a minimum number of tests will be required as follows:

(i) One test will be required with one SID ATD in the forward most position and Hybrid II ATD(s) in all other positions, with undeformed floor, 10 degrees yaw, and with all lateral supports (armrests/walls).

(ii) One test will be required with one SID ATD in the center seat and Hybrid II (or modified Hybrid III) ATD(s) in all other positions, with deformed floor, 10 degrees yaw, and with all lateral

supports (armrests/walls). This could be considered the structural test as well.

(4) For the vertical test, conducted in accordance with the conditions specified in § 25.562(b)(1), Hybrid II ATD's will be used in all seat positions.

5. *Direct View.* In lieu of the requirements of § 25.785(h)(2), to the extent practical without compromising proximity to a required floor level emergency exit, flight attendant seats must be located to face the cabin area for which the flight attendant is responsible.

6. *Passenger Information Signs.* Compliance with § 25.791 is required except that for § 25.791(a), when smoking is to be prohibited, notification to the passengers may be provided by a single placard so stating, to be conspicuously located inside the passenger compartment, easily visible to all persons entering the cabin in the immediate vicinity of each passenger entry door.

7. *Distance Between Exits.* For an airplane that is required to comply with § 25.807(f)(4), which has more than one passenger emergency exit on each side of the fuselage, no passenger emergency exit shall be more than 60 feet from any adjacent passenger emergency exit on the same side of the same deck of the fuselage, as measured parallel to the airplane's longitudinal axis between the nearest exit edges unless the following conditions are met:

(a) Each passenger seat must be located within 30 feet from the nearest exit on each side of the fuselage, as measured parallel to the airplane's longitudinal axis, between the nearest exit edge and the front of the seat bottom cushion.

(b) The number of passenger seats located between two adjacent pairs of emergency exits (commonly referred to as a passenger zone) or between a pair of exits and a bulkhead or a compartment door (commonly referred to as a ''dead-end zone''), may not exceed the following:

(1) For zones between two pairs of exits, 50 percent of the combined rated capacity of the two pairs of emergency exits.

(2) For zones between one pair of exits and a bulkhead, 40 percent of the rated capacity of the pair of emergency exits.

(c) The total number of passenger seats in the airplane may not exceed 33 percent of the maximum seating capacity for the airplane model using the exit ratings listed in § 25.807(g) for the original certified exits or the maximum allowable after modification when exits are deactivated, whichever is less.

(d) A distance of more than 60 feet between adjacent passenger emergency exits on the same side of the same deck of the fuselage, as measured parallel to the airplane's longitudinal axis between the nearest exit edges, is allowed only one time on each side of the fuselage.

8. *Emergency Exit Signs.* In lieu of the requirements of § 25.811(d)(1) and (2) a single sign at each exit may be installed provided:

(a) The sign can be read from the aisle while directly facing the exit, and

(b) The sign can be read from the aisle adjacent to the passenger seat furthest from the exit without an intervening exit.

9. *Emergency Lighting.*

(a) *Exit Signs.* In lieu of the requirements of § 25.812(b)(2), for airplanes that have a passenger seating configuration, excluding pilot seats, of 19 seats or less, the emergency exit signs required by § 25.811(d)(1), (2), and (3) must have red letters at least 1-inch high on a white background at least 2 inches high. These signs may be internally electrically illuminated, or self illuminated by other than electrical means, with an initial brightness of at least 160 microlamberts. The color may be reversed in the case of a sign that is self-illuminated by other than electrical means.

(b) *Floor Proximity Escape Path Marking.* In lieu of the requirements of § 25.812(e)(1), for cabin seating compartments that do not have the main cabin aisle entering and exiting the compartment, the following are applicable:

(1) After a passenger leaves any passenger seat in the compartment, he/she must be able to exit the compartment to the main cabin aisle using only markings and visual features not more that 4 feet above the cabin floor, and

(2) Proceed to the exits using the marking system necessary to accomplish the actions in § 25.812(e)(1) and (e)(2).

(c) *Transverse Separation of the Fuselage.* In the event of a transverse separation of the fuselage, compliance must be shown with § 25.812(l) except as follows:

(1) For each airplane type originally type-certificated with a maximum passenger seating capacity of 9 or less, not more than 50 percent of all electrically illuminated emergency lights required by § 25.812 may be rendered inoperative in addition to the lights that are directly damaged by the separation.

(2) For each airplane type originally type-certificated with a maximum passenger seating capacity of 10 to 19, not more than 33 percent of all electrically illuminated emergency lights required by § 25.812 may be rendered inoperative in addition to the lights that are directly damaged by the separation.

10. *Interior doors.* In lieu of the requirements of § 25.813(e), interior doors may be installed between passenger compartments, provided the following requirements are met.

Note: Reference paragraph 2(a) of this SFAR for flight attendant requirements.

(a) Each door between passenger compartments must have a means to signal to the flightcrew, at the flightdeck, that the door is in the open position for taxi, takeoff and landing.

(b) Appropriate procedures/limitations must be established to ensure that any such door is in the open configuration for takeoff and landing.

(c) Each door between passenger compartments must have dual means to retain it in the open position, each of which is capable of reacting the inertia loads specified in § 25.561.

(d) Doors installed across a longitudinal aisle must translate laterally to open and close, e.g., pocket doors.

(e) Each door between passenger compartments must be frangible.

11. *Width of Aisle.* Compliance is required with § 25.815, except that aisle width may be reduced to no less than 9 inches between passenger seats during flight, provided that instructions are provided at each passenger seat for restoring the aisle width required by § 25.815. Procedures must be established to ensure that the required aisle widths are provided during taxi, takeoff, and landing. The aisle width is determined with seats in the most adverse, fixed position, as described in AC 25–17, Transport Airplane Cabin Interiors Crashworthiness Handbook, dated June 15, 1991.

12. *Materials for Compartment Interiors.* Compliance is required with § 25.853, except that compliance with Appendix F, parts IV and V need not be demonstrated, if it can be shown by test or a combination of test and analysis that the maximum time for evacuation of all occupants does not exceed 45 seconds under the conditions specified in Appendix J to part 25.

13. *Fire Detection.* There must be means that meet the requirements of § 25.858(a) through (d) to signal the flightcrew in the event of a fire in any isolated room not occupiable for taxi, takeoff and landing, which can be closed off from the rest of the cabin by a door, from any likely source. The indication must identify the compartment where the fire is located.

14. *Cooktops.* Each cooktop must be designed and installed to minimize any potential threat to the airplane, passengers, and crew. Compliance with this requirement must be found in accordance with the criteria outlined in Appendix 1 of this SFAR.

15. *Hand-Held Fire Extinguishers.* In addition to the requirements of § 25.851, hand-held fire extinguishers must be installed at every pair of exits certified on the original type certificate in the passenger cabin, regardless of whether the exits are deactivated for the proposed configuration. Extinguishers must be evenly distributed throughout the cabin. These extinguishers are in addition to those required by paragraph 14 of this SFAR, unless it can be shown that the cooktop was installed in the immediate vicinity of the original exits.

Appendix 1 to SFAR No.—Cooktops

(a) Each cooktop must be designed and installed as follows:

(1) Means, such as conspicuous burner-on indicators, physical barriers, or handholds must be installed to minimize the potential for inadvertent personnel contact with hot surfaces of both the cooktop and cookware. Conditions of turbulence must be considered.

(2) Sufficient design means must be included to restrain cookware while in place on the cooktop, as well as representative contents, e.g., soup, sauces, etc., from the effects of flight loads and turbulence. Restraints must be provided to preclude hazardous movement of cookware and contents. These restraints must accommodate any cookware that is identified for use with the cooktop. Restraints must be designed to be easily utilized and effective in service. The cookware restraint system should also be designed so that it will not be easily disabled, thus rendering it unusable. Placarding must be installed which prohibits the use of cookware that cannot be accommodated by the restraint system.

(3) Placarding must be installed which prohibits the use of cooktops (i.e., power on any burner) during taxi, takeoff, and landing.

(4) Means must be provided to address the possibility of a fire occurring on or in the immediate vicinity of the cooktop. Two acceptable means of complying with this requirement are as follows:

(a) Placarding must be installed that prohibits any burner from being powered when the cooktop is unattended. (**Note:** This would prohibit a single person from cooking on the cooktop and intermittently serving food to passengers while any burner is powered.) A fire detector must be installed in the vicinity of the cooktop which provides an audible warning in the passenger cabin, and a fire extinguisher of appropriate size and extinguishing agent must be installed in the immediate vicinity of the cooktop. Access to the extinguisher must not be blocked by a fire on or around the cooktop.

(b) An automatic, thermally activated fire suppression system must be installed to extinguish a fire at the cooktop and immediately adjacent surfaces. The agent used in the system must be an approved total flooding agent suitable for use in an occupied area. The fire suppression system must have a manual override. The automatic activation of the fire suppression system must also automatically shut off power to the cooktop.

(5) The surfaces of the galley surrounding the cooktop, which would be exposed to a fire on the cooktop surface or in cookware on the cooktop, must be constructed of materials that comply with the flammability requirements of Part III of Appendix F to part 25. This requirement is in addition to the flammability requirements typically required of the materials in these galley surfaces. During the selection of these materials, consideration must also be given to ensure that the flammability characteristics of the materials will not be adversely affected by the use of cleaning agents and utensils used to remove cooking stains.

(6) The cooktop must be ventilated with a system independent of the airplane cabin and cargo ventilation system. Procedures and time intervals must be established to inspect and clean or replace the ventilation system to prevent a fire hazard from the accumulation of flammable oils and be included in the instructions for continued airworthiness. The ventilation system ducting must be protected by a flame arrestor. [**Note:** The applicant may find additional useful information in Society of Automotive Engineers, Aerospace Recommended Practice 85, Rev. E, entitled ''Air Conditioning Systems for Subsonic Airplanes,'' dated August 1, 1991.]

(7) Means must be provided to contain spilled foods or fluids in a manner that will prevent the creation of a slipping hazard to occupants and will not lead to the loss of structural strength due to airplane corrosion.

(8) Cooktop installations must provide adequate space for the user to immediately escape a hazardous cooktop condition.

(9) A means to shut off power to the cooktop must be provided at the galley containing the cooktop and in the cockpit. If additional switches are introduced in the cockpit, revisions to smoke or fire emergency procedures of the Airplane Flight Manual will be required.

(10) If the cooktop is required to have a lid to enclose the cooktop there must be a means to automatically shut off power to the cooktop when the lid is closed.

Issued in Washington, DC, on July 3, 2007.

Dorenda D. Baker,

Deputy Director, Aircraft Certification Service.

[FR Doc. E7–13582 Filed 7–12–07; 8:45 am]

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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*.

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S. 1704/P.L. 110–44

First Higher Education Extension Act of 2007 (July 3, 2007; 121 Stat. 238)

S. 229/P.L. 110–45

To redesignate a Federal building in Albuquerque, New Mexico, as the "Raymond G. Murphy Department of Veterans Affairs Medical Center". (July 5, 2007; 121 Stat. 239)

S. 801/P.L. 110–46

To designate a United States courthouse located in Fresno, California, as the "Robert E. Coyle United States Courthouse". (July 5, 2007; 121 Stat. 240)

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