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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 451

RIN 3206–AJ65

Awards

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations governing Presidential Rank Awards to implement the Treasury and General Government Appropriations Act of 2002, which extends eligibility for Presidential Rank Awards to certain senior career employees. The amendments will also enhance the clarity of the regulations and improve readability.

EFFECTIVE DATE: September 7, 2007.

FOR FURTHER INFORMATION CONTACT: Karen English at (202) 606–2747 or by e-mail at *karen.english@opm.gov.*

SUPPLEMENTARY INFORMATION: On August 13, 2002, OPM issued an interim rule at 67 FR 52595–52597 amending part 451 and requesting comments on or before October 15, 2002.

Comments

OPM received comments from four Federal agencies and two professional organizations. Those comments are addressed below.

Purpose

Two agencies favored the interim rule and had no further comments.

One agency recommended that OPM include a statement encouraging agency heads to consider diversity when submitting award nominations and to collect and publish the number of Hispanics receiving the award. OPM did not adopt this suggestion because the award is conferred upon an executive who has demonstrated extraordinary and sustained career accomplishments regardless of race, gender, age, etc.

One professional organization asked if section 451.303, paragraphs (a) and (b), were intended to use Roman numerals (i) and (ii) rather than Arabic numerals (1) and (2). OPM agrees and has changed paragraphs (a) and (b) to include Arabic numerals (1) and (2) for format consistency throughout the regulation.

Two agencies recommended the official term ''senior career employee'' vs. ''career senior employee'' be used consistently throughout the chapter. OPM agrees and has made the change.

In section 451.303(b) we are removing the italics from ''Senior career employees'' for format consistency throughout the regulation.

List of Subjects in 5 CFR Part 451

Decorations, medals, awards, Government employees.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, the interim rule published on August 13, 2002, amending 5 CFR 451 (67 FR 52595), is adopted as a final rule with the following changes:

PART 451—AWARDS

■ 1. The authority citation for part 451 continues to read as follows:

Authority: 5 U.S.C. 4302, 4501–4509, E.O. 11438, 12828.

Subpart C—Presidential Rank Awards

§ 451.302 [Amended]

■ 2. Section 451.302(c) is amended by removing the phrase ''career senior employees'' and adding in its place, the phrase ''senior career employees''.

§ 451.303 [Amended]

■ 3. Section 451.303 is amended:

■ A. By redesignating paragraphs (a)(i), (a)(ii), (b)(i) and (b)(ii) as (a)(1), (a)(2), (b)(1) and (b)(2), respectively;

■ B. By removing the italics from the words ''Senior career employees'' in paragraph (b) introductory text; and

■ C. By removing the words ''career senior employees'' and adding in its place, the phrase ''senior career employees'' in newly redesignated paragraphs (b)(1) and (2).

§ 451.304 [Amended].

■ 4. In Section 451.304(a) and (b) remove the words ''career senior employee'' and add, in their place the words ''senior career employee''.

[FR Doc. E7–15470 Filed 8–7–07; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 923

[Docket No. AMS–FV–07–0073; FV07–923–1 FR]

Sweet Cherries Grown in Designated Counties in Washington; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule decreases the assessment rate established for the Washington Cherry Marketing Committee (Committee) for the 2007–2008 and subsequent fiscal periods from $0.50 to $0.40 per ton for Washington sweet cherries. The Committee is responsible for local administration of the marketing order regulating the handling of sweet cherries grown in designated counties in Washington. Assessments upon handlers of sweet cherries 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 remains in effect indefinitely unless modified, suspended or terminated.

EFFECTIVE DATE: August 9, 2007.

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. 923 (7 CFR part 923), as amended, regulating the handling of sweet cherries 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, cherry 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 issued herein will be applicable to all assessable Washington sweet cherries 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 $0.50 to $0.40 per ton for Washington sweet cherries 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 sweet cherries 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 2006–2007 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of $0.50 per ton of sweet cherries handled. This rate would continue 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 2, 2007, and unanimously recommended 2007–2008 expenditures of $71,600. In comparison, last year's budgeted expenditures were $49,800. The Committee also recommended that the $0.50 per ton assessment rate be decreased by $0.10 to $0.40 per ton of sweet cherries handled. The Committee recommended the lower assessment rate for the purpose of decreasing the monetary reserve, which is approximately $83,792. Funds in the reserve must be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (7 CFR 923.42).

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include $22,500 for administration and data management fees, $36,500 for Committee expenses such as travel, accounting and compliance, and $7,600 for office expenses—including bonds, insurance, telephone, office equipment and supplies. Budgeted expenses for these items in 2006–2007 were $25,000, $16,200, and $7,100, respectively. Higher expenses are anticipated this season due to a producer survey and other regulatory research expenses requested by the Committee, as well as the associated increase in staff costs.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Washington sweet cherries. Applying the $0.40 per ton rate of assessment to the Committee's 120,000 ton crop estimate should provide $48,000 in assessment income. Income derived from handler assessments, along with interest income and approximately $23,600 from the Committee's reserve, should be adequate to cover budgeted expenses. While the monetary reserve held about $83,792 at the close of the 2006–2007 fiscal period, the Committee estimates that it will close on March 31, 2008, with approximately $60,267, given the recommended budget of expenses and the income expected from the $0.40 assessment rate.

The assessment rate established in 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 this assessment rate will be 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 the Committee's 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 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 has been reviewed and approved by USDA as will those for subsequent fiscal periods.

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 rule 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 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 1,500 cherry producers within the regulated production area and approximately 53 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 prepared a preliminary report for the 2006 shipping season showing that the sweet cherry fresh market utilization of 136,000 tons sold for an average of $2,000 per ton. Based on the number of producers in the production area (1,500), the average producer revenue from the sale of sweet cherries in 2006 can therefore be estimated at approximately $181,333 per year. In addition, the Committee reports that most of the industry's 53 handlers would have each averaged gross receipts of less than $6,500,000 from the sale of fresh sweet cherries last season. Thus, the majority of producers and handlers of Washington sweet cherries 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 $0.50 to $0.40 per ton for sweet cherries. The Committee also unanimously recommended 2007–2008 expenditures of $71,600. With the 2007–2008 Washington sweet cherry crop estimate of 120,000 tons, the Committee anticipates assessment income of $48,000. The Committee recommended the assessment rate decrease for the purpose of decreasing the monetary reserve, which is approximately $83,792. With this assessment rate and budget, the Committee may need to draw up to $23,600 from its monetary reserve, thus helping to decrease the reserve to a level that is less than approximately one fiscal period's operating expenses, the maximum permitted by the order.

The major expenditures recommended by the Committee for the 2007–2008 fiscal period include $22,500 for administration and data management fees, $36,500 for Committee expenses, and $7,600 for office expenses. Budgeted expenses for these items in 2006–2007 were $25,000, $16,200, and $7,100, respectively.

The Committee discussed alternatives to this rule. Leaving the assessment rate at the current $0.50 per ton was initially considered, but not recommended because of the Committee's desire to decrease the level of the monetary reserve so that it is not more than approximately one fiscal period's operational expenses.

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 $2,000 per ton for fresh Washington sweet cherries. Therefore, the estimated assessment revenue for the 2007–2008 fiscal period as a percentage of total producer revenue is 0.02 percent for Washington sweet cherries.

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 sweet cherry industry and all interested persons were invited to attend and participate in Committee deliberations on all issues. Like all Committee meetings, the May 2, 2007, meeting was a public meeting and all entities, both large and small, were able to express views on the issues.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Washington sweet cherry 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.

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.

A proposed rule regarding this action was published in the **Federal Register** on June 20, 2007 (72 FR 33922). Copies of the proposed rule were made available to the industry by the Committee and through the Internet by the USDA and the Office of the **Federal Register**. A 10-day comment period ending July 2, 2007, was provided for interested persons to respond to the proposal. No comments were received.

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.

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 that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule decreases the assessment rate, and thus also decreases the burden on handlers; (2) handlers are currently receiving 2007–2008 sweet cherries from producers; (3) the 2007–2008 fiscal period began on April 1, 2007, and the assessment rate applies to all assessable sweet cherries handled during this and subsequent fiscal periods; (4) handlers are aware of this action which was recommended by the Committee at a public meeting; and (5) a 10-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 923 is amended as follows:

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ 1. The authority citation for 7 CFR part 923 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 923.236 is revised to read as follows:

§ 923.236 Assessment rate.

On and after April 1, 2007, an assessment rate of $0.40 per ton is established for the Washington Cherry Marketing Committee.

Dated: August 2, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–15397 Filed 8–7–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28863; Directorate Identifier 2007–NE–33–AD; Amendment 39–15149; AD 2007–16–10]

RIN 2120–AA64

Airworthiness Directives; Teledyne Continental Motors Reciprocating (TCM) Engine Models IO–550–N, TSIO–520–BE, TSIO–550–A, TSIO–550–B, TSIO–550–C, TSIO–550–E, and TSIO–550–G

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for TCM IO–550–N, TSIO–520–BE, TSIO–550–A, TSIO–550–B, TSIO–550–C, TSIO–550–E, and TSIO–550–G reciprocating engines. This AD requires removing before further flight, certain Kelly Aerospace Power Systems turbochargers, part number (P/N) 466304–0003, listed by serial number in this AD. This AD results from four incidents of the turbine rotor separating from the shaft of the turbocharger. We are issuing this AD to prevent the turbine rotor from separating from the shaft of the turbocharger due to a machining defect in the turbocharger compressor. This condition could result in full engine power loss, loss of engine lubricant, or smoke in the airplane cabin.

DATES: This AD becomes effective August 23, 2007. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of August 23, 2007.

We must receive any comments on this AD by October 9, 2007.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* 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.
- *Fax:* (202) 493–2251.

Contact Kelly Aerospace Power Systems, 2900 Selma Highway, Montgomery, AL 36108; telephone (334) 386–5400; fax (334) 386–5450; *http://www.kellyaerospace.com* for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Kevin Brane, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Blvd., Suite 450, Atlanta, GA 30349; e-mail: *kevin.brane@faa.gov;* telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: On July 16, 2007, Kelly Aerospace Power Systems informed us that there were potential nonconforming turbochargers, P/N 466304–0003 that might have a machining defect in the compressors of the turbochargers. A machining defect in the turbocharger compressor leads to a condition where the center bore of the compressor is not perpendicular to the backface of the compressor. The machining defect leads to abnormal turbocharger rotor vibration which results in abnormal wear characteristics. The wear could result in the turbocharger rotor separating from the shaft. This condition, if not corrected, could result in full engine power loss, loss of engine lubricant, or smoke in the airplane cabin.

Relevant Service Information

We have reviewed and approved the technical contents of Kelly Aerospace Power Systems Service Bulletins (SBs) No. 026, Revision B, dated July 27, 2007, and No. 027, dated July 25, 2007. Those SBs list affected turbochargers by SN, and describe procedures for visually inspecting the turbocharger.

FAA's Determination and Requirements of this AD

The unsafe condition described previously is likely to exist or develop on other engines of the same type design. For that reason, we are issuing this AD to prevent the turbine rotor from separating from the shaft of the turbocharger due to a machining defect in the turbocharger compressor. This condition could result in full engine power loss, loss of engine lubricant, or smoke in the airplane cabin. This AD requires replacing certain turbochargers before further flight. You must use the service information described previously to perform the actions required by this AD.

FAA's Determination of the Effective Date

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

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. FAA–2007–28863; Directorate Identifier 2007–NE–33–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

Authority for this Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2007–16–10 Teledyne Continental Motors: Amendment 39–15149. Docket No. FAA–2007–28863; Directorate Identifier 2007–NE–33–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective August 23, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to:

(1) Teledyne Continental Motors (TCM) models TSIO–520–BE, TSIO–550–A, TSIO–550–B, TSIO–550–C, TSIO–550–E, and TSIO–550–G reciprocating engines with a Kelly Aerospace Power Systems turbocharger, TCM part number (P/N) 646677, with certain serial numbers (SNs), installed on or after March 20, 2007. These engines are installed on, but not limited to, Adam Aircraft A500, Columbia Aircraft Manufacturing LC41–550FG, Mooney Airplane Company M20TN (Acclaim), and Piper Aircraft Incorporated PA–46–310P (Malibu) airplanes.

(2) TCM IO–550–N reciprocating engines modified to Engine Technologies Incorporated supplemental type certificate (STC) SE10589SC to install turbocharger, P/N 466304–0003, with certain SNs, installed on or after March 20, 2007. These engines are installed on, but not limited to, Cirrus Design Corporation Aircraft Model SR22 modified to Engine Technologies Incorporated STC SA10588SC.

Unsafe Condition

(d) This AD results from four incidents of the turbine rotor separating from the shaft of the turbocharger. We are issuing this AD to prevent the turbine rotor from separating from the shaft of the turbocharger due to a machining defect in the turbocharger compressor. This condition could result in full engine power loss, loss of engine lubricant, or smoke in the airplane cabin.

Compliance

(e) You are responsible for having the actions required by this AD performed before further flight unless the actions have already been done.

(f) If your engine has a turbocharger that was installed before March 20, 2007, no further action is required.

Engines Modified to Engine Technologies Incorporated STC SE10589SC

(g) Before further flight, for engines modified to Engine Technologies Incorporated STC SE10589SC on or after March 20, 2007, with a turbocharger that has a SN listed in Kelly Aerospace Service Bulletin (SB) No. 026, Revision B, dated July 27, 2007, replace the turbocharger.

TCM Engines with Turbocharger TCM P/N 646677

(h) Before further flight, for engines with a Kelly Aerospace Power Systems turbocharger, TCM P/N 646677 installed on or after March 20, 2007, with a turbocharger SN listed in Kelly Aerospace SB No. 027, dated July 25, 2007, replace the turbocharger.

Alternative Methods of Compliance

(i) The Manager, Atlanta Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Special Flight Permits

(j) We are limiting the special flight permits for this AD by allowing a special flight permit only after visually inspecting the turbocharger using the procedures specified in the Visual Inspection sections of Kelly Aerospace Power Systems SB No. 026, Revision B, dated July 27, 2007, and SB No. 027, dated July 25, 2007.

Related Information

(k) Teledyne Continental Aircraft Engine Mandatory Service Bulletin (MSB) MSB07–4, dated July 30, 2007, contains additional information on replacing turbochargers on TCM engines and Cirrus Service Advisory SA 07–14 R1, dated July 24, 2007, contains additional information on replacing turbochargers on Cirrus Design Corporation Aircraft Model SR22 modified to Engine Technologies Incorporated STC SA10588SC.

(l) Contact Kevin Brane, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Blvd., Suite 450, Atlanta, GA 30349; e-mail: *kevin.brane@faa.gov;* telephone (770) 703–6063; fax (770) 703–6097, for more information about this AD.

Material Incorporated by Reference

(m) You must use Kelly Aerospace Power Systems Service Bulletins No. 026, Revision B, dated July 27, 2007, and No. 027, dated July 25, 2007, to determine if you have an affected turbocharger installed. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Kelly Aerospace Power Systems, 2900 Selma Highway, Montgomery, AL 36108; telephone (334) 386–5400; fax (334) 386–5450; *www.kellyaerospace.com,* for a copy of this service information. You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on August 1, 2007.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 07–3840 Filed 8–6–07; 11:44 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2005–23437; Airspace Docket No. 05–AWA–2]

RIN 2120–AA66

Modification of the Phoenix Class B Airspace Area; Arizona

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Phoenix, AZ, Class B airspace area. Specifically, this action lowers the ceiling to 9,000 feet mean sea level (MSL) and expands the arrival extension boundaries to 30 nautical miles (NM). This will ensure the containment of the Standard Terminal Arrival Routes (STAR) at the Phoenix Sky Harbor International Airport (PHX), and correct the inefficiencies of several existing areas identified during public meetings, and reviews of the airspace by the Phoenix Airspace Users Work Group (PAUWG) and Phoenix Terminal Radar Approach Control (TRACON). The FAA is taking this action to improve the flow of air traffic, enhance safety, and reduce the potential for midair collision in the PHX Class B airspace area, while accommodating the concerns of airspace users. Further, this effort supports the FAA's national airspace redesign goal of optimizing terminal and en route airspace areas to reduce aircraft delays and improve system capacity.

DATES: *Effective Date:* 0901 UTC, October 25, 2007. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

Background

On February 12, 2007, the FAA published in the **Federal Register** a notice of proposed rulemaking to modify the PHX Class B airspace area (72 FR 6501). The FAA proposed this action to lower the ceiling, and modify several areas to ensure the containment of arrivals within the PHX Class B airspace. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. In response to the notice, the FAA received 40 written comments of which 23 expressed concurrence with an alternate proposal provided by the Arizona Pilots Association (APA). All comments received were considered before making a determination on the final rule. An analysis of the comments received and the FAA's responses are summarized in the ''Discussion of Comments'' section.

Discussion of Comments

Five commenters (U.S. Air Force Commander, 56th Flight Wing, US Airways, a commercial pilot, and two local pilots) wrote in support of the proposed action. The remaining commenters objected to various aspects of the proposal, with the most opposition directed at the proposal's complex design and lowered airspace floors.

The APA recognized the FAA's goal of creating Class B airspace to enable development of simultaneous Instrument Landing System (ILS) approach procedures at PHX. The APA stated that these approaches are used to their maximum capacity less than 20 days a year when actual Instrument Meteorological Conditions (IMC) exist. During these days, the general aviation (GA) Visual Flight Rules (VFR) pilot would be grounded.

The FAA does not agree. Simultaneous ILS approaches are not dependent only on actual IMC at the airport. In addition to IMC weather, reductions in visibility due to low level convective clouds for several days after rain storms, dust storms, haze, pollution, sunrise, and sunset are also reasons that this procedure would be used. Anytime there is a ceiling less than 3,000 feet above ground level (AGL), the arrival capacity at PHX is severely limited due to the pilot's inability to see the airport and other landing traffic in time for an optimum visual approach operation as exists in clear weather. During these conditions, GA VFR aircraft would not be grounded by weather.

The APA believes the overall increased complexity of the redesigned airspace is not warranted and represents an increased risk of inadvertent controlled airspace intrusion, noting that most GA aircraft do not have moving map displays and the areas are not readily identifiable using pilotage for navigation.

The FAA does not agree. Moving map displays are a recent technological addition to the cockpit. The uses of Distance Measuring Equipment (DME) arcs have long been the standard to define Class B airspace nationally. In the proposed areas that do not use DME arcs, ground-based references are used to define the airspace in areas not critical for reference to pilots of large turbine-powered aircraft on final approach to PHX. The current Class B airspace area uses DME arcs to define multiple areas that pilots are required to navigate around.

The APA and Aircraft Owners & Pilots Association (AOPA) both expressed opposition to the lowering of the airspace between 20 and 25 NM east of PHX from 8,000 to 5,000 feet. They stated this action would result in aircraft being forced to operate at low altitudes over mountainous terrain and violate recommended altitudes over designated wilderness areas.

The FAA does not agree. The lowering of the airspace floor in this area to 5,000 feet is critical for the development of the simultaneous ILS approach procedures at PHX, and for periods of compacted arrival demand when the PHX final is constrained due to the current higher Class B airspace limitation. Non-participating aircraft have the option of adjusting their flight to avoid precipitous terrain or contacting the TRACON for Class B services. Advisory Circular (AC) 91–36D recommends flights remain above 2,000 feet MSL, but the AC provisions do not apply when they conflict with regulations, ATC instructions, or when a pilot believes operating below 2,000 feet is necessary for the safety of the flight. Raising the floor from 5,000 to 7,000 feet MSL as suggested by AOPA and APA in this area will not contain simultaneous ILS approach procedures in Class B airspace. Aircraft on a downwind leg need to be level at 5,000 feet prior to turning base leg to join the runway 26 and 25 ILS final approach course no sooner than the ABOSE and BUDME intersections (PXR 16.6 DME). The base leg required to achieve this will be between the 17 and 25 NM DME from PXR.

The APA states that the overall lowering of Class B floors would ultimately increase the noise footprints over residential neighborhoods.

The FAA does not agree. The airspace 20 to 25 NM east of PHX in Area I is largely over thinly populated areas, mountainous terrain, and undeveloped areas. Area C is lowered to de-conflict non-participating aircraft from an area of intense large turbine-powered aircraft activity on final to PHX. Aircraft flying visually are being encouraged to fly further to the east at a higher altitude in the new flyway that will be over Falcon Field (FFZ) at 3,500 feet MSL, below the

4,000 foot floor of Area G. The lowering of airspace west of PHX consists of a Class B expansion over and south of Luke AFB in Area F. Luke AFB actively discourages non-participating aircraft from flying in this area without being in communication with the Luke Radar Approach Control (RAPCON) as part of the Luke AFB Mid Air Collision Avoidance Program.

The floors of the Class B airspace areas will be raised significantly over many densely populated areas. Area E raises the floor from 3,000 to 5,000 feet MSL over the communities of Tempe, Chandler, Guadalupe, and the developing areas of Phoenix west of South Mountain. It also raises the floor 1,000 feet over the communities south of South Mountain. Area D raises the floor 1,000 feet over much of central PHX and Scottsdale. Area G raises the floor 1,000 feet over the Salt River Indian Reservation, Gilbert, and eastern Chandler. Area N raises the floor 1,000 feet over the growing areas of northern Phoenix and Scottsdale. The northern boundary of area K has been moved north of Riggs Road by 3 miles and raises the floor 2,000 feet. West of PHX, the airspace is raised 1,000 feet in the area north of the Estrella Mountains, allowing aircraft to transit at a higher altitude relative to terrain.

It is the stated opinion of the APA that concerns associated with lowering the airspace floors on both the east and west sides of the valley are easily addressed by increasing the ILS glide slopes from the present 3° to 3.5°.

The FAA does not agree. Glide slope angles above 3.1 degrees would result in the loss of approach minimums for category D & E aircraft. A 3° glide slope angle is the standard for safety, and increasing the angle of the glide slope is outside the scope of this rule.

The APA proposes incorporating Area U into Area G and using Gilbert Road as the boundary between Area C and Area G. A less desirable proposal is to combine Area U with Area C, creating an overlap with the Class B and FFZ Class D airspace. This alternative allows the use of the PXR 10 DME arc, and GA aircraft under Area C would be constrained by the Gilbert Road boundary of the FFZ Class D airspace. Both alternative proposals assume a 3,000 foot MSL floor in Area C. Additionally, AOPA stated the proposed Area U creates a potential ''trap'' for unsuspecting pilots. They commented that the NPRM indicates Area U would allow a north-south road reference for locally based pilots to avoid the Class B and FFZ Class D. They believe it would become a potential trap for pilots who inadvertently stray more than a half mile off course and would be a loss of lateral airspace to transition on the existing VFR flyway. AOPA recommends Area C be modified to make the eastern boundary align with Gilbert Road.

The FAA does not agree. The 3,000-foot MSL floor of the current Class B airspace in this area has been a constant source of Traffic Collision Avoidance System (TCAS) Resolution Advisory(s) (RA) to large turbine-powered aircraft operating at the 3,000-foot MSL floor of the current area. The conflicting VFR traffic frequently is not operating on the published flyway or at the recommended altitude of 2,500 feet MSL. Traffic routinely transits this area at altitudes within 100 feet of the 3,000-foot MSL floor. Area C is an area of intense large turbine-powered air carrier traffic descending to 3,000-foot MSL while on final approach to PHX. The RAs command the pilot to climb to avoid unknown traffic at a time when the aircraft is at a reduced power setting and preparing to land. The recovery from the response to these RAs often places the aircraft into a position where it cannot make a stabilized approach to the airport, causing the aircraft to go around. Additionally, responding to an RA can distract the pilot from maintaining separation from known preceding or adjacent traffic to other runways. The FAA has thoroughly researched its options in this matter and the solution remains to lower the floor of Area C to 2,700 feet MSL and to move the published VFR Flyway further east beyond the PXR 10 DME arc.

Incorporating Area U into Area G and retaining Gilbert Road as the western boundary would not achieve the goal of defining the airspace using NAVAIDs where available. Pilots unfamiliar with the local area, that are required to operate at or above the floor of the Class B airspace, would not be able to determine Gilbert Road. Additionally, this would be impractical during periods of reduced visibility or when obscured by clouds.

Combining Area U with Area C would create an overlap with the FFZ Class D airspace along the PXR 10 DME arc. When overlapping airspace designations apply to the same airspace, the operating rules associated with the more restrictive airspace designation apply. Since Class B airspace overlies the Class D airspace, this depiction on the Terminal Area Chart could cause confusion to operators of high performance aircraft operating in the pattern at FFZ at the traffic pattern altitude of 2,700 feet MSL. Clearance is required to operate within Class B airspace and specific separation standards apply to aircraft operating within Class B airspace. Therefore, it has been determined that in lieu of this suggestion, the area above the FFZ Class D airspace within the PXR 10 DME arc be defined as a subsection of the Class D airspace. This, in addition to using Gilbert Road/FFZ Class D airspace as a western boundary in conjunction with the PXR 10 DME arc, allows the use of the PXR 10 DME arc, and GA aircraft under Area C would be constrained by the Gilbert Road boundary of the FFZ Class D airspace, as suggested.

The Airline Pilots Association, International endorsed the proposal stating ''The Air Traffic staff in Phoenix has done a commendable job in developing the proposed realignment of the Phoenix Class B airspace.'' They were concerned with lowering the ceiling from 10,000 feet MSL to 9,000 feet MSL and allowing glider operations southwest of the airport above the Class B airspace by letter of agreement (LOA) between the FAA and glider operators. AOPA and APA expressed concern on the impact of the 9,000-foot vs. 10,000-foot MSL ceiling on the local soaring community within 30 NM of PHX. They both support the lowering of the ceiling provided the FAA enters into an LOA with the local soaring community permitting soaring operations between 9,000 feet MSL and 10,000 feet MSL within the mode-C veil.

The FAA has agreed to enter into an LOA with local glider operators to allow gliders to operate between 9,000–10,000 feet MSL without an operating transponder in accordance with FAR 91–125. This LOA will not allow these operations above the Class B airspace until leaving 10,000 feet MSL.

AOPA stated the proposal was too complex and does not meet the needs of PHX airspace users. They also stated that the local user groups were not adequately consulted on moving the VFR flyway.

The FAA does not agree. The VFR flyway was moved in response to comments received at public meetings. The PHX TRACON contacted user groups and offered public briefings concerning moving the VFR flyway east of the PXR 10 DME.

AOPA stated the PHX Class B would be the most complex and segmented Class B airspace in the United States. Also, that the needs of the surrounding GA and user community must be taken into consideration in the design process.

The FAA does not agree. A review of other Class B airspace nationally reveals that if strict adherence to the general guidance provided in FAA Order 7400.2E was applied to the PHX Class B airspace area design, the airspace

would be overly restrictive to the GA VFR pilot. Consideration was given to the significant number of high volume GA airports in the valley, the large amount of flight training that occurs in the valley, the prevailing visibility, the abundant geographical landmarks, and the requirement to contain air traffic arriving and departing PHX in the Class B airspace area. To simplify the design along a national model would create more airspace than is needed for Class B operations at PHX.

AOPA presented an alternate proposal for the west side divided into three progressively lower floors. Their alternative was offered as a simpler, less complex configuration that would more than make up for the small amount of airspace pilots may have gained in the FAA's proposed design. AOPA states the same is true with the airspace shelves immediately north and south of PHX and the floor north of Scottsdale (SDL). AOPA's proposal retains the road definitions of 51st and 99th Avenues, which is contrary to the FAA's goal of defining the airspace using NAVAIDs where available.

The FAA does not agree. Pilots unfamiliar with the local area, operating at or above the floor of the Class B airspace, or those trying to avoid it, would not be able to determine 51st or 99th Avenue. Additionally, this would be impractical during periods of reduced visibility or when obscured by clouds. A 4,000-foot rectangular area, as proposed by AOPA, would represent a barrier to non-participating aircraft attempting to navigate north of the Estrella Mountains. The Minimum Vectoring Altitude (MVA) in this area is 5,000–5,500 feet MSL. The TRACON requires aircraft on a base leg to join the ILS at CAGOR intersection (PXR 16 DME) at 5,000 feet MSL. The TRACON cannot vector aircraft in this area below the MVA. The AOPA proposal would make the floor of this area 4,000-feet MSL. Though a rectangular area with a floor of 4,000 feet MSL, as suggested, may aid in simplification, it is overly restrictive to pilots who are able to navigate around or below it. In the FAA's proposal, pilots, navigating via the currently published Gila Route without Class B clearance, will be able to avoid the airspace below 5,000 feet MSL. Terrain penetrates the AOPA proposal with a precipitous 4,512-foot peak. This area is more restrictive than the current airspace, thus forcing non-participating aircraft closer to the ground. The AOPA proposal is contrary to its concerns with forcing non-participating pilots to fly at lower altitudes elsewhere.

The area over Goodyear and Luke AFB retains Litchfield Road as an eastern boundary and raises the floor to 6,000 feet MSL in the AOPA proposal, while retaining a PXR 25 DME arc on the western boundary.

The FAA does not agree. The airspace is expanded to contain PHX arrival traffic during periods of sustained arrival demand, and for the development of simultaneous ILS approach procedures during east traffic operations. The ability to develop these procedures is critical in enabling the TRACON to efficiently and safely manage the arrival rate during reduced visibility conditions and compacted arrival demand. Keeping the floor at 6,000 feet MSL in this area would not contain simultaneous ILS approach procedures. Aircraft on a north downwind will need to be level at 4,000 feet MSL prior to turning base leg to join the runway 8 ILS final approach course no sooner than ILIKE intersection (PXR 16 DME). The base leg required to achieve this will be near Luke AFB. A 6,000-foot MSL shelf in this area will not contain these aircraft.

Additionally, the AOPA proposal has an extension of the 6,000 foot MSL shelf approximately 3 NM north of the Peoria Road, at 33°35′00″ N. latitude, that exceeds the FAA proposal's lateral limit and offers no operational advantage. The shelves north and south of PHX in Area D and E offer significant benefit to the north and south of PHX by decompressing the vertical space available to non-participating aircraft by raising the floor of the Class B from the surface to 5,000 feet MSL. Aircraft departing the East/West transitions will be able to contact Scottsdale, Deer Valley, and Chandler towers sooner, prior to entering their Class D airspaces. The floors of PHX Class B in areas east and west of South Mountain will be raised 2,000 feet. This will facilitate navigation around the Class B airspace at higher altitudes.

The Williams Gateway Airport Authority (WGAA) expressed concern on the affect the proposed Class B airspace would have on commercial traffic growth at Williams Gateway Airport (IWA). WGAA urges the FAA to modify Area I to only the area truly needed as an arrival corridor for dual ILS systems into PHX. They also state that ILS approaches are being phased out in favor of GPS and RNAV approaches and that this should be a consideration.

The FAA acknowledges the growth in commercial traffic at IWA. The primary concern in this action is providing the highest degree of safety while preserving the most efficient use of available terminal airspace to all users. The airspace needed to contain aircraft during simultaneous ILS approach procedures at PHX requires aircraft on a south downwind over IWA to be level at 5,000 feet MSL prior to turning base leg to join the runway 26 and 25 ILS final approach courses no sooner than ABOSE and BUDME intersections (PXR 16.6 DME). The base leg required to achieve this will be between the PXR 17—25 DME arc. A 7,000-foot MSL shelf in this area will not contain these aircraft. Although GPS and RNAV technology is replacing ILS approaches at other airports, the ILS system at PHX will be in place for the foreseeable future.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 to modify the PHX Class B airspace area. Specifically, this action depicted in the attached chart, expands the eastern boundary to ensure the containment of the PHX STARs within Class B airspace and reconfigures several existing areas, correcting inefficiencies identified during public meetings hosted by Phoenix TRACON. These modifications reduce the overall size of the PHX Class B airspace area, improve the containment of turbo-jet aircraft within the airspace, and improve the alignment of lateral boundaries with VOR radials and visual landmarks for improved VFR navigation.

The following are the revisions for the PHX Class B airspace: The floor of the airspace east and west of PHX is lowered to contain PHX arrival traffic during periods of sustained arrival demand. Additionally, these changes facilitate the planned development of simultaneous ILS approach procedures by creating necessary Class B airspace to contain the new procedures. The ability to develop these procedures is critical in enabling PHX to sustain an arrival rate equivalent to demand during reduced visibility conditions. During these periods, the airport arrival rate (AAR) is reduced by over 30%, from 72 aircraft an hour to 48 aircraft an hour. This creates a nationwide impact to the NAS that in the past has taken the user days to recover. The floor of the airspace north and south of PHX is raised to create greater access for VFR aircraft in areas that do not require Class B airspace.

The results of the PHX Class B changes are the proper containment of large turbine-powered aircraft within Class B airspace, more efficient traffic management during periods of reduced visibility, increased arrival rate demand, de-confliction of non-participating

aircraft operating in close proximity to ILS crossing altitudes east of the airport, and better alignment of lateral boundaries with prominent and abundant visual landmarks for improved VFR navigation.

Regulatory Evaluation Summary

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

In conducting these analyses, the FAA has determined that this rule: (1) Has benefits that justify its costs, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (4) would not have a significant economic impact on a substantial number of small entities; (5) would not create unnecessary obstacles to the foreign commerce of the United States; and (6) would not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

This final rule will modify the PHX, AZ, Class B airspace area by lowering the altitude ceiling of the airspace and expanding the arrival extension boundaries.

The final rule will enhance operational efficiency, simplified navigation in the Phoenix terminal area and reduce circumnavigation costs. Since Class B airspace is already in place at Phoenix, and since the modifications in this rule are a contraction of the Class B airspace, minimal costs will result. Thus, the FAA has determined this final rule will be cost-beneficial.

Final Regulatory Flexibility Determination

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

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

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

This final rule will not impose any circumnavigation costs on individuals operating in the Phoenix area and the final rule will not impose any costs on small business entities. Operators of GA aircraft are considered individuals, not small business entities, and are not included when performing a regulatory flexibility analysis. Flight schools are considered small business entities. However, the FAA assumes that they provide instruction in aircraft equipped to navigate in Class B airspace if they currently provide instruction in the Phoenix terminal area. Therefore, as the FAA Administrator, I certify that this final rule will not have a significant economic impact on a substantial number of small 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 statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and has determined that it would have only a domestic impact and therefore no affect on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an 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 $128.1 million in lieu of $100 million. This final rule does not contain such a mandate.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective

September 15, 2006, is amended as follows:

Paragraph 3000—Subpart B—Class B Airspace.

* * * * *

AWP AZ B Phoenix, AZ [Revised]

Phoenix Sky Harbor International Airport (Primary Airport)
(Lat. 33°26′03″ N., long. 112°00′42″ W.)
Phoenix VORTAC
(Lat. 33°25′59″ N., long. 111°58′13″ W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 9,000 feet MSL defined by an east/west line along the northern boundary defined by Camelback Road and the PXR 10 DME, thence east to the intersection of Camelback Road and I–17; thence a line direct to the I–10/Squaw Peak Stack following the Loop 202 Freeway from the I–10/Squaw Peak Stack to the Red Mountain Hohokam Stack; thence northeast to the intersection of Camelback Road and Hayden Wash (Lat. 33° 30′ 07″ N., long. 111° 54′ 32″ W.); thence east along Camelback Road to the PXR 6 DME arc (Lat. 33°30′07″ N., long. 111°53′00″ W.); thence south to the Power Line/Canal (Lat. 33° 21′ 25″ N., long. 111° 53′ 33″ W.); thence west to a point at Lat. 33° 21′ 25″N., long.111° 54′55″ W., thence northwest to the intersection of I–10 and SR–143 (lat. 33° 24′ 37″ N., long.111° 58′ 38″ W.); thence west to SR–51/I–10 extension to lat. 33° 24′ 34″ N., long.112° 02′ 13″ W., thence southwest to a point at lat. 33° 21′ 45″ N., long. 112° 06′ 20″ W.; thence west along the lat. 33° 21′ 45″ N.; thence north along the PXR 10 DME arc until intersecting Camelback Road.

Area B. That airspace extending upward from 3,000 feet MSL to and including 9,000 feet MSL defined by an east/west line along the northern boundary defined by the intersection of Camelback Road and the PXR 15 DME arc; thence east along Camelback Road to the intersection of Camelback Road and the PXR 10 DME arc; thence south along the PXR 10 DME arc until the intersection with lat. 33°21′45″ N.; thence east along lat. 33°21′45″ N. to lat. 33°21′ 45″ N., long. 112°06′20″ W.; thence southwest direct to the intersection of the Gila River and the Chandler Blvd extension (lat. 33°18′18″ N, long. 112°12′03″ W.); thence northwest along the Gila River to the intersection of the river and the PXR 15 DME arc; thence northwest along the PXR 15 DME arc to the intersection of Camelback Road.

Area C. That airspace extending upward from 2,700 feet MSL to and including 9,000 feet MSL defined by an east/west line along the northern boundary defined by the intersection of Camelback Road and PXR 6 DME arc (lat. 33°30′07″ N., long. 111°53′00″ W.); thence east to the intersection of Gilbert Road and PXR 10 DME arc; thence south along Gilbert Road to the to the intersection of Gilbert Road and Falcon Field (FFZ) Class D airspace (lat. 33°24′35″ N., long. 111°47′18″ W.); thence southeast along the FFZ Class D airspace boundary to the intersection with the PXR 10 DME arc; thence southwest along the PXR 10 DME arc to the intersection with lat. 33°21′25″ N.; thence west along lat. 33°21′25″ N. to the intersection of the PXR 6 DME arc; thence north along the PXR 6 DME arc to the intersection of Camelback Road with (lat.33°30′07″ N., long. 111°53′00 W.).

Area D. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL defined by an east/west line along the northern boundary using the Peoria Avenue/Shea Boulevard alignment from the intersection of I–17 (lat. 33°35′00″ N., long. 112°07′00″ W.); thence east along lat. 33°35′00″ N. to the intersection with Pima Road (lat. 33°35′00″., long. 111°53′28 W.); thence south along Pima Road to the intersection of Camelback Road; thence west along Camelback Road to Hayden Wash (lat. 33°30′07″ N., long. 111°54′32″ W.); thence southwest on a line direct to the Red Mountain Hohokam Stack; thence west along the Loop 202 Freeway to the I–10/Squaw Peak Stack; thence northwest to the intersection of Camelback Road and I–17; thence north along I–17 to the intersection of I–17 and Peoria Avenue/Shea Boulevard.

Area E. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL defined by an eastern boundary starting at the intersection of I–10/SR–143 (lat. 33°24′37″ N., long.111°58′38″ W.); thence southeast to lat. 33°21′25″ N., long. 111°54′55″ W.; thence southeast to the Chandler Airport (lat. 33°16′00″ N., long. 111°48′40″ W.); thence west along lat. 33°16′00″ N. to the intersection of the Gila River; thence north along the river to the intersection of the Chandler Boulevard extension (lat. 33°18′18″ N., long. 112°12′03.″ W.); thence northeast direct to lat. 33°21′45″ N., long. 112°06′20″ W.; thence northeast direct to lat. 33°24′34″ N., long. 112°02′13″ W.; thence east to the intersection of I–10/SR–143.

Area F. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL defined by an east/west line along the northern boundary at the intersection of Peoria Avenue/Shea Boulevard and the PXR 25 DME arc (lat. 33°35′00″ N., long. 112°26′7″ W.); thence east along lat. 33°35′00″ N. to the intersection of I–17 (lat. 33°35′00″ N., long. 112°07′00″ W.); thence south along I–17 to the intersection of Camelback Road; thence west along Camelback Road to the intersection of the PXR 15 DME arc; thence south along the PXR 15 DME arc to lat. 33°24′00″ N., long. 112°15′59″ W.; thence west along lat. 33°24′00″ N. to the intersection of the PXR 25 DME arc; thence north along the PXR 25 DME arc north to the intersection of Peoria Avenue/Shea Boulevard (lat. 33°35′00″ N., long. 112°26′07″ W.).

Area G. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL defined by an east/west line along the northern boundary defined by Peoria Avenue/Shea Boulevard and the intersection of Pima Road (lat. 33°35′00″ N., long. 111°53′28″ W.); thence east along lat. 33°35′00″ N. to the PXR 15 DME arc; thence south along the PXR 15 DME arc to lat. 33°16′00″ N.; thence west along lat. 33°16′00″ N. to Chandler Airport (lat. 33°16′00″ N., long. 111°48′40″ W.); thence direct northwest to lat. 33°21′25″ N., long. 111°54′55″ W.; thence east along the Power Line/Canal (lat. 33°21′25″ N.) to the PXR 10 DME arc; thence north along the PXR 10 DME arc to the intersection of Camelback Road; thence west along Camelback Road to the intersection of Pima Road; thence north along Pima Road to the intersection of Peoria Avenue/Shea Boulevard (lat. 33°35′00″ N., long. 111°53′28″ W.).

Area H. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL defined by an east/west line from the intersection of Litchfield Road and Southern Avenue (lat. 33°24′″ N., long. 112°21′30″ W.); thence east along lat. 33°24′00″ N. to the intersection of the PXR 15 DME arc; thence southeast along the PXR 15 DME arc to lat. 33°20′00″ N.; thence west along lat. 33°20′00″ N. to intersect the extension of Litchfield Rd (lat. 33°20′00″ N., long. 112°21′30″ W.); thence north along Litchfield Road to lat. 33°24′00″ N., long. 112°21′30″ W.

Area I. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL defined by an east/west line along lat. 33°35′00″ N. from the intersection of Peoria Avenue/Shea Boulevard and the PXR 15 DME arc east to the PXR 25 DME arc (lat. 33°35′00″ N., long. 111°30′18″ W.); thence south along the PXR 25 DME arc to lat. 33°16′00″ N.; thence west along lat. 33°16′00″ N. to the PXR 15 DME arc; thence north along the PXR 15 DME arc to the intersection of Peoria Avenue/Shea Boulevard (lat. 33°35′00″ N.).

Area J. That airspace extending upward from 6,000 feet MSL to and including 9,000 feet MSL defined by lat. 33°35′00″ N., long. 112°15′40″ W. on the Loop 101 Freeway; thence north along the freeway to a point at lat. 33°40′00″ N., long. 112°13′45″ W.; thence north to lat. 33°41′41″ N., long. 112°13′05″ W. on the PXR 20 DME arc; thence east along the PXR 20 DME arc to the PXR 354° radial; thence south along the PXR 354° radial to the intersection of the Loop 101 Freeway; thence east along the freeway to a point on Loop 101 Freeway at the approach end of Scottsdale Airport Runway 21 (lat. 33°38′39″ N., long. 111°53′31″ W.); thence northeast to lat. 33°43′38″ N., long. 111°46′54″ W. on the PXR 20 DME arc; thence southeast along the PXR 20 DME arc to intersect lat. 33°35′00″ N.; thence west along lat. 33°35′00″ N. to lat. 33°35′00″ N. long. 112°15′40″ W.

Area K. That airspace extending upward from 6,000 feet MSL to and including 9,000 feet MSL defined by the intersection of the PXR 17 DME arc and lat. 33°16′00″ N.; thence east along lat. 33°16′00″ N. to the PXR 20 DME arc; thence southwest along the PXR 20 DME arc to I–10 (lat. 33°07′02″ N., long. 111°50′26″ W.); thence northwest along I–10 to lat. 33°09′39″ N., long. 111°52′28″ W. on the PXR 17 DME arc; thence clockwise along the PXR 17 DME arc to intersect with lat. 33°16′00″ N.

Area L. That airspace extending upward from 6,000 feet MSL to and including 9,000 feet MSL defined by the intersection of the PXR 25 DME arc and lat. 33°24′00″ N.; thence east along lat. 33°24′00″ N. to Litchfield Road; thence south along Litchfield Road to lat. 33°20′00″ N., long. 112°21′30″ W.; thence

east along lat. 33°20′00″ N. to the PXR 15 DME arc; thence southeast along the PXR 15 DME arc to the Gila River; thence southeast along the Gila River to lat. 33°16′00″ N.; thence west along lat. 33°16′00″ N. to the PXR 25 DME arc; thence north along the PXR 25 DME to lat. 33°24′00″ N.

Area M. That airspace extending upward from 7,000 feet MSL to and including 9,000 feet MSL defined by lat. 33°48′02″ N., long. 112°12′24″ W.; thence east along the PXR 25 DME arc to the PXR 354° radial; thence south along the PXR 354° radial to the PXR 20 DME arc; thence west along the PXR 20 DME arc to lat. 33°41′41″ N, long. 112°13′05″ W.; thence north to lat. 33°48′02″ N., long. 112°12′24″ W.

Area N. That airspace extending upward from 7,000 feet MSL to and including 9,000 feet MSL defined from the PXR 354° radial and the PXR 20 DME arc; thence east along the PXR 20 DME arc to lat. 33°43′38″ N., long. 111°46′54″ W.; thence southwest to the approach end of Scottsdale Airport Runway 21 (lat. 33°38′39″ N., long. 111°53′31″ W.); thence northwest along the Loop 101 Freeway to the intersection of the PXR 354° radial; thence north along the PXR 354° radial to the PXR 20 DME arc.

Area O. That airspace extending upward from 7,000 feet MSL to and including 9,000 feet MSL defined from lat. 33°47′11″ N., long. 111°42′16″ W.; thence southeast along the PXR 25 DME arc to intersect the Peoria Avenue/Shea Boulevard extension (lat. 33°35′00″ N., long. 111°30′18″ W.); thence west along lat. 33°35′00″ N. to the PXR 20 DME arc; thence northwest along the PXR 20 DME arc to lat. 33°43′38″ N., long. 111°46′54″ W., thence northeast to lat. 33°47′11″ N., long. 111°42′16″ W.

Area P. That airspace extending upward from 7,000 feet MSL to and including 9,000 feet MSL defined by the intersection of the PXR 20 DME arc and lat. 33°16′00″ N., long. 111°37′31″ W.; thence east along lat. 33°16′00″ N. to intersect with the PXR 25 DME arc; thence southwest along the PXR 25 DME arc to intersect with I–10; thence northwest along I–10 to intersect with the PXR 20 DME arc; thence northeast along the PXR 20 DME arc to the intersection of lat. 33°16′00″ N.

Area Q. That airspace extending upward from 8,000 feet MSL to and including 9,000 feet MSL defined by lat. 33°53′48″ N., long. 112°11′50″ W.; thence east along the PXR 30 DME arc to the PXR 354° radial; thence south along the PXR 354° radial to the PXR 25 DME arc; thence west along the PXR 25 DME arc to lat. 33°48′02″ N., long. 112°12′24″ W.; thence north to lat. 33°53′48″ N., long. 112°11′50″ W.

Area R. That airspace extending upward from 8,000 feet MSL to and including 9,000 feet MSL defined by lat. 33°50′38″ N., long. 111°37′39″ W. on the PXR 30 DME arc; thence southeast along the PXR 30 DME arc to lat. 33°43′44″ N., long. 111°29′14″ W.; thence south to lat. 33°40′46″ N., long. 111°34′03″ W. on the PXR 25 DME arc; thence northwest along the PXR 25 DME arc to lat. 33°47′11″ N., long. 111°42′16″ W.; thence northeast direct to lat. 33°50′38″ N., long. 111°37′39″ W.

Area S. That airspace extending upward from 8,000 feet MSL to and including 9,000 feet MSL defined by the intersection of the PXR 25 DME arc and PXR 127° radial; thence southeast along the PXR 127° radial to the PXR 30 DME arc; thence southwest along the PXR 30 DME arc to intersect with I–10; thence northwest along I–10 to the PXR 25 DME arc; thence northeast along the PXR 25 DME arc to intersect with the PXR 127° radial.

Area T. That airspace extending upward from 7,000 feet MSL to and including 9,000 feet MSL defined by lat. 33°30′34″ N., long. 112°27′36″ W.; thence west along lat. 33°30′34″ N. to the PXR 30 DME arc; thence south along the PXR 30 DME arc to lat. 33°16′00″ N.; thence east along lat. 33°16′00″ N. to the PXR 25 DME arc; thence north along the PXR 25 DME arc to lat. 33°30′34″ N., long. 112°27′36″ W.

Area U. That airspace extending upward from 3,400 feet MSL to and including 9,000 feet MSL defined from the intersection of the PXR 10 DME arc and Camelback Road (lat. 33°30′08″ N., long. 111°47′20″ W.); thence south along the PXR 10 DME arc to intersect with the southwest boundary of FFZ Class D airspace (lat. 33°24′02″ N., long. 111°46′30″ W.); thence northwest along FFZ Class D line to Gilbert Road (lat. 33°24′35″ N., long. 111°47′18″ W.); thence north along Gilbert Road to the intersection of Camelback Road and the PXR 10 DME arc (lat. 33°30′ 08″ N., long. 111°47′ 20″ W.).

* * * * *

Issued in Washington DC, July 30, 2007.

Edith V. Parish,

Manager, Airspace and Rules Group.

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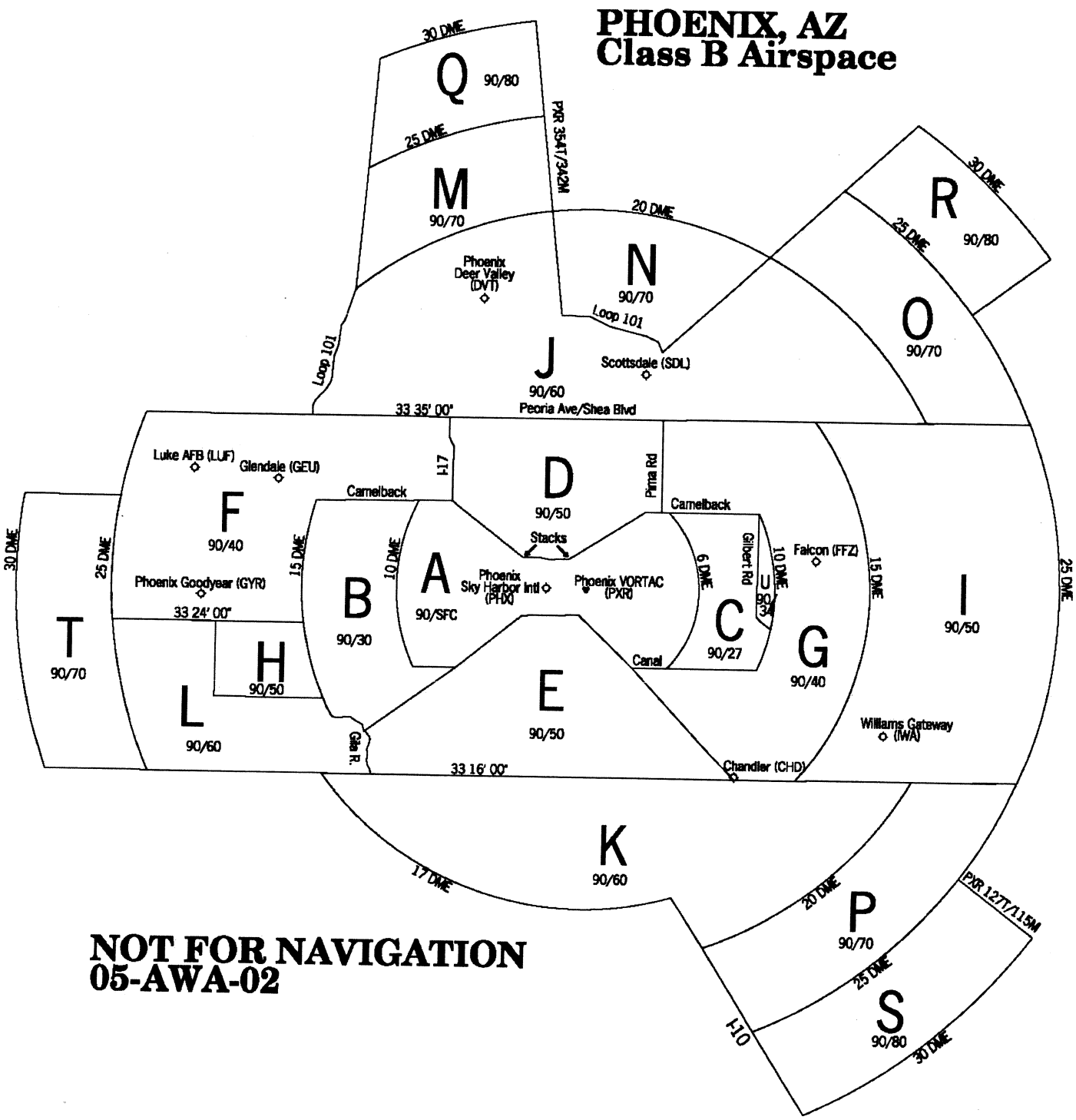

NOT FOR NAVIGATION
05-AWA-02

[FR Doc. 07–3818 Filed 8–7–07; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30562 Amdt. No. 3229]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective August 8, 2007. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 8, 2007.

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

For Examination—

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

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

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

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

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

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

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

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

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

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

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

The Rule

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on July 27, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 30 AUG 2007

Grand Canyon, AZ, Grand Canyon National Park, Takeoff Minimums and Obstacle DP, Orig
Phoenix, AZ, Phoenix Deer Valley, RNAV (GPS)-B, Orig-A
Phoenix, AZ, Phoenix Deer Valley, RNAV (GPS) RWY 25L, Orig-B
Sylvania, GA, Plantation Airpark, NDB RWY 23, Amdt 2
Westfield/Springfield, MA, Barnes Muni, ILS OR LOC RWY 20, Amdt 6
Westfield/Springfield, MA, Barnes Muni, RNAV (GPS) RWY 20, Orig
Westfield/Springfield, MA, Barnes Muni, GPS RWY 20, Orig-A, CANCELLED
Lee's Summit, MO, Lee's Summit Municipal, Takeoff Minimums and Obstacle DP, Orig
Aberdeen/Amory, MS, Monroe County, RNAV (GPS) RWY 18, Orig
Aberdeen/Amory, MS, Monroe County, RNAV (GPS) RWY 36, Orig
Aberdeen/Amory, MS, Monroe County, Takeoff Minimums and Obstacle DP, Orig
Erwin, NC, Harnett County, Takeoff Minimums and Obstacle DP, Orig
Laconia, NH, Laconia, Muni, NDB RWY 8, Amdt 9
Laconia, NH, Laconia, Muni, ILS OR LOC RWY 8, Amdt 1
Laconia, NH, Laconia, Muni, RNAV (GPS) RWY 8, Orig
Laconia, NH, Laconia, Muni, RNAV (GPS) RWY 26, Orig
Laconia, NH, Laconia, Muni, GPS RWY 26, Orig-A, CANCELLED
New York, NY, LaGuardia, ILS OR LOC RWY 4, Amdt 35
New York, NY, LaGuardia, RNAV (RNP) Z RWY 4, Orig
New York, NY, LaGuardia, RNAV (RNP) Z RWY 22, Orig
New York, NY, LaGuardia, RNAV (GPS) Y RWY 4, Amdt 2
New York, NY, LaGuardia, RNAV (GPS) Y RWY 22, Amdt 2
Sioux Falls, SD, Joss Foss Field, Takeoff Minimums and Obstacle DP, Amdt 7
Houston, TX, Houston Executive, RNAV (GPS) RWY 18, Orig
Houston, TX, Houston Executive, RNAV (GPS) RWY 36, Orig
Houston, TX, Houston Executive, Takeoff Minimums and Obstacle DP, Orig
Menomonie, WI, Menomonie Municipal-Score Field, RNAV (GPS) RWY 27, Orig
Menomonie, WI, Menomonie Municipal-Score Field, RNAV (GPS) RWY 9, Orig
Norfolk, VA, Hampton Roads Executive, NDB RWY 2, Amdt 7
Norfolk, VA, Hampton Roads Executive, RNAV (GPS) RWY 10, Orig
Norfolk, VA, Hampton Roads Executive, RNAV (GPS) RWY 28, Orig
Norfolk, VA, Hampton Roads Executive, GPS RWY 10, Orig-A, CANCELLED
Norfolk, VA, Hampton Roads Executive, GPS RWY 28, Orig-A, CANCELLED
Norfolk, VA, Hampton Roads Executive, Takeoff Minimums and Obstacle DP, Amdt 1

Effective 27 SEP 2007

Chicago, IL, Chicago-O'Hare Intl, RNAV (GPS) RWY 32L, Amdt 2A

The FAA published several Amendments in Docket No. 30558, Amdt No. 3225 to Part 97 Of the Federal Aviation Regulations (Vol. 72, FR No. 135, Page 38755; dated Monday, July 16, 2007) under section 97.33, effective 30 August 2007, which is hereby RESCINDED as follows:

Miami, FL, Miami Intl, RNAV (RNP) Y RWY 9, Orig
Miami, FL, Miami Intl, RNAV (GPS) Z RWY 9, Amdt 1
Miami, FL, Miami Intl, ILS OR LOC RWY 9, Amdt 10

[FR Doc. E7–15134 Filed 8–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. 2007N–0294]

Medical Devices: Immunology and Microbiology Devices: Classification of In Vitro Human Immunodeficiency Virus Drug Resistance Genotype Assay

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying an in vitro human immunodeficiency virus (HIV) drug resistance genotype assay into class II (special controls). The special control that will apply to this device is the guidance document entitled ''Class II Special Controls Guidance Document: In Vitro HIV Drug Resistance Genotype Assay.'' FDA is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of this device. Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of the guidance document that will serve as the special control for this device.

DATES: This rule becomes effective September 7, 2007. The classification of this device into class II became effective on September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Nathaniel L. Geary, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976, generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. FDA determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of FDA's regulations.

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1) of the act. FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device.

In accordance with section 513(f)(1) of the act, FDA issued an order on June 27, 2001, classifying into class III the

Visible Genetics, Inc., TRUEGENE HIV Genotyping Kit and OpenGene DNA Sequencing System, because this device was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or to a device which was subsequently reclassified into class I or class II. On July 11, 2001, Visible Genetics, Inc. submitted to FDA a petition requesting classification of the TRUEGENE HIV Genotyping Kit and OpenGene DNA Sequencing System under section 513(f)(2) of the act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the act, FDA reviewed the petition in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the act. Devices are to be classified into class II if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the petition, FDA determined that the Visible Genetics, Inc., TRUEGENE HIV Genotyping Kit and OpenGene DNA Sequencing System can be classified in class II with the establishment of special controls. FDA believes that special controls, in addition to general controls, are adequate to provide reasonable assurance of the safety and effectiveness of this device and that there is sufficient information to establish special controls to provide such assurance.

This device is assigned the generic name, ''In vitro HIV drug resistance genotype assay.'' It is identified as an in vitro diagnostic device to be used to detect HIV genomic mutations that confer resistance to specific types of antiretroviral drugs, as an aid in monitoring and treating HIV infection.

FDA has identified the risks to health associated with the use of the in vitro HIV drug resistance genotype assay. These risks include inaccurate detection of resistance mutations present in a patient's viral swarm that can result in continuance of therapies that are no longer appropriate, or changes to new, inadequate therapies. In both cases, the patient's viral load may increase, worsening the clinical prognosis and accelerating the development of drug resistant viruses. Patients may be needlessly subjected to serious, deleterious side effects of inappropriate antiviral drugs. Furthermore, failure of the assay to give any results at all (sequence failure) can deny or delay beneficial, appropriate therapies, which may also result in high viral loads and their attendant morbidity.

FDA believes that the class II special controls guidance document will aid in mitigating the potential risks to health by providing recommendations on performance characteristics; other considerations such as design controls, statistical methods, and instruments and software; product modification; and labeling. The guidance document also provides recommendations for fulfilling the premarket (510(k)) submission requirements for this device. FDA believes that the class II special controls guidance document, in addition to general controls, addresses the risks to health identified in the previous paragraph and provides reasonable assurance of the safety and effectiveness of the in vitro HIV drug resistance assay. Therefore, on September 26, 2001, FDA issued an order to the petitioner classifying the device into class II. FDA is codifying this device classification at 21 CFR 866.3950.

Following the effective date of this final classification rule, manufacturers submitting a 510(k) premarket notification for an in vitro HIV drug resistance genotype assay will need to address the issues covered in the special controls guidance. However, the manufacturer need only show that its device meets the recommendations of the guidance or in some other way provides equivalent assurance of safety and effectiveness.

Section 510(m) of the act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of this type of device and, therefore, this type of device is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification, before marketing the device, which contains information about the in vitro HIV drug resistance genotype assay they intend to market.

II. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is not a significant regulatory action under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because classification of this device into class II will relieve manufacturers of the device of the cost of complying with the premarket approval requirements of section 515 of the act (21 U.S.C. 360e), and may permit small potential competitors to enter the marketplace by lowering their costs, the agency certifies that the final rule will not have a significant impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $122 million, using the most current (2005) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount

III. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have

federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

V. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 is not required. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice announcing the availability of the guidance document entitled ''Class II Special Controls Guidance Document: In Vitro HIV Drug Resistance Genotype Assay.'' FDA concludes that the special controls guidance document contains information collection provisions that are subject to review by the OMB under the PRA and that have been approved by OMB in accordance with the PRA under the regulations governing premarket notification submissions (part 807, subpart E, OMB control number 0910–0120).

VI. References

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition from Visible Genetics, Inc., dated July 11, 2001.

List of Subjects in 21 CFR Part 866

Biologics, Laboratories, Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 866 is amended as follows:

PART 866—IMMUNOLOGY AND MICROBIOLOGY DEVICES

■ 1. The authority citation for 21 CFR part 866 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Add § 866.3950 to subpart D to read as follows:

§ 866.3950 In vitro human immunodeficiency virus (HIV) drug resistance genotype assay.

(a) *Identification.* The in vitro HIV drug resistance genotype assay is a device that consists of nucleic acid reagent primers and probes together with software for predicting drug resistance/susceptibility based on results obtained with these primers and probes. It is intended for use in detecting HIV genomic mutations that confer resistance to specific antiretroviral drugs, as an aid in monitoring and treating HIV infection.

(b) *Classification.* Class II (special controls). The special control for this device is FDA's guidance document entitled ''Class II Special Controls Guidance Document: In Vitro HIV Drug Resistance Genotype Assay.'' See § 866.1(e) for the availability of this guidance document.

Dated: August 2, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–15475 Filed 8–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 023–2007]

Privacy Act of 1974; Implementation

AGENCY: Department of Justice.

ACTION: Final Rule.

SUMMARY: On May 8, 2007, at 72 FR 26037, the Department of Justice issued a proposed rule to amend Title 28 of the Code of Federal Regulations, Part 16, to exempt the following new system of records from certain provisions of the Privacy Act: The National Security Division (NSD), ''Foreign Intelligence and Counterintelligence Records System (JUSTICE/NSD–001),'' which incorporated three previous systems of records of the Office of Intelligence Policy and Review (OIPR). This records system must be exempted from sections of the Privacy Act since, in most cases, disclosure of the existence of records pertaining to an individual would hinder authorized United States intelligence activities by informing that individual of the existence, nature, or scope of information that is properly classified pursuant to Executive Order 12958, as amended, and thereby cause damage to the national security. Further it is necessary to exempt this system to ensure unhampered and effective collection and analysis of foreign intelligence and counterintelligence information and to protect the identities of confidential sources.

EFFECTIVE DATE: This final rule is effective August 8, 2007.

FOR FURTHER INFORMATION CONTACT: GayLa Sessoms, (202) 616–5460 or Mary Cahill (202) 307–1823.

SUPPLEMENTARY INFORMATION: The notice of the proposed rule with invitation to comment was published in the **Federal Register** on May 8, 2007, at 72 FR 26073. No comments were received. The Department of Justice is exempting JUSTICE/NSD–001 from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (2), (3), (4)(G), (H), and (I), (5) and (8); (f); (g); and (h).

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, this order will not have a significant impact on a substantial number of small business entities.

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedures, Courts, Freedom of Information, and Privacy.

■ Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, amend 28 CFR part 16 as follows:

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

■ 1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 551, 552a, 552b(g), and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, and 9701.

■ 2. Section 16. 74 is revised to read as follows:

§ 16.74 Exemption of National Security Division Systems—limited access.

(a) The following system of records is exempted from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (4)(G),(H) and (I), (5) and (8); (f); (g); and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (2) and (5): Foreign Intelligence and Counterintelligence Records System (JUSTICE/NSD–001). These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (2), and (5).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) *Subsection (c)(3).* To provide the target of a surveillance or collection activity with the disclosure accounting records concerning him or her would hinder authorized United States intelligence activities by informing that individual of the existence, nature, or scope of information that is properly classified pursuant to Executive Order 12958, as amended, and thereby cause damage to the national security.

(2) *Subsection (c)(4).* This subsection is inapplicable to the extent that an

exemption is being claimed for subsection (d).

(3) *Subsection (d)(1).* Disclosure of foreign intelligence and counterintelligence information would interfere with collection activities, reveal the identity of confidential sources, and cause damage to the national security of the United States. To ensure unhampered and effective collection and analysis of foreign intelligence and counterintelligence information, disclosure must be precluded.

(4) *Subsection (d)(2).* Amendment of the records would interfere with ongoing intelligence activities thereby causing damage to the national security.

(5) *Subsections (d)(3) and (4).* These subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(6) *Subsection (e)(1).* It is often impossible to determine in advance if intelligence records contained in this system are relevant and necessary, but, in the interests of national security, it is necessary to retain this information to aid in establishing patterns of activity and provide intelligence leads.

(7) *Subsection (e)(2).* Although this office does not conduct investigations, the collection efforts of agencies that supply information to this office would be thwarted if the agencies were required to collect information with the subject's knowledge.

(8) *Subsection (e)(3).* To inform individuals as required by this subsection could reveal the existence of collection activity and compromise national security. For example, a target could, once made aware that collection activity exists, alter his or her manner of engaging in intelligence or terrorist activities in order to avoid detection.

(9) *Subsections (e)(4)(G), (H) and (I), and (f).* These subsections are inapplicable to the extent that this system is exempt from the access provisions of subsection (d).

(10) *Subsection (e)(5).* It is often impossible to determine in advance if intelligence records contained in this system are accurate, relevant, timely and complete, but, in the interests of national security, it is necessary to retain this information to aid in establishing patterns of activity and providing intelligence leads.

(11) *Subsection (e)(8).* Serving notice could give persons sufficient warning to evade intelligence collection and anti-terrorism efforts.

(12) *Subsections (g) and (h).* These subsections are inapplicable to the extent that this system is exempt from other specific subsections of the Privacy Act.

Dated: July 27, 2007.

Lee J. Lofthus,

Assistant Attorney General for Administration.

[FR Doc. E7–15455 Filed 8–7–07; 8:45 am]

BILLING CODE 4410–AW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R05–OAR–2006–0459; FRL–8450–3]

Determination of Attainment, Approval of Designation of Areas for Air Quality Planning Purposes; Indiana; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects errors in the final rule redesignating LaPorte County, Indiana (LaPorte CO., IN) to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). In the final approval for the redesignation of this area, EPA inadvertently titled the designation codification table as ''OHIO OZONE'' instead of ''Indiana-Ozone'', and inadvertently specified the effective date of this action in the designation table as August 20, 2007, even though the effective date of the final rule was July 19, 2007, as specified in the **DATES** portion of the final rule. This technical correction to the final rule corrects these errors.

DATES: *Effective Date:* This final rule is effective on August 8, 2007.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057, *doty.edward@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA published a notice of final rulemaking to redesignate LaPorte County, Indiana (LaPorte CO., IN) to attainment of the 8-hour ozone standard on July 19, 2007 (72 FR 39574). In the designation codification table used to revise the 8-hour ozone designation of this area, EPA incorrectly titled the table as ''OHIO OZONE.'' This should have read as ''Indiana-Ozone.'' In the same designation codification table, EPA incorrectly specified the effective date of the redesignation as August 20, 2007. This differed from the actual effective date of the final rule, July 19, 2007, as specified in the **DATES** section of the final rule. EPA intended to make the redesignation of this area effective upon the date of the publication of the final rule.

Correction

For LaPorte County in the final rule published in the **Federal Register** on July 19, 2007 (72 FR 39574), on page 39576 in the codification table, the table title: ''OHIO OZONE'' is corrected to read ''Indiana-Ozone''. In the second column of the same codification table, the Date: ''8/20/07'' is corrected to read ''7/19/07''. EPA is making changes in 40 CFR 81.315 in order to correct the codification of the 8-hour ozone designation for LaPorte County, Indiana.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting errors in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is, therefore, not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 et seq.), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act (5 U.S.C. 801 et seq.), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of August 8, 2007. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to 40 CFR part 81 for Indiana is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: July 26, 2007.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

■ Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. Section 81.315 is amended by revising the entries for LaPorte County, Indiana: LaPorte County in the table entitled ''Indiana-Ozone (8–Hour Standard)'' to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
* *	*	*	*	*
LaPorte CO., IN:				
LaPorte County	7/19/07	Attainment.		
* *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.

[FR Doc. E7–15246 Filed 8–7–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0165; FRL–8138–2]

Dimethenamid; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of dimethenamid in or on grasses grown for seed. Interregional Research Project No. 4 (IR-4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 8, 2007. Objections and requests for hearings must be received on or before October 9, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0165. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*,or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–

4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Jim Tompkins, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5639; e-mail address: *Tompkins.jim@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0165 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before October 9, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2006–0165, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of March 22, 2006 (71 FR 14521) (FRL–7766–7), EPA issued a notice pursuant to section 408(d)(3) of the FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0F6138) by Interregional Research Project No. 4 (IR-4), Technology Center of New Jersey, Rutgers, the State of New Jersey, 681 U.S. Highway #1 South, North Brunswick, NJ 08902–3390. The petition requested that 40 CFR 180.464 be amended by establishing a tolerance for residues of the herbicide dimethenamid in or on grass, forage at 0.05 parts per million (ppm); grass, hay at 0.30 ppm; grass, straw at 0.01 ppm; and grass, seed screenings at 0.01 ppm. That notice referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing. Based on review of the residue data, the EPA determined that the tolerance for dimethenamid in or on grass, forage at should be established at 0.15 ppm instead of 0.05 ppm requested by the registrant, and the tolerance for grass, hay should be established at 2.5 ppm instead of 0.30 ppm as requested by the registrant.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....'' These provisions were added to the FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerance for residues of dimethenamid in or on grass, forage at 0.15 parts per million (ppm); grass, hay at 2.5 ppm; grass, straw at 0.01 ppm; and grass, seed screenings at 0.01

ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by dimethenamid as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found in the document ''Dimethenamid-P Human Health Risk Assessment for Proposed Use on Grasses Grown for Seed, PC Codes: 120051 and 129051, Petition No: 0F6138, DP Num: 337887''. The document is available at *http://www.regulations.gov*. in the docket established by this action, which is described under **ADDRESSES**, and is identified as EPA–HQ–OPP–2006–0165 in that docket.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UF) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (''aPAD'') and chronic population adjusted dose (''cPAD''). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. Short-term, intermediate-term, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (''MOE'') called for by the product of all applicable uncertainty/safety factors is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

A summary of the toxicological endpoints for dimethenamid used for human risk assessment can be found at *www.regulations.gov* in document ''Dimethenamid-P Human Health Risk Assessment for Proposed Use on Grasses Grown for Seed, PC Codes: 120051 and 129051, Petition No: 0F6138, DP Num: 337887'' on page 16 in Docket ID EPA–HQ–OPP–2006–0165.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to dimethenamid, EPA considered exposure under the petitioned-for tolerances as well as all existing dimethenamid tolerances in (40 CFR 180.464). EPA assessed dietary exposures from (R,S)-2-chloro-N-[(1-methyl-2-methoxy) ethyl]-N-(2,4-dimethylthien-3-yl)-acetamide in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 Nationwide CSFII. As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues.

iii. *Cancer*. Dimethenamid was classified as Group C - possible human carcinogen based on benign liver tumors (males) in rats. EPA determined that the chronic Reference dose (cRfD) would be protective of any cancer risk posed by dimethenamid because the cRfD of 0.05 milligrams/kilogram/day (mg/kg/day) used for risk assessment is based on non-cancer precursor effects in the liver. In making this determination, EPA also took into account that the tumor incidences were only slightly above historical control levels, only showed statistical significance as increased trends and not by pairwise between control and treated animals, only evidenced a statistically significant trend when benign and malignant tumors were combined, and were only seen in one species. Therefore, the cRfD is considered protective of both non-cancer and cancer effects.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring data to complete a comprehensive dietary exposure analysis and risk assessment for dimethenamid in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the environmental fate characteristics of dimethenamid. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the EPA's Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of dimethenamid for acute exposures are estimated to be 9.0 parts per billion (ppb) for surface water and 0.34 ppb for ground water. The EDWCs for chronic exposures are estimated to be 3.8 ppb for surface water and 0.34 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. The EDWCs for use sites (other than grasses grown for seed) with the highest values were used. For acute dietary risk assessment, the water concentration value of 66.7 ppb was used to access the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 20.2 ppb was used to access the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Dimethenamid is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*.

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to dimethenamid and any other substances and dimethenamid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that dimethenamid has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of the FFDCA provides that EPA shall apply an additional (''10X'') tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional uncertainty/safety factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There is no concern for increased qualitative and/or quantitative susceptibility following pre-and post-natal exposure to the (RS) or (S) dimethenamid technical products in rats and rabbits. In the developmental toxicity study in rats there was an increased incidence of post-implantation loss and minor skeletal variations. In the developmental toxicity study in rabbits, late resorptions and minor skeletal variations were observed at the highest dose tested. In the rabbit, the developmental effects occurred at the same dose as maternal toxicity; whereas in the rat, the developmental effects occurred at much higher doses than in the dams. The reproduction study showed decreases in body weight in both pups and parental animals at the same dose levels.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for dimethenamid is complete.

ii. The toxicity data showed no increase in qualitative and/or quantitative susceptibility in fetuses and pups with *in utero* and pre- and post-natal exposure.

iii. There is no evidence that dimethenamid is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessment utilizes proposed tolerance level residues and 100% crop treated information for all commodities, which results in very high-end estimates of dietary exposure. The dietary drinking water assessment utilizes values generated by model and associated modeling parameters which are designed to provide health protective, high-end estimates of water concentrations.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-term, intermediate-term, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the MOE called for by the product of all applicable uncertainty/safety factors is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to dimethenamid will occupy <1% of the aPAD for the population group (women ages 13–49) receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to dimethenamid from food and water will utilize 3% of the cPAD for the population group (all infants (<1 year)) receiving the greatest exposure. There are no residential uses for dimethenamid that result in chronic residential exposure to dimethenamid.

3. *Short-term risk*. Dimethenamid is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water.

4. *Intermediate-term risk*. Dimethenamid is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's LOC.

5. *Aggregate cancer risk for U.S. population*. The cRfD of 0.05 mg/kg/day used for risk assessment is based on non-cancer precursor effects. Therefore, the cRfD is considered protective of both non-cancer and cancer effects. Consequently, a separate aggregate cancer risk assessment was not conducted.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to dimethenamid residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography with a nitrogen phosphorus detector (GC/NPD) method (AM-0884-0193-1) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

An International Residue Limit (IRL) Status Sheet is appended to the Dimethenamid-P Human Health Risk Assessment located in the docket for this notice. Codex has established maximum residue limits (MRLs), expressed in terms of dimethenamid-P and its enantiomer, for various crop commodities but not for grass commodities. Canada and Mexico have also established MRLs for dimethenamid-P and its enantiomer in/on various crop commodities but not for grass, hay; grass, forage; grass, straw; or grass, seed screenings.

V. Conclusion

Therefore, the tolerance is established for residues of dimethenamid, in or on grass, forage at 0.15 ppm; grass, hay at 2.5 ppm; grass, straw at 0.01 ppm; and grass, seed screenings at 0.01 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 23, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.464 is amended by alphabetically adding the following commodities to the table in paragraph (a) to read as follows:

§ 180.464 Dimethenamid; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * *	* *
Grass, forage	0.15
Grass, hay	2.5
Grass, seed screenings	0.01
Grass, straw	0.01
* * *	* *

* * * * *

[FR Doc. E7–15112 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0075; FRL–8141–3]

Fenazaquin, 4-tert-butylphenethyl Quinazolin-4-yl Ether; Pesticide Import Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes import tolerances for residues of fenazaquin, 4-tert-butylphenethyl quinazolin-4-yl ether, in or on apple at 0.2 parts per million (ppm); in or on pear at 0.2 ppm; in or on citrus fruit group 10, except grapefruit, at 0.5 ppm; and in or on citrus oil at 10 ppm. Gowan Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 8, 2007. Objections and requests for hearings must be received on or before October 9, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0075. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*,or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Dan Peacock, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5407; e-mail address: *peacock.dan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0075 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before October 9, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2006–0075, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of April 12, 2006 (71 FR 18736) (FRL–7775–5), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of an import pesticide petition (PP 9E5059) by Gowan Company, 370 S. Main Street, Yuma, AZ 85364. The petition requested that 40 CFR part 180 be amended by establishing import tolerances for residues of the insecticide, fenazaquin, in or on apple at 0.2 ppm; in or on pear at 0.2 ppm, and in or on citrus fruits at 0.5 ppm. That notice referenced a summary of the petition prepared by Gowan Company, the registrant, which is available to the public in the docket, under docket identification (ID) number EPA–HQ–OPP–2006–0075–0002 at *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified Gowan Company's request for tolerances as follows. This regulation establishes import tolerances for residues of fenazaquin in or on apple at 0.2 ppm; in or on pear at 0.2 ppm; in or on citrus fruit group 10, except grapefruit, at 0.5 ppm; and in or on citrus oil at 10 ppm. The reason for the addition of a tolerance for citrus oil at 10 ppm is explained in Unit V. (Conclusions).

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' These provisions were added to the FFDCA by the Food Quality Protection Act (FQPA) of 1996.

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned–for import tolerances for residues of Fenazaquin in or on apple at 0.2 ppm; in or on pear at 0.2 ppm; in or on citrus fruit group 10, except grapefruit, at 0.5 ppm; and in or on citrus oil at 10 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by Fenazaquin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov*. The referenced document (Fenazaquin: PP# 9E5059. Tolerances on apples, pears and citrus fruits exported to the U.S. HED Risk Assessment) is available in the docket established by this action, which is described under **ADDRESSES**, and is identified as docket ID No. EPA–HQ–OPP–2006–0075–0004 in that docket.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, the toxicological level of concern (LOC) is derived from the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment. Uncertainty/safety factors (UF) are used in conjunction with the LOC to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. Short-term, intermediate-term, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable uncertainty/safety factors is not exceeded.

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk and estimates risk in terms of the probability of occurrence of additional adverse cases. Generally, cancer risks are considered non-threshold. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA–PEST/1997/November/Day–26/p30948.htm*.

A summary of the toxicological endpoints for Fenazaquin used for human risk assessment is shown in Table 1 below of this unit and in docket ID number EPA–HQ–OPP–2007–0075–0004 in an alternate format.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR FENAZAQUIN FOR USE IN HUMAN RISK ASSESSMENT

Exposure/Scenario	Dose used in risk assessment, interspecies and intraspecies and any traditional FQPA, SF	Special FQPA SF and level of concern for risk assessment UF	Study and toxicological effects
Acute dietary (general population including infants and children)	NOAEL = 10 mg/kg/day SF = 100 Acute RfD = 0.1 mg/kg/day	Special FQPA SF = 1 x aPAD = acute RfD = 0.1 mg/kg/day	Rat developmental toxicity LOAEL = 40 mg/kg/day based on findings (as early as GD 6–9) of decreased body weight gain, food intake, and food efficiency.
Chronic dietary (all populations)	NOAEL= 5 mg/kg/day SF = 100 Chronic RfD = 0.05 mg/kg/day	Special FQPA SF = 1 x cPAD = chronic RfD = 0.05 mg/kg/day	Rat two-generation toxicity study LOAEL = 25 mg/kg/day based on excessive salivation and decreased body weight/weight gain and food intake.
Short-term, intermediate-term, and long-term incidential oral (1-30 days; 1-6 months) (Residential)	These exposure scenarios do not apply to this risk assessment because there are no proposed registered residential uses of fenazaquin.		
Short-term, intermediate-term, and long-term dermal (1-30 days; 1-6 months) (Residential)	These exposure scenarios do not apply to this risk assessment because there are no proposed registered residential or occupational uses of fenazaquin.		
Short-term, intermediate-term, long-term inhalation (1-30 days; 1-6 months) (Residential)	These exposure scenarios do not apply to this risk assessment because there are no proposed registered residential or occupational uses of fenazaquin.		

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR FENAZAQUIN FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure/Scenario	Dose used in risk assessment, interspecies and intraspecies and any traditional FQPA, SF	Special FQPA SF and level of concern for risk assessment UF	Study and toxicological effects
Cancer (oral, dermal, inhalation)	A quantitative exposure assessment for cancer risk was not performed because fenazaquin has been classified as "Not likely to be Carcinogenic to Humans" and is not expected to pose a cancer risk.		

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to fenazaquin, EPA considered exposure under the petitioned-for tolerances as well as a tolerance in or on citrus oil. EPA assessed dietary exposures from Fenazaquin in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one–day or single exposure. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues. Percent Crop Treated (PCT) and anticipated residues were not used.

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1998 CSFII. As to residue levels in food, EPA assumed all foods for which there are tolerances were treated and contain tolerance-level residues. Percent Crop Treated (PCT) and anticipated residues were not used.

iii. *Cancer*. A quantitative exposure assessment for cancer risk was not performed because fenazaquin has been classified as "Not likely to be Carcinogenic to Humans" and is not expected to pose a cancer risk.

iv. *Anticipated residue and PCT information*.PCT and anticipated residues were not used.

2. *Dietary exposure from drinking water*. Because the import tolerances in this Final Rule do not involve current or proposed registered uses of Fenazaquin in the United States, EPA does not anticipate dietary exposure from drinking water. Therefore, EPA has not assessed such exposure in this document.

3. *From non-dietary exposure*. The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fenazaquin is not registered for use on any sites that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to fenazaquin and any other substances and fenazaquin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fenazaquin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408 of FFDCA provides that EPA shall apply an additional (10X) tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor. In applying this provision, EPA either retains the default value of 10X when reliable data do not support the choice of a different factor, or, if reliable data are available, EPA uses a different additional FQPA safety factor value based on the use of traditional uncertainty/safety factors and/or special FQPA safety factors, as appropriate.

2. *Prenatal and postnatal sensitivity*. There are no qualitative or quantitative prenatal or postnatal susceptibility issues based on available data from two developmental toxicity studies and a two-generation reproduction toxicity study.

3. *Conclusion*. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. That decision is based on the following findings:

i. The toxicity database for fenazaquin is complete.

ii. There is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. There is no evidence that fenazaquin results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the two-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and tolerance-level residues.

v. There is no potential for dietary drinking water exposure and there are no residential uses.

By using these screening-level assessments, acute and chronic exposures/risks will not be underestimated.

E. Aggregate Risks and Determination of Safety

Safety is assessed for acute and chronic risks by comparing aggregate exposure to the pesticide to the aPAD and cPAD. The aPAD and cPAD are calculated by dividing the LOC by all applicable uncertainty/safety factors. For linear cancer risks, EPA calculates the probability of additional cancer cases given aggregate exposure. Short-term, intermediate, and long-term risks are evaluated by comparing aggregate exposure to the LOC to ensure that the margin of exposure (MOE) called for by the product of all applicable uncertainty/safety factors is not exceeded.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to fenazaquin will occupy 48% of the aPAD for the population group (children, 1-2 years old) receiving the greatest exposure. There is no acute dietary exposure from water.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fenazaquin from food will utilize 25% of the cPAD for the population group (children, 1-2 years old) receiving the greatest exposure. Because the tolerances being established in this Final Rule are for uses outside of the United States, there is no acute dietary exposure from water. There are no residential uses for Fenazaquin that result in chronic residential exposure to Fenazaquin.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fenazaquin is not registered for use on any sites that would result in residential exposure. Also, because the tolerances being established in this Final Rule are for uses outside of the United States, there is no acute dietary exposure from water. Therefore, the aggregate risk is the sum of the risk from food, which does not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fenazaquin is not registered for use on any sites that would result in residential exposure. Also, because the tolerances being established in this final rule are for uses outside of the United States, there is no chronic dietary exposure from water. Therefore, the aggregate risk is the sum of the risk from food, which does not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Fenazaquin is not expected to pose a cancer risk based on negative cancer findings in two adequate rodent carcinogenicity studies.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to fenazaquin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography) is available to enforce the tolerance expression, using the existing Food and Drug Administration (FDA) Multiresidue Methods in the Pesticide Analytical Manual (PAM), Vol I, available from *http://www.cfsan.fda.gov/~lrd/pestadd.html*.

B. International Residue Limits

There are no established or proposed Canadian, Mexican or Codex MRLs for residues of fenazaquin in plant commodities.

C. Response to Comments

The Agency did not receive any comments to this request for import tolerances for fenazaquin.

V. Conclusion

Therefore, the Agency is establishing import tolerances for residues of Fenazaquin in or on apple at 0.2 parts per million (ppm); in or on pear at 0.2 ppm; in or on citrus fruit group 10, except grapefruit, at 0.5 ppm; and in or on citrus oil at 10 ppm. The original petition did not request the establishment of a tolerance in or on citrus oil at 10 ppm. However, the Agency added this tolerance for the following reason. Separate tolerances are not required for apple and orange juice as residues do not concentrate in these commodities. However, the citrus processing studies indicate that fenazaquin residues concentrate on average by 25x in citrus oil and thus residues in citrus oil could exceed the tolerance for citrus fruits. Based on the 25x processing factor and residue data on fenazaquin levels in or on oranges, a tolerance of 10 ppm would be appropriate for citrus oil.

VI. Statutory and Executive Order Reviews

This final rule establishes a tolerance under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, This rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded

Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 26, 2007.

Debra Edwards,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.632 is added to read as follows:

§ 180.632 Fenazaquin; import tolerances for residues.

(a) *General.* Import tolerances are established for residues of the insecticide and miticide, fenazaquin, 4-tert-butylphenethyl quinazolin-4-yl ether, in or on raw agricultural commodities as follows:

Commodity	Parts per million
Apple	0.2
Citrus Oil	10
Fruit, Citrus, Group 10, except Grapefruit	0.5
Pear	0.2

(b) *Section is emergency exemptions.* [Reserved]

(c) *Tolerances with regional registration.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. E7–15334 Filed 8–7–07; 8:45 am]

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DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–300

RIN 1215–AB46

Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Disabled Veterans, Recently Separated Veterans, Other Protected Veterans, and Armed Forces Service Medal Veterans

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: The Office of Federal Contract Compliance Programs (OFCCP) is publishing a new set of regulations to implement the amendments to the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (''VEVRAA'') that were made by the Jobs for Veterans Act (''JVA'') enacted in 2002. The JVA amendments raised the threshold dollar amount of the Government contracts that are subject to the affirmative action provisions of VEVRAA, changed the categories of veterans protected by the law, and changed the manner in which the mandatory job listing requirement is to be implemented. The final regulations published today apply only to covered Government contracts entered into or modified on or after December 1, 2003. The existing VEVRAA implementing regulations found in 41 CFR part 60–250 will continue to apply to Government contracts entered into before December 1, 2003.

DATES: *Effective Date:* These regulations are effective September 7, 2007.

FOR FURTHER INFORMATION CONTACT: Lynn A. Clements, Acting Director, Division of Policy, Planning, and Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue, NW., Room N3422, Washington, DC. 20210. Telephone: (202) 693–0102 (voice) or (202) 693–1337 (TTY).

SUPPLEMENTARY INFORMATION:

Current Regulations and Rulemaking History

The Jobs for Veterans Act (''JVA''), (Pub. L. 107–288, 116 Stat. 2033), was signed by the President on November 2, 2002. Section 2(b)(1) of the JVA amended the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, (''VEVRAA''). Section 2(b)(3) of the JVA made the amendments applicable to Government contracts entered into on or after December 1, 2003.

Prior to amendment by the JVA, the affirmative action provisions of VEVRAA required parties holding Government contracts or subcontracts of $25,000 or more to ''take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, recently separated veterans, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.'' OFCCP has adopted the term ''other protected veteran'' to refer to ''veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.''

In addition, prior to amendment, VEVRAA required that the Secretary promulgate regulations requiring contractors ''to list immediately with the appropriate local employment service office all of its employment openings, except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less.''

The JVA amendments made three significant changes to the affirmative action provisions of VEVRAA. First, section 2(b)(1) of the JVA increased the coverage threshold from a contract of $25,000 or more to a contract of $100,000 or more.

Second, the JVA amendments changed the categories of covered veterans under VEVRAA. The JVA eliminated the category of Vietnam era veterans from coverage under VEVRAA. However, many Vietnam era veterans may remain covered in other categories. The JVA added as a new category of covered veterans—those ''veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985.'' The JVA expanded the coverage of veterans with disabilities. Prior to amendment by the JVA, VEVRAA

covered veterans rated as having 10% to 20% serious employment handicap or a disability rated 30% or more by the Department of Veterans Affairs. The JVA amendments expanded coverage to include all veterans with service-connected disabilities. The JVA also expanded the coverage of ''recently separated veterans'' from one to three years after discharge or release from active duty.

Third, the JVA modified the mandatory job listing requirement for covered contractors. Currently, the regulation at 41 CFR 60–250.5 allows contractors to satisfy their job listing obligations by listing employment openings either with the appropriate local employment service office or with America's Job Bank (AJB). Section 2(b)(1) of the JVA requires the Secretary to promulgate regulations that obligate each covered contractor to list all of its employment openings with ''the appropriate employment service delivery system (as defined in section 4101(7) of this title).'' Section 5(c)(1) of the JVA defines the term ''employment service delivery system'' as ''a service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.'' *See* 38 U.S.C. 4101(7). (The Wagner-Peyser Act established the Employment Service, which is a nationwide system of public employment offices.) The JVA provides that a contractor also may list employment openings with ''one-stop career centers under the Workforce Investment Act of 1998, other appropriate service delivery points, or America's Job Bank (or any additional or subsequent national electronic job bank established by the Department of Labor).'' Thus, as a result of the JVA amendments, listing job openings solely with AJB will no longer comply with the requirements of VEVRAA.

On January 20, 2006, OFCCP published for a 60-day comment period a Notice of Proposed Rulemaking (NPRM), 71 FR 3352, to implement the JVA amendments to VEVRAA. OFCCP published a notice on March 21, 2006, 71 FR 14135, which corrected the e-mail address for submitting comments on the January 20 NPRM, and extended the comment period for seven days, or until March 28, 2006. OFCCP received five comments: two from State workforce development agencies, and three from employer associations whose members include Federal contractors. OFCCP reviewed and carefully considered the comments in the development of this final rule.

Overview of the Final Rule

The final rule adopts regulations implementing the JVA amendments to VEVRAA that will be codified in a new 41 CFR part 60–300. OFCCP explained in the preamble of the NPRM that most provisions in part 60–300 are identical to the parallel provisions in the existing VEVRAA implementing regulations in 41 CFR part 60–250, except where differences are required to implement the JVA amendments. Consequently, the same section numbers are used in both parts 60–250 and 60–300. Generally, the differences between the two sets of regulations are found in the provisions that reference the contract coverage threshold and the categories of covered veterans. In the Section-by-Section Analysis of the NPRM, OFCCP highlighted only the provisions in the proposed rule that differ from provisions in the part 60–250 regulations. Likewise, the provisions in the part 60–250 regulations that have been incorporated in today's final rule without substantive change are omitted from the discussion in the Section-by-Section Analysis of Comments and Revisions below.

This final rule, for the most part, adopts the provisions that were proposed in the January 20 NPRM. However, a few of the proposed provisions have been modified in response to the public comments. The discussion which follows identifies the significant issues raised in comments received in response to the NPRM, provides OFCCP's responses to those comments, and explains any resulting changes to the proposed rule.

Section-by-Section Analysis of Comments and Revisions

Subpart A—Preliminary Matters, Equal Opportunity Clause

Section 60–300.1 Purpose, Applicability and Construction

This section discusses the purpose, applicability, and construction of the part 60–300 regulations. Paragraphs (a) and (c)(2) refer to the four categories of veterans covered under the JVA: (1) Disabled veterans, (2) recently separated veterans, (3) other protected veterans, and (4) Armed Forces service medal veterans.

Paragraph (b) states that this part applies to any Government contract or subcontract of $100,000 or more entered into on or after December 1, 2003. The singular form of the term ''contract'' is used in paragraph (b) in order to make clear that a single contract in the amount of $100,000 or more is required to establish coverage under VEVRAA; contracts are not aggregated to reach the coverage threshold. Additionally, paragraph (b) states that a contractor whose only covered Government contract was entered into before December 1, 2003, must comply with the requirements in the existing VEVRAA implementing regulations in part 60–250, and a contractor that has covered contracts entered into both before and on or after December 1, 2003, must comply with the regulations in part 60–300 and existing part 60–250.

Two commenters asked whether contractors subject to the existing VEVRAA regulations in part 60–250 and the regulations in part 60–300 implementing the JVA amendments must develop two separate VEVRAA affirmative action programs (AAPs). OFCCP wishes to clarify that a contractor that must comply with both sets of VEVRAA regulations need not develop two AAPs. The JVA amendments increased the dollar amount of the contract that triggers the written AAP requirement, but the JVA amendments did not affect the required contents of the written AAP under VEVRAA. OFCCP explained in the NPRM that, with the exception of the changes necessitated by the JVA amendments, § 60–300.44, which addresses the requirements of AAPs under VEVRAA, is identical to § 60–250.44. Since the contents of the written AAP required under § 60–300.44 and § 60–250.44 are the same, contractors may develop a single AAP that satisfies the requirements of both regulations.

One commenter, an employer association, asserted that it would be unduly burdensome and confusing for contractors to have to comply with two sets of VEVRAA regulations, as they would be required to track different categories of protected veterans. The commenter stated that OFCCP has some flexibility, and, as a matter of enforcement policy, the agency could adopt a final rule that requires contractors to comply with only one set of VEVRAA regulations. The commenter argued that OFCCP could state in the final rule that contractors need only comply with the new JVA regulations, even if they also have contracts that are covered under the existing regulations in part 60–250. Further, the commenter stated that the final rule could provide that contractors entering into contracts that are covered under the regulations in new part 60–300 after the start of the AAP year have the option of continuing to comply only with the recordkeeping and reporting requirements under the part 60–250 rules until the end of the AAP year.

OFCCP disagrees with the commenter's claim that compliance with the requirements of two sets of VEVRAA regulations would be unduly burdensome. First, complying with the requirements of part 60–300 will not increase the paperwork burden of contractors already covered under the VEVRAA regulations. The regulations in part 60–300 implementing the JVA amendments, like the existing VEVRAA implementing regulations in part 60–250, require that contractors extend to all applicants an invitation to self-identify as a veteran who may be covered under the Act and wishes to benefit under the affirmative action program. The only difference between the invitations to self-identify required under part 60–300 and part 60–250 is the categories of veterans that are invited to self-identify. Because OFCCP has included a sample invitation to self-identify in Appendix B of the part 60–300 regulations, compliance with the part 60–300 requirement to invite applicants to self-identify as covered veterans will not add to the burden hours associated with the information collection requirements of the affirmative action provisions of VEVRAA. If a contractor is covered by part 60–250 and part 60–300, the contractor may continue using the part 60–250 sample invitation to self-identify form and add the part 60–300 sample invitation to self-identify form once the final rule becomes effective. Contractors also may choose to combine the two sample invitation to self-identify forms provided in part 60–250 and part 60–300 such that the contractor extends to applicants one invitation to self-identify which lists all of the categories of veterans protected under parts 60–250 and 60–300.

Further, the JVA did not alter the written AAP requirement under VEVRAA. Contractors that also are subject to the regulations in part 60–300 may continue to implement the AAPs developed under the part 60–250 regulations, but their affirmative action efforts must include the three additional categories of covered veterans. These contractors may develop one AAP, rather than two, as long as the components of that AAP, including the outreach and positive recruitment activities, include all categories of veterans protected under parts 60–250 and 60–300.

Moreover, OFCCP believes that only a small percentage of contractors will be required to comply with both sets of VEVRAA regulations. The term ''Government contract'' is defined in existing § 60–250.2(i) and § 60–300.2(i) of the final rule as ''any agreement or modification thereof between any contracting agency and any person for the purchase, sale, or use of personal property or nonpersonal services (including construction).'' Existing § 60–250.2(i)(1) and 60–300.2(i)(1) of the final rule provide that a ''modification'' is ''any alteration in the terms and conditions of a contract, including supplemental agreements, amendments and extensions.'' The JVA applies to Government contracts entered on or after December 1, 2003. Because a contract modification is a ''Government contract'', the JVA applies to modifications of otherwise covered contracts made on or after December 1, 2003. Consequently, modification of a contract that would otherwise be covered by part 60–300 on or after December 1, 2003, but for the date the contract was entered into, would have the effect of modifying the VEVRAA equal opportunity clause; the new requirements of part 60–300 would be applicable to the modified contract, rather than the old requirements of part 60–250.

To clarify the effect of modifying a contract on the VEVRAA requirements applicable after modification, language has been added to § 60–300.1(b) addressing the issue. In the final rule, § 60–300.1(b) has been revised to state ''[t]his part applies to any Government contract or subcontract of $100,000 or more, entered into or modified on or after December 1, 2003 * * *. In addition, § 60–300.1(b) of the final rule states ''[a]ny contractor or subcontractor whose only contract * * * was entered into before December 1, 2003 (and not modified as described above) must follow part 60–250.''

The regulations published today and the existing VEVRAA implementing regulations in part 60–250 do not require contractors to count the number of veterans in their employ. The Veterans' Employment and Training Service (VETS), rather than OFCCP, administers and enforces the requirement that contractors track and report on the number of employees in their workforces who are covered veterans, and has established a form for reporting the required information. *See* 41 CFR Chapter 61.

Finally, OFCCP also disagrees with the assertion that the final rule could provide that contractors need comply with only one set of VEVRAA regulations. Many of the veterans currently protected under the regulations in part 60–250 remain covered in the categories of veterans protected under the JVA. However, because the JVA eliminated the Vietnam era veterans from coverage under VEVRAA, some Vietnam era veterans might lose the VEVRAA protections prematurely if OFCCP were to adopt a rule requiring contractors with contracts entered both before and on and after December 1, 2003, to comply only with the regulations implementing the JVA amendments. Conversely, some veterans covered under the JVA were not covered previously. OFCCP does not have the authority to permit contractors subject to both pre- and post-JVA requirements to comply only with post-JVA requirements because OFCCP rulemaking authority can only be exercised in a manner that carries out the provisions of the statute. Here, Congress expressly made the JVA amendments applicable to contracts entered into on or after December 1, 2003, and thereby provided that veterans covered under contracts entered into prior to the effective date of the JVA amendments remain covered under VEVRAA.

Section 60–300.2 Definitions

In the NPRM, OFCCP proposed to incorporate in this section many of the definitions contained in existing § 60–250.2 without any substantive changes. The proposal called for some definitions in existing § 60–250.2 to be incorporated in § 60–300.2 with modifications necessitated by the JVA amendments. Further, OFCCP proposed to adopt a few definitions that have no parallel definitions in the existing § 60–250.2. Likewise, some definitions in § 60–250.2 were not included in the proposed rule because of the changes the JVA made to VEVRAA.

OFCCP received several comments on the proposed definitions, and all were from one commenter. The commenter, an employer association, requested that the final rule clearly indicate that only veterans of the United States armed forces, as opposed to veterans of the armed forces of other nations, are covered under the affirmative action provisions of VEVRAA. The commenter stated that one option for clarifying coverage under VEVRAA would be to add a separate definition for the term ''veteran.'' Alternatively, the commenter recommended that OFCCP add clarifying language to the definitions for the terms ''disabled veteran'' and ''recently separated veteran.'' The commenter noted that the definitions for the terms ''other protected veteran'' and ''Armed Forces service medal veteran'' already indicate that the regulations apply to veterans of the United States armed forces.

In response to this comment, the definitions for the terms ''disabled veteran'' and ''recently separated

veteran'' in paragraphs (n) and (q), respectively, have been revised in the final rule to make clear that only veterans ''who served on active duty in the U.S. military, ground, naval, or air service'' are covered under the affirmative action provisions of VEVRAA. For the sake of clarity and consistency, this language also has been added to the definitions for the term ''other protected veteran'' in paragraph (p) and the term ''Armed Forces service medal veteran'' in paragraph (r) in the final rule. Paragraph (p) also replaces ''person'' with ''veteran'' for clarity.

The commenter also expressed the view that veterans who are discharged from service for certain serious offenses should not be entitled to the protections of the affirmative action provisions of VEVRAA. Accordingly, the commenter suggested that OFCCP adopt in the final rule coverage standards similar to those established under the regulations implementing the Uniformed Services Employment and Reemployment Rights Act (USERRA). The regulation at 20 CFR 1002.135 excludes from the protections of USERRA employees whose military service falls within one of four categories, including separation from service with a dishonorable or bad conduct discharge.

For purposes of the laws relating to veterans' benefits, which include the affirmative action provisions of VEVRAA, the definition of veteran means ''a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.'' See 38 U.S.C. 101(2). Thus, dishonorably discharged veterans are excluded from the protections of VEVRAA by statute. Since persons who are separated from service with dishonorable discharges do not meet the statutory definition of ''veteran,'' these persons are not entitled to the protections of the affirmative action provisions of VEVRAA. For clarity, the final rule defines veteran in paragraph (z) as ''a person who served in the active military, naval, or air service of the United States, and who was discharged or released therefrom under conditions other than dishonorable.''

One comment addressed the definition for the term ''other protected veteran.'' The commenter stated that employers need guidance on the wars, campaigns, and expeditions for which a campaign badge has been authorized. The commenter asserted that the information available on the Office of Personnel Management's Web site is out-of-date and only somewhat relevant to private employers. The commenter suggested that OFCCP develop an up-to-date list of the covered conflicts for which a campaign badge has been authorized, or work with other affected agencies to develop and maintain a link to a Web site that contains a current list of the wars, campaigns, and expeditions that would qualify a veteran as an ''other protected veteran.''

OFCCP agrees that contractors should have access to information about the veterans included in the category ''other protected veterans.'' Therefore, OFCCP will provide a link on its Web site to a list compiled by the Department of Defense, as well as a link to the information maintained by the Office of Personnel Management. These links will allow contractors to find lists of wars, campaigns, and expeditions for which a campaign badge has been authorized. OFCCP is providing these links as a courtesy to the contractor community. Contractors remain responsible for complying with their nondiscrimination and affirmative obligations regarding all protected veterans. Paragraph (p) is adopted in the final rule as stated earlier in this section.

The employer association providing comments on the definitions also stated that guidance was needed on the operations that would qualify a veteran as an ''Armed Forces service medal veteran,'' which is defined in paragraph (r). As was explained in the NPRM, Armed Forces service medals are awarded to military personnel who participate in a United States military operation deemed to be significant activity, and who encounter no foreign armed opposition or imminent hostile action. The commenter requested that OFCCP provide contractors access to an up-to-date list of the operations for which Armed Forces service medals have been awarded. OFCCP does not believe that providing such a list is necessary because the form used to document a veteran's separation from active duty military service, called the DD Form 214, Certificate of Release or Discharge from Active Duty, indicates whether a veteran is a recipient of the Armed Forces service medal. Veterans who self-identify as an ''Armed Forces service medal veteran'' may be asked to provide a copy of this form. Paragraph (r) is adopted in the final rule as stated earlier in this section.

OFCCP proposed in the NPRM to incorporate in paragraph (y) the definition of the ''employment service delivery system'' that was added to the definitional section of VEVRAA, 38 U.S.C. 4101(7), by Section 5(c)(1) of the JVA. Under the JVA, ''employment service delivery system'' means a ''service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.'' (The Wagner-Peyser Act established the Employment Service, which is a nationwide system of public employment offices.) The commenter recommended that OFCCP revise the definition of ''employment service delivery system'' in the final rule to state in plain language the name or type of agency with which the employer is to list its job openings.

OFCCP agrees that contractors should have clear guidance regarding the types of agencies with which the employer is to list job openings. However, OFCCP also recognizes contractors may wish to satisfy the mandatory job listing requirement in a variety of ways, depending on the number, timing, and location of the positions to be filled. For this reason, OFCCP believes that further defining the appropriate ''employment delivery system'' would unnecessarily constrain contractors' flexibility to list with an appropriate delivery system. Instead, in § 60–300.5 of the final rule, OFCCP has added language providing contractors with examples of the types of delivery systems with which contractors may list job openings. The revised language specifically provides that listing employment openings with the state workforce agency job bank or the local employment service delivery system where the opening occurs will satisfy the requirement to list jobs with the appropriate employment delivery system. In light of these changes to § 60–300.5, paragraph (y) of the final rule will remain as written in the NPRM.

Section 60–300.4 Coverage and Waivers

This section is identical to § 60–250.4 in the existing VEVRAA regulations, except that proposed paragraphs (a)(1) and (a)(2) implement the JVA amendments and state that contracts of $100,000 or more are covered under VEVRAA. We received no comments for this section. Accordingly, § 60–300.4 is adopted in the final rule as proposed.

Section 60–300.5 Equal Opportunity Clause

Paragraph (a) of the final rule contains the equal opportunity (EO) clause that must be included in all covered Government contracts and subcontracts. The language in paragraph (a)(1) of the EO clause is identical to the language in the parallel provision in existing § 60–250.5, except that paragraph (a)(1) refers to the categories of veterans protected under the JVA. Thus, ''disabled veterans'' and ''Armed Forces service medal veterans'' are mentioned in

paragraph (a)(1) of the final rule, while ''special disabled veterans'' and ''veterans of the Vietnam era'' are referenced in existing § 60–250.5(a)(1).

Paragraphs (a)(2) and (a)(3) set out the contractor's obligation to list employment openings with the appropriate employment service delivery system. The JVA amendments eliminated listing employment openings solely with America's Job Bank as an option for complying with the mandatory job listing requirement. The JVA requires that contractors and subcontractors list their employment openings with the appropriate ''employment service delivery system.'' *See* 38 U.S.C. 4212(a)(2)(A). In addition to listing their employment openings with the appropriate employment service delivery system, the JVA provides that contractors and subcontractors also may list their employment openings with one-stop career centers under the Workforce Investment Act of 1998, other appropriate service delivery points, or America's Job Bank (or any additional or subsequent national electronic job bank established by the U.S. Department of Labor). Accordingly, paragraph (a)(2) of the final rule generally tracks the JVA provision, and provides that contractors must list employment openings with the appropriate employment service delivery system.

The three employer associations all expressed concern about the elimination of AJB as a means for contractors to fulfill the mandatory job listing requirements. One employer association asserted that contractors that regularly advertise multiple job openings in locations throughout the country will face huge administrative burdens if they are required to list each job opening with individual employment service offices. The employer association stated that listing with the AJB allowed contractors to publicize job opportunities on a nationwide basis through a single Web site on the Internet, rather than listing them with each local employment service office of each location where an open position is being filled. The association claimed that a small army of dedicated staff would be required to comply with the requirement to list each job with individual employment service offices.

Similarly, another employer association claimed that the money, time, and resources required to comply with the requirement to separately list job openings with each individual local employment services agency would be substantial. The commenter maintained that compliance with the separate listing requirement is made more challenging by the different protocols for listing jobs that exist in the various local employment services offices. According to the commenter, some employment service offices require contractors to post openings only by regular mail, some accept listings via fax, and some accept postings only by email.

One commenter urged OFCCP to consider alternatives to the proposed job listing provision that would reduce the burden on contractors. Two commenters raised questions about the status of a Department-sponsored solution that would allow contractors to meet both the current and the revised mandatory job listing requirement. One commenter recommended that the Department continue the effort to develop a Department-sponsored solution, and that OFCCP delay publishing the final rule until after a solution has been implemented.

Delaying publication of the final rule until development of a Department-sponsored solution has been completed is not a feasible option. In December 2005, the Government Accountability Office (GAO) issued a report entitled ''Veterans' Employment and Training Service Labor Actions Needed to Improve Accountability and Help States Implement Reforms to Veterans' Employment Services'' (GAO–06–176). The GAO Report sets forth results of a review of progress made in implementing the reforms to employment and training services for veterans required by the JVA. GAO noted that the Department has not yet issued regulations to implement the JVA amendments to the affirmative action provisions of VEVRAA and recommended that the Department issue such regulations as soon as possible. In response to the GAO Report, OFCCP agreed to expedite issuing the federal contractor regulations.

However, OFCCP appreciates the difficulties contractors may face if they must list job openings with multiple employment service delivery systems, particularly if those systems maintain different methods for posting job openings or if the contractor must act to fulfill multiple job openings in different geographical locations in a short period of time. Therefore, OFCCP has added language to this section providing that contractors may fulfill their job posting requirement by listing job openings with the appropriate state workforce agency job bank. The appropriate state workforce agency job bank shall be the job bank in which the job opening occurs. Contractors also may satisfy the posting requirement by listing job openings with the local employment service delivery system where the opening occurs.

A contractor may satisfy the mandatory job listing requirement by submitting job listings to the appropriate employment delivery system in a variety of ways, including via mail, facsimile (FAX), electronic mail, or other electronic postings. The vast majority of the state workforce agency job banks accept job postings via the Internet. Contractors may use third parties, such as private or non-profit sector job banks, Internet gateway and portal sites, and recruiting services and directories, to assist them with the transmission of job postings to the appropriate employment delivery system.

OFCCP believes that this approach allows contractors the necessary flexibility to determine the most effective way to comply with the mandatory job listing requirement, depending on the number, timing, and location of the positions to be filled. OFCCP will provide a link on its Web site to all state workforce agency job banks. This link will allow contractors to identify those state workforce agency job banks that accept electronically-transmitted job postings. OFCCP is providing this link as a courtesy to the contractor community. Contractors remain responsible for complying with the requirement to list with the appropriate employment delivery system.

In order to make clear that contractors may satisfy the mandatory job listing requirement in a variety of ways, paragraph (a)(2) of the final rule reads as follows: ''The contractor agrees to immediately list all employment openings which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, with the appropriate employment service delivery system where the opening occurs. Listing employment openings with the state workforce agency job bank or the local employment service delivery system where the opening occurs will satisfy the requirement to list jobs with the appropriate employment service delivery system. In paragraph (a)(4), OFCCP is changing the phrase ''state employment security agency'' to ''state workforce agency'' so that paragraph (a)(4) is consistent with paragraph (a)(2) of this section.

OFCCP also received two comments on the definition of ''executive and senior management'' in proposed paragraph (a)6.ii. In order to conform to a technical amendment made by the JVA, OFCCP proposed to use the term ''senior management'' in proposed paragraph (a)6.ii., instead of ''top management,'' which is the term used in existing § 250.5(a)6.ii. However, in all other respects, the proposed definition for the term ''executive and senior management'' is identical to the definition of ''executive and top management'' found in the existing § 250.5(a)6.ii.

One commenter observed that, in defining the term ''executive and senior management'' in proposed § 60–300.5(a)6.ii. and current § 250.5(a)6.ii., OFCCP followed the regulations implementing the exemption for executives from the minimum wage and overtime pay requirements of the Fair Labor Standards Act (FLSA), published at 29 CFR part 541 (''part 541 regulations''). The commenter also noted that the Department of Labor revised the part 541 regulations, effective August 23, 2004, and that the revisions include streamlined tests for determining whether a person qualifies as an ''executive'' exempt from the overtime provisions. See 69 FR 22122. For the sake of consistency and in order to avoid confusion, the commenter maintained that the definition of ''executive and senior management'' in paragraph (a)6.ii. should conform to the updated tests for determining who qualifies as an ''executive employee'' set forth in the part 541 regulations.

In response to the comment, OFCCP has revised the definition of ''executive and senior management'' to reflect the standards for determining when a person qualifies as an ''executive employee'' found in 29 CFR 541.100 and 541.101. Thus, paragraph (a)6.ii. in the final rule defines the term ''executive and senior management'' as: (1) any employee ''(a) Compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (b) Whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; (c) Who customarily and regularly directs the work of two or more other employees; and (d) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight;'' or (2) any employee ''who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.''

Another commenter expressed the view that the proposed definition of ''executive and senior management'' could be interpreted to exclude from the mandatory job listing requirement ''most low level managers and supervisors.'' The commenter argued that ''executive and senior management'' should be defined as ''positions which direct company policy and direction and not be hinged to supervision of employees.'' OFCCP believes that its revised definition adequately addresses this commenter's concerns, as supervisory responsibility is not the sole determinant of whether a job is considered ''executive and senior management.'' In order to be considered an ''executive and top management'' position exempt from the mandatory job listing requirement, a job must satisfy all of the factors listed in paragraph (a)6.ii.

Subpart B—Discrimination Prohibited

Section 60–300.21 Prohibitions

The final rule adopts § 60–300.21 as proposed. This section is identical to existing § 60–250.21, except that the categories of veterans covered under the JVA are referenced in the final rule.

Paragraph (c) provides that it is unlawful for contractors to participate in contractual arrangements that have the effect of subjecting the applicants and employees who are covered veterans to discrimination. A comment from a workforce development agency expressed concerns about the contractual arrangements federal contractors have with temporary employment agencies. The commenter asserted that many federal contractors use temporary employment agencies to recruit candidates for job vacancies and that when the temporary agencies receive job orders from a client they tend to refer candidates they have ''on-file.'' According to the commenter, temporary agencies are not obligated to comply with the mandatory job listing requirements because they ''are not by definition subcontractors to the federal contractor.'' The commenter argued that, to better serve veterans, either temporary agencies should be considered as subcontractors, or contractors listing job orders with temporary agencies also should be required to list their job orders with the employment service.

A contractor's use of an employment agency does not relieve the contractor of its obligation to comply with the mandatory job listing requirement. Section 60–250.5(a) expressly provides that ''listing of employment openings with the appropriate employment service delivery system pursuant to this clause shall be made *at least concurrently* with the use of any other recruitment source or effort * * *'' (Emphasis supplied.) Thus, the regulations generally require contractors to list with the appropriate employment service delivery system the jobs that also are provided to an employment agency. The only jobs listed with an employment agency that need not be listed with the employment service are those exempt from the mandatory job listing requirement. Section 60–250.5(a)6.i exempts from the mandatory job listing requirement positions that are executive and senior management, positions filled from within the contractor's organizations, and positions lasting three days or less.

In addition, paragraph (c) of this section forbids contractors from using an employment agency that discriminates against covered veterans. Accordingly, a contractor would violate VEVRAA if it uses an employment agency that discriminates against veterans to recruit for vacancies.

Further, OFCCP disagrees with the commenter's assertion that all temporary employment agencies are excluded from coverage under VEVRAA. Section 60–300.2(l), as does the parallel provision in the part 60–250 regulations, defines the term ''subcontract'' as ''any agreement or arrangement between a contractor and any person * * * which, in whole or in part, is necessary to the performance of any one or more contracts; or * * * under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.'' Whether a particular subcontract is covered under the VEVRAA regulations depends on a variety of factors such as the requirements of the Government contract in issue and the role of the subcontractor in fulfilling the obligations of the Government contract. Thus, some, but certainly not all, temporary employment agencies may have agreements with Government contractors that would render them a covered subcontractor under VEVRAA.

Section 60–300.22 Direct Threat Defense

This section is identical to existing § 60–250.22, except that the cross-reference is to § 60–300.2(w) of this final rule. OFCCP received no comments on this section. It is adopted in the final rule as proposed.

Section 60–300.23 Medical Examinations and Inquiries

This section is identical to existing § 60–250.23, except that the proposal references the category of ''disabled veteran(s)'' rather than ''special disabled veterans.'' No comments were submitted on this section. The final rule adopts § 60–300.23 as proposed.

Section 60–300.24 Drugs and Alcohol

This section is identical to existing § 60–250.24, except that this section includes a citation to § 60–300.23(d). OFCCP received no comments on this section. Accordingly, the final rule adopts this section as proposed.

Section 60–300.25 Health Insurance, Life Insurance and Other Benefit Plans

This section is identical to § 60–250.25 in the current VEVRAA implementing regulations, except that ''disabled veteran'' rather than ''special disabled veteran'' is referenced in paragraph (d). We received no comments on this section. The final rule adopts § 60–300.25 as proposed.

Subpart C—Affirmative Action Program

Section 60–300.40 Applicability of the Affirmative Action Program Requirement

OFCCP proposed paragraph (a) raised the coverage threshold to a contract of $100,000 or more. As discussed in the preamble discussion of the § 60–300.1, some comments expressed concern about the increased burden that would result if contractors are required to develop and maintain two AAPs—one under the part 60–250 and a second AAP under part 60–300. OFCCP explained that contractors subject to the final rule and the regulations in part 60–250 may develop a single AAP that addresses the requirements under parts 60–250 and 60–300.

One commenter asked about the deadline for developing the AAP required under 60–300.40. Paragraph (b) provides that a contractor must develop an AAP within 120 days of the commencement of a contract. Under the existing VEVRAA regulations, a contractor with a contract of $50,000 or more must develop a written AAP. Any contractor with a contract of $100,000 or more that was entered into on or after December 1, 2003, should already have an AAP in place that would meet the requirements of this section. The final rule adopts § 60–300.40 without change.

Section 60–300.42 Invitation to Self-Identify

This section is identical to § 60–250.42, except that the categories of veterans protected under the JVA are referenced in this section. In addition, the regulatory citations in this section are to provisions in the final rule. We received one comment to this section asking for clarification on the self-identification process. The process is explained in this section. Section 60–300.42 is adopted in the final rule as proposed.

Section 60–300.43 Affirmative Action Policy

This section is identical to § 60–250.43, except that this section specifies the categories of veterans covered under the JVA, and contains citations to provisions in the proposed rule. No comments were received on this section. Accordingly, § 60–300.43 is adopted in the final rule as proposed.

Section 60–300.44 Required Contents of Affirmative Action Programs

With the exception of changes necessitated by the JVA amendments, this section is identical to § 60–250.44 in the existing VEVRAA implementing regulations. The categories of veterans protected under the JVA are referenced throughout this section. In addition, consistent with the technical amendments to VEVRAA, the term ''senior management'' is used in paragraph (h)(2)(i), which sets out the requirement that the contractor assign responsibility for implementation of the AAP. Further, this section contains citations to provisions in the final rule. We received no comments on § 60–300.44 and it is adopted in the final rule without change.

Subpart D—General Enforcement and Complaint Procedures

Section 60–300.60 Compliance Evaluations

This section is identical to § 60–250.60, except for the differences necessitated by the JVA. One difference is that the categories of veterans protected under the JVA are referenced in this section. The other difference is found in paragraph (c), which addresses OFCCP verification of contractor compliance with reporting requirements. Paragraph (c) of existing § 60–250.60 provides that OFCCP may verify whether a contractor is complying with its obligation to file its Annual VETS–100 Report pursuant to the regulations in 41 CFR part 61–250. The regulations in part 61–250, which were issued by VETS, apply only to contracts entered into before December 1, 2003.

Paragraph (c) of this section provides that OFCCP may verify whether a contractor has complied with applicable reporting requirements required under regulations promulgated by VETS. OFCCP changed ''any reporting requirement'' from the NPRM to ''applicable reporting requirements'' in the final rule for clarity. This change gives OFCCP authority to investigate compliance with all applicable reporting requirements required under regulations promulgated by VETS, including any new reporting requirements that VETS may implement as a result of the JVA.

We received two comments concerning the reporting requirements under VEVRAA that are administered by VETS. One commenter stated that contractor burden will increase because of the requirements to submit the VETS–100 under both parts 60–250 and 60–300. This same commenter suggested that OFCCP coordinate its final rule to any changes to the VETS–100 Report under VETS. As explained in the discussion of § 60–300.1, the VEVRAA implementing regulations administered by OFCCP contain no reporting requirements. Accordingly, contractors subject to the existing regulations in part 60–250 and the regulations in part 60–300 will not face an increase in their reporting burden under OFCCP's rule.

We also received one comment concerning the relationship between OFCCP and VETS compliance evaluations. Under the current regulations in part 60–250.5, during the onsite portion of a compliance evaluation, a compliance officer confirms with the contractor that it has listed its employment openings with the local employment service office and may contact the local employment service office directly to verify that the contractor has complied with the mandatory job listing requirements. Under this final rule, OFCCP will confirm that contractors holding Government contracts subject to the JVA have listed employment openings with the appropriate employment delivery system and may contact the employment delivery system directly to verify this information.

Under the current regulations in part 60–250.5, OFCCP also confirms with the contractor that it has completed a VETS–100 report during the onsite portion of a compliance evaluation. If

the contractor has not completed the VETS–100 report, OFCCP will notify VETS. Under this section of the final rule, OFCCP will confirm that a contractor holding a Government contract covered by the JVA has completed any applicable VETS reporting requirements, including any new reporting requirements that VETS may implement as a result of the JVA. If the contractor has not completed any applicable reporting requirements, OFCCP will notify VETS.

Section 60–300.61 Complaint Procedures

This section is identical to § 60–250.61, except for the changes necessary to conform to the amendments made by the JVA. Further, the regulatory citations in this section are to sections in the final rule. In paragraph (a) of the final rule, OFCCP is changing ''state employment security agency'' to ''state workforce agency'' to be consistent with § 300.5.

Section 60–300.64 Show Cause Notices

Except for the citations to provisions in the final rule, this section is identical to § 60–250.64. Section 60–300.64 is adopted in the final rule as proposed.

Section 60–300.65 Enforcement Proceedings

Except for the citations to provisions in the final rule, this section is identical to § 60–250.65. We received no comments to this section; it is adopted in the final rule without change.

Section 60–300.66 Sanctions and Penalties

Except for the citations to provisions in the final rule, this section is identical to § 60–250.66. The final rule adopts § 60–300.66 as proposed.

Section 60–300.69 Intimidation and Interference

This section is identical to § 60–250.69, except that this section refers to the categories of veterans protected under the JVA. Section 60–300.69 is adopted in the final rule without change.

Subpart E—Ancillary Matters

Section 60–300.84 Responsibilities of Appropriate Employment Service Delivery System

According to VEVRAA, 38 U.S.C. Section 4212 (a)(2)(B), appropriate employment service delivery systems are required to give priority in referral to disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans to employment openings listed by contractors with such appropriate employment delivery systems pursuant to the mandatory job listing requirements of the equal opportunity clause. According to Section 4212(a)(2)(c), the appropriate employment service delivery system also shall provide a list of such employment openings to States, political subdivisions of States, or any private entities or organizations under contract to carry out employment, training, and placement services under chapter 41 of title 38.

OFCCP proposed § 60–300.84 was identical to current § 60–250.84. In the final rule, OFCCP has revised this section to clarify the scope of its authority over, and its interactions with, these employment delivery systems. OFCCP may contact the employment delivery systems to request information pertinent to whether the contractor is in compliance with the mandatory job listing requirements. OFCCP does not, however, have responsibility for ensuring that the appropriate employment delivery systems provide priority referral to covered veterans. Accordingly, OFCCP added the words ''By statute'' to the first sentence of this section to clarify that the obligation of employment delivery systems to provide veterans with priority of service arises by statute, and not because of a requirement imposed by OFCCP.

Appendix A to Part 60–300—Guidelines on a Contractor's Duty To Provide Reasonable Accommodation

Except for the references to the categories of veterans covered under the JVA and citations to provisions in the final rule, Appendix A to part 60–300 is substantially similar to Appendix A to part 60–250 in the existing VEVRAA regulations. We received no comments on Appendix A. Accordingly, Appendix A is adopted in the final rule without change.

Appendix B to Part 60–300—Sample Invitation to Self-Identify

Except for the references to the categories of veterans covered under the JVA and citations to provisions in the final rule, Appendix B to part 60–300 is substantially similar to Appendix B to part 60–250 in the existing VEVRAA regulations. We received no comments on this aspect of the proposal. The final rule adopts Appendix B as proposed in the NPRM.

Appendix C to Part 60–300—Review of Personnel Processes

Proposed Appendix C to part 60–300 is substantially similar to Appendix C to part 60–250 in the existing VEVRAA regulations, except for the references to the categories of veterans covered under the JVA and citations to provisions in the proposed rule. We received no comments on Appendix C. The final rule adopts Appendix C without change.

Regulatory Procedures

Executive Order 12866

The Department is issuing this final rule in conformance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this rule is a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, but is not economically significant as defined in section 3(f)(1). Therefore, the information enumerated in section 6(a)(3)(C) of the order is not required. Pursuant to Executive Order 12866, this rule has been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

OFCCP has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' This rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Regulatory Flexibility Act

This rule clarifies existing requirements for Federal contractors. In view of this fact and because the rule does not substantively change existing obligations for Federal contractors, the Department concludes that this rule will not have a significant economic impact on a substantial number of small entities. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Unfunded Mandates Reform

Executive Order 12875—This rule does not create an unfunded Federal mandate upon any State, local, or tribal government.

Unfunded Mandates Reform Act of 1995—This rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of $100 million or more, or increased expenditures by the private sector of $100 million or more.

Paperwork Reduction Act

The information collection requirements contained in the existing VEVRAA regulations, with the exception of those related to complaint procedures, are currently approved under OMB Control No. 1215–0072 (Recordkeeping and Reporting Requirements-Supply and Service) and OMB Control No. 1215–0163 (Construction Recordkeeping and Reporting). The information collection requirements contained in the existing complaint procedures regulation are currently approved under OMB Control No. 1215–0131. This rule adopts a new set of VEVRAA implementing regulations that incorporate the changes made by the JVA amendments, and apply to Government contracts entered on or after December 1, 2003. The JVA amended VEVRAA by increasing the contract coverage threshold, changing the categories of veterans protected under the law, and changing the manner in which the mandatory job listing requirement is to be implemented. The increase in the contract coverage threshold from $25,000 to $100,000 may result in a decrease in the number of respondents and burden hours. However, this rule does not make any changes to the currently approved information collections. Consequently, this rule need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects in 41 CFR Part 60–300

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Individuals with disabilities, Investigations, Reporting and recordkeeping requirements, and Veterans.

Signed at Washington, DC, this 2nd day of August, 2007.

Victoria A. Lipnic,

Assistant Secretary for Employment Standards.

Charles E. James, Sr.,

Deputy Assistant Secretary for Federal Contract Compliance.

■ Accordingly, for the reasons set forth in the preamble, Chapter 60 of Title 41 of the Code of Federal Regulations is amended to read as follows:

PART 60–300—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS REGARDING DISABLED VETERANS, RECENTLY SEPARATED VETERANS, OTHER PROTECTED VETERANS, AND ARMED FORCES SERVICE MEDAL VETERANS

Subpart A—Preliminary Matters, Equal Opportunity Clause

Sec.
60–300.1 Purpose, applicability and construction.
60–300.2 Definitions.
60–300.3 [Reserved]
60–300.4 Coverage and waivers.
60–300.5 Equal opportunity clause.

Subpart B—Discrimination Prohibited

60–300.20 Covered employment activities.
60–300.21 Prohibitions.
60–300.22 Direct threat defense.
60–300.23 Medical examinations and inquiries.
60–300.24 Drugs and alcohol.
60–300.25 Health insurance, life insurance and other benefit plans.

Subpart C—Affirmative Action Program

60–300.40 Applicability of the affirmative action program requirement.
60–300.41 Availability of affirmative action program.
60–300.42 Invitation to self-identify.
60–300.43 Affirmative action policy.
60–300.44 Required contents of affirmative action programs.

Subpart D—General Enforcement and Complaint Procedures

60–300.60 Compliance evaluations.
60–300.61 Complaint procedures.
60–300.62 Conciliation agreements.
60–300.63 Violation of conciliation agreements.
60–300.64 Show cause notices.
60–300.65 Enforcement proceedings.
60–300.66 Sanctions and penalties.
60–300.67 Notification of agencies.
60–300.68 Reinstatement of ineligible contractors.
60–300.69 Intimidation and interference.
60–300.70 Disputed matters related to compliance with the Act.

Subpart E—Ancillary Matters

60–300.80 Recordkeeping.
60–300.81 Access to records.
60–300.82 Labor organizations and recruiting and training agencies.
60–300.83 Rulings and interpretations.
60–300.84 Responsibilities of appropriate employment service delivery system.
Appendix A to Part 60–300—Guidelines on a Contractor's Duty To Provide Reasonable Accommodation
Appendix B to Part 60–300—Sample Invitation To Self-Identify
Appendix C to Part 60–300—Review of Personnel Processes

Authority: 29 U.S.C. 793; 38 U.S.C. 4211 and 4212; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

Subpart A—Preliminary Matters, Equal Opportunity Clause

§ 60–300.1 Purpose, applicability and construction.

(a) *Purpose.* The purpose of the regulations in this part is to set forth the standards for compliance with the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212, or VEVRAA), which requires Government contractors and subcontractors to take affirmative action to employ and advance in employment qualified covered veterans. Disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans are covered veterans under VEVRAA.

(b) *Applicability.* This part applies to any Government contract or subcontract of $100,000 or more, entered into or modified on or after December 1, 2003, for the purchase, sale or use of personal property or nonpersonal services (including construction): *Provided,* that subpart C of this part applies only as described in § 60–300.40(a). Compliance by the contractor with the provisions of this part will not necessarily determine its compliance with other statutes, and compliance with other statutes will not necessarily determine its compliance with this part. Any contractor or subcontractor whose only contract(s) for the purchase, sale or use of personal property and nonpersonal services (including construction) was entered into before December 1, 2003 (and not modified as described above) must follow part 60–250. Any contractor or subcontractor who has contracts for the purchase, sale or use of personal property and nonpersonal services (including construction) that were entered into before December 1, 2003 (and not modified as described above), and contracts that were entered into on or after December 1, 2003, must follow both parts 60–250 and 60–300.

(c) *Construction*—(1) *In general.* The Interpretive Guidance on Title I of the Americans with Disabilities Act (ADA) (42 U.S.C. 12101, *et seq.*) set out as an appendix to 29 CFR part 1630 issued pursuant to Title I may be relied upon for guidance in interpreting the parallel provisions of this part.

(2) *Relationship to other laws.* This part does not invalidate or limit the remedies, rights, and procedures under any Federal law or the law of any state or political subdivision that provides greater or equal protection for the rights of disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans as compared to the protection afforded by this part. It may be a defense to a charge

of violation of this part that a challenged action is required or necessitated by another Federal law or regulation, or that another Federal law or regulation prohibits an action (including the provision of a particular reasonable accommodation) that would otherwise be required by this part.

§ 60–300.2 Definitions.

For the purpose of this part:

(a) *Act* means the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212.

(b) *Equal opportunity clause* means the contract provisions set forth in § 60–300.5, ''Equal opportunity clause.''

(c) *Secretary* means the Secretary of Labor, United States Department of Labor, or his or her designee.

(d) *Deputy Assistant Secretary* means the Deputy Assistant Secretary for Federal Contract Compliance of the United States Department of Labor, or his or her designee.

(e) *Government* means the Government of the United States of America.

(f) *United States*, as used in this part, shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Wake Island.

(g) *Recruiting and training agency* means any person who refers workers to any contractor, or who provides or supervises apprenticeship or training for employment by any contractor.

(h) *Contract* means any Government contract or subcontract.

(i) *Government contract* means any agreement or modification thereof between any contracting agency and any person for the purchase, sale or use of personal property or nonpersonal services (including construction). The term *Government contract* does not include agreements in which the parties stand in the relationship of employer and employee, and federally assisted contracts.

(1) *Modification* means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments and extensions.

(2) *Contracting agency* means any department, agency, establishment or instrumentality of the United States, including any wholly owned Government corporation, which enters into contracts.

(3) *Person*, as used in this paragraph (i) and paragraph (l) of this section, means any natural person, corporation, partnership or joint venture, unincorporated association, state or local government, and any agency, instrumentality, or subdivision of such a government.

(4) *Nonpersonal services*, as used in this paragraph (i) and paragraph (l) of this section, includes, but is not limited to, the following: Utility, construction, transportation, research, insurance, and fund depository.

(5) *Construction*, as used in this paragraph (i) and paragraph (l) of this section, means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

(6) *Personal property*, as used in this paragraph (i) and paragraph (l) of this section, includes supplies and contracts for the use of real property (such as lease arrangements), unless the contract for the use of real property itself constitutes real property (such as easements).

(j) *Contractor* means, unless otherwise indicated, a prime contractor or subcontractor holding a contract of $100,000 or more.

(k) *Prime contractor* means any person holding a contract of $100,000 or more, and, for the purposes of subpart D of this part, ''General Enforcement and Complaint Procedures,'' includes any person who has held a contract subject to the Act.

(l) *Subcontract* means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the purchase, sale or use of personal property or nonpersonal services (including construction) which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

(m) *Subcontractor* means any person holding a subcontract of $100,000 or more and, for the purposes of subpart D of this part, ''General Enforcement and Complaint Procedures,'' any person who has held a subcontract subject to the Act.

(n) *Disabled veteran* means:

(1) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs, or

(2) A person who was discharged or released from active duty because of a service-connected disability.

(o) *Qualified disabled veteran* means a disabled veteran who has the ability to perform the essential functions of the employment position with or without reasonable accommodation.

(p) *Other protected veteran* means a veteran who served on active duty in the U.S. military, ground, naval or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, under the laws administered by the Department of Defense.

(q) *Recently separated veteran* means any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

(r) *Armed Forces service medal veteran* means any veteran who, while serving on active duty in the U.S. military, ground, naval or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).

(s) *Essential functions*—(1) *In general.* The term *essential functions* means fundamental job duties of the employment position the disabled veteran holds or desires. The term *essential functions* does not include the marginal functions of the position.

(2) A job function may be considered essential for any of several reasons, including, but not limited to, the following:

(i) The function may be essential because the reason the position exists is to perform that function;

(ii) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or

(iii) The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function.

(3) Evidence of whether a particular function is essential includes, but is not limited to:

(i) The contractor's judgment as to which functions are essential;

(ii) Written job descriptions prepared before advertising or interviewing applicants for the job;

(iii) The amount of time spent on the job performing the function;

(iv) The consequences of not requiring the incumbent to perform the function;

(v) The terms of a collective bargaining agreement;

(vi) The work experience of past incumbents in the job; and/or

(vii) The current work experience of incumbents in similar jobs.

(t) *Reasonable accommodation*—(1) The term *reasonable accommodation* means:

(i) Modifications or adjustments to a job application process that enable a qualified applicant who is a disabled veteran to be considered for the position such applicant desires;[1] or

(ii) Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified disabled veteran to perform the essential functions of that position; or

(iii) Modifications or adjustments that enable the contractor's employee who is a disabled veteran to enjoy equal benefits and privileges of employment as are enjoyed by the contractor's other similarly situated employees who are not disabled veterans.

(2) Reasonable accommodation may include but is not limited to:

(i) Making existing facilities used by employees readily accessible to and usable by disabled veterans; and

(ii) Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for disabled veterans.

(3) To determine the appropriate reasonable accommodation it may be necessary for the contractor to initiate an informal, interactive process with the qualified disabled veteran in need of the accommodation.[2] This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations. (Appendix A of this part provides guidance on a contractor's duty to provide reasonable accommodation.)

(u) *Undue hardship*—(1) *In general. Undue hardship* means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the contractor, when considered in light of the factors set forth in paragraph (u)(2) of this section.

(2) *Factors to be considered.* In determining whether an accommodation would impose an undue hardship on the contractor, factors to be considered include:

(i) The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding;

(ii) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources;

(iii) The overall financial resources of the contractor, the overall size of the business of the contractor with respect to the number of its employees, and the number, type and location of its facilities;

(iv) The type of operation or operations of the contractor, including the composition, structure and functions of the work force of such contractor, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the contractor; and

(v) The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

(v) *Qualification standards* means the personal and professional attributes including the skill, experience, education, physical, medical, safety and other requirements established by the contractor as requirements which an individual must meet in order to be eligible for the position held or desired.

(w) *Direct threat* means a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation. The determination that a disabled veteran poses a *direct threat* shall be based on an individualized assessment of the individual's present ability to perform safely the essential functions of the job. This assessment shall be based on a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence. In determining whether an individual would pose a direct threat, the factors to be considered include:

(1) The duration of the risk;

(2) The nature and severity of the potential harm;

(3) The likelihood that the potential harm will occur; and

(4) The imminence of the potential harm.

(x) *Compliance evaluation* means any one or combination of actions OFCCP may take to examine a Federal contractor's or subcontractor's compliance with one or more of the requirements of the Vietnam Era Veterans' Readjustment Assistance Act.

(y) *Employment service delivery system* means a service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.

(z) *Veteran* means a person who served in the active military, naval, or air service of the United States, and who was discharged or released therefrom under conditions other than dishonorable.

§ 60–300.3 [Reserved]

§ 60–300.4 Coverage and waivers.

(a) *General*—(1) *Contracts and subcontracts of $100,000 or more.* Contracts and subcontracts of $100,000 or more are covered by this part. No contracting agency or contractor shall procure supplies or services in less than usual quantities to avoid the applicability of the equal opportunity clause.

(2) *Contracts for indefinite quantities.* With respect to indefinite delivery-type contracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, ''call-type'' contracts, and purchase notice agreements), the equal opportunity clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will be less than $100,000. The applicability of the equal opportunity clause shall be determined at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order is $100,000 or more. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Employment activities within the United States.* This part applies only to

[1] A contractor's duty to provide a reasonable accommodation with respect to applicants who are disabled veterans is not limited to those who ultimately demonstrate that they are qualified to perform the job in issue. Disabled veteran applicants must be provided a reasonable accommodation with respect to the application process if they are qualified with respect to that process (*e.g.*, if they present themselves at the correct location and time to fill out an application).

[2] Contractors must engage in such an interactive process with a disabled veteran, whether or not a reasonable accommodation ultimately is identified that will make the person a qualified individual. Contractors must engage in the interactive process because, until they have done so, they may be unable to determine whether a reasonable accommodation exists that will result in the person being qualified.

employment activities within the United States and not to employment activities abroad. The term ''employment activities within the United States'' includes actual employment within the United States, and decisions of the contractor made within the United States pertaining to the contractor's applicants and employees who are within the United States, regarding employment opportunities abroad (such as recruiting and hiring within the United States for employment abroad, or transfer of persons employed in the United States to contractor establishments abroad).

(4) *Contracts with state or local governments.* The requirements of the equal opportunity clause in any contract or subcontract with a state or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(b) *Waivers*—(1) *Specific contracts and classes of contracts.* The Deputy Assistant Secretary may waive the application to any contract of the equal opportunity clause in whole or part when he or she deems that special circumstances in the national interest so require. The Deputy Assistant Secretary may also grant such waivers to groups or categories of contracts: where it is in the national interest; where it is found impracticable to act upon each request individually; and where such waiver will substantially contribute to convenience in administration of the Act. When a waiver has been granted for any class of contracts, the Deputy Assistant Secretary may withdraw the waiver for a specific contract or group of contracts to be awarded, when in his or her judgment such action is necessary or appropriate to achieve the purposes of the Act. The withdrawal shall not apply to contracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

(2) *National security.* Any requirement set forth in the regulations of this part shall not apply to any contract whenever the head of the contracting agency determines that such contract is essential to the national security and that its award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the contracting agency will notify the Deputy Assistant Secretary in writing within 30 days.

(3) *Facilities not connected with contracts.* The Deputy Assistant Secretary may waive the requirements of the equal opportunity clause with respect to any of a contractor's facilities which he or she finds to be in all respects separate and distinct from activities of the contractor related to the performance of the contract, provided that he or she also finds that such a waiver will not interfere with or impede the effectuation of the Act. Such waivers shall be considered only upon the request of the contractor.

§ 60–300.5 Equal opportunity clause.

(a) *Government contracts.* Each contracting agency and each contractor shall include the following equal opportunity clause in each of its covered Government contracts or subcontracts (and modifications, renewals, or extensions thereof if not included in the original contract):

EQUAL OPPORTUNITY FOR DISABLED VETERANS, RECENTLY SEPARATED VETERANS, OTHER PROTECTED VETERANS, AND ARMED FORCES SERVICE MEDAL VETERANS

1. The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran in all employment practices, including the following:

i. Recruitment, advertising, and job application procedures;

ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

iii. Rates of pay or any other form of compensation and changes in compensation;

iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

v. Leaves of absence, sick leave, or any other leave;

vi. Fringe benefits available by virtue of employment, whether or not administered by the contractor;

vii. Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

viii. Activities sponsored by the contractor including social or recreational programs; and

ix. Any other term, condition, or privilege of employment.

2. The contractor agrees to immediately list all employment openings which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, with the appropriate employment service delivery system where the opening occurs. Listing employment openings with the state workforce agency job bank or with the local employment service delivery system where the opening occurs will satisfy the requirement to list jobs with the appropriate employment service delivery system.

3. Listing of employment openings with the appropriate employment service delivery system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a *bona fide* job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicants or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

4. Whenever a contractor, other than a state or local governmental contractor, becomes contractually bound to the listing provisions in paragraphs 2 and 3 of this clause, it shall advise the state workforce agency in each state where it has establishments of the name and location of each hiring location in the state. As long as the contractor is contractually bound to these provisions and has so advised the state agency, there is no need to advise the state agency of subsequent contracts. The contractor may advise the state agency when it is no longer bound by this contract clause.

5. The provisions of paragraphs 2 and 3 of this clause do not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Wake Island, and the Trust Territories of the Pacific Islands.

6. As used in this clause: i. *All employment openings* includes all positions except executive and senior management, those positions that will be filled from within the contractor's organization, and positions lasting three days or less. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment.

ii. *Executive and senior management* means: (1) Any employee (a) compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the

Federal Government), exclusive of board, lodging or other facilities; (b) whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; (c) who customarily and regularly directs the work of two or more other employees; and (d) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight; or (2) any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

iii. *Positions that will be filled from within the contractor's organization* means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings which the contractor proposes to fill from regularly established ''recall'' lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of his or her own organization.

7. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

8. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

9. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans. The contractor must ensure that applicants or employees who are disabled veterans are informed of the contents of the notice (*e.g.*, the contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

10. The contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and is committed to take affirmative action to employ and advance in employment qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans.

11. The contractor will include the provisions of this clause in every subcontract or purchase order of $100,000 or more, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance may direct to enforce such provisions, including action for noncompliance.

[End of Clause]

(b) *Subcontracts.* Each contractor shall include the equal opportunity clause in each of its subcontracts subject to this part.

(c) *Adaption of language.* Such necessary changes in language may be made to the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

(d) *Inclusion of the equal opportunity clause in the contract.* It is not necessary that the equal opportunity clause be quoted verbatim in the contract. The clause may be made a part of the contract by citation to 41 CFR 60–300.5(a).

(e) *Incorporation by operation of the Act.* By operation of the Act, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause, whether or not it is physically incorporated in such contract and whether or not there is a written contract between the agency and the contractor.

(f) *Duties of contracting agencies.* Each contracting agency shall cooperate with the Deputy Assistant Secretary and the Secretary in the performance of their responsibilities under the Act. Such cooperation shall include insuring that the equal opportunity clause is included in all covered Government contracts and that contractors are fully informed of their obligations under the Act and this part, providing the Deputy Assistant Secretary with any information which comes to the agency's attention that a contractor is not in compliance with the Act or this part, responding to requests for information from the Deputy Assistant Secretary, and taking such actions for noncompliance as are set forth in § 60–300.66 as may be ordered by the Secretary or the Deputy Assistant Secretary.

Subpart B—Discrimination Prohibited

§ 60–300.20 Covered employment activities.

The prohibition against discrimination in this part applies to the following employment activities:

(a) Recruitment, advertising, and job application procedures;

(b) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(c) Rates of pay or any other form of compensation and changes in compensation;

(d) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(e) Leaves of absence, sick leave, or any other leave;

(f) Fringe benefits available by virtue of employment, whether or not administered by the contractor;

(g) Selection and financial support for training, including, apprenticeships, professional meetings, conferences and other related activities, and selection for leaves of absence to pursue training;

(h) Activities sponsored by the contractor including social and recreational programs; and

(i) Any other term, condition, or privilege of employment.

§ 60–300.21 Prohibitions.

The term *discrimination* includes, but is not limited to, the acts described in this section and § 60–300.23.

(a) *Disparate treatment.* It is unlawful for the contractor to deny an employment opportunity or benefit or otherwise to discriminate against a qualified individual because of that individual's status as a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran.

(b) *Limiting, segregating and classifying.* Unless otherwise permitted by this part, it is unlawful for the contractor to limit, segregate, or classify a job applicant or employee in a way that adversely affects his or her employment opportunities or status on the basis of that individual's status as a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran. For example, the contractor may not segregate qualified disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans into separate work areas or into separate lines of advancement.

(c) *Contractual or other arrangements*—(1) *In general.* It is unlawful for the contractor to participate in a contractual or other arrangement or relationship that has the effect of subjecting the contractor's own qualified applicant or employee who is a disabled veteran, recently separated veteran, other protected veteran, or

Armed Forces service medal veteran to the discrimination prohibited by this part.

(2) *Contractual or other arrangement defined.* The phrase ''contractual or other arrangement or relationship'' includes, but is not limited to, a relationship with: an employment or referral agency; a labor organization, including a collective bargaining agreement; an organization providing fringe benefits to an employee of the contractor; or an organization providing training and apprenticeship programs.

(3) *Application.* This paragraph (c) applies to the contractor, with respect to its own applicants or employees, whether the contractor offered the contract or initiated the relationship, or whether the contractor accepted the contract or acceded to the relationship. The contractor is not liable for the actions of the other party or parties to the contract which only affect that other party's employees or applicants.

(d) *Standards, criteria or methods of administration.* It is unlawful for the contractor to use standards, criteria, or methods of administration, that are not job-related and consistent with business necessity, and that:

(1) Have the effect of discriminating on the basis of status as a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran; or

(2) Perpetuate the discrimination of others who are subject to common administrative control.

(e) *Relationship or association with a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran.* It is unlawful for the contractor to exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran status of an individual with whom the qualified individual is known to have a family, business, social or other relationship or association.

(f) *Not making reasonable accommodation.* (1) It is unlawful for the contractor to fail to make reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee who is a disabled veteran, unless such contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its business.

(2) It is unlawful for the contractor to deny employment opportunities to an otherwise qualified job applicant or employee who is a disabled veteran based on the need of such contractor to make reasonable accommodation to such an individual's physical or mental impairments.

(3) A qualified disabled veteran is not required to accept an accommodation, aid, service, opportunity or benefit which such qualified individual chooses not to accept. However, if such individual rejects a reasonable accommodation, aid, service, opportunity or benefit that is necessary to enable the individual to perform the essential functions of the position held or desired, and cannot, as a result of that rejection, perform the essential functions of the position, the individual will not be considered a qualified disabled veteran.

(g) *Qualification standards, tests and other selection criteria*—(1) *In general.* It is unlawful for the contractor to use qualification standards, employment tests or other selection criteria that screen out or tend to screen out individuals on the basis of their status as disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans unless the standard, test or other selection criterion, as used by the contractor, is shown to be job-related for the position in question and is consistent with business necessity. Selection criteria that concern an essential function may not be used to exclude a disabled veteran if that individual could satisfy the criteria with provision of a reasonable accommodation. Selection criteria that exclude or tend to exclude individuals on the basis of their status as disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans but concern only marginal functions of the job would not be consistent with business necessity. The contractor may not refuse to hire an applicant who is a disabled veteran because the applicant's disability prevents him or her from performing marginal functions. When considering a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran for an employment opportunity, the contractor may not rely on portions of such veteran's military record, including his or her discharge papers, which are not relevant to the qualification requirements of the opportunity in issue.

(2) The Uniform Guidelines on Employee Selection Procedures, 41 CFR part 60–3, do not apply to 38 U.S.C. 4212 and are similarly inapplicable to this part.

(h) *Administration of tests.* It is unlawful for the contractor to fail to select and administer tests concerning employment in the most effective manner to ensure that, when a test is administered to a job applicant or employee who is a disabled veteran with a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the skills, aptitude, or whatever other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant, except where such skills are the factors that the test purports to measure.

(i) *Compensation.* In offering employment or promotions to disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans, it is unlawful for the contractor to reduce the amount of compensation offered because of any income based upon a disability-related and/or military-service-related pension or other disability-related and/or military-service-related benefit the applicant or employee receives from another source.

§ 60–300.22 Direct threat defense.

The contractor may use as a qualification standard the requirement that an individual be able to perform the essential functions of the position held or desired without posing a direct threat to the health or safety of the individual or others in the workplace. (See § 60–300.2(w) defining *direct threat.*)

§ 60–300.23 Medical examinations and inquiries.

(a) *Prohibited medical examinations or inquiries.* Except as stated in paragraphs (b) and (c) of this section, it is unlawful for the contractor to require a medical examination of an applicant or employee or to make inquiries as to whether an applicant or employee is a disabled veteran or as to the nature or severity of such a veteran's disability.

(b) *Permitted medical examinations and inquiries*—(1) *Acceptable pre-employment inquiry.* The contractor may make pre-employment inquiries into the ability of an applicant to perform job-related functions, and/or may ask an applicant to describe or to demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions.

(2) *Employment entrance examination.* The contractor may require a medical examination (and/or inquiry) after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, and may condition

an offer of employment on the results of such examination (and/or inquiry), if all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of their status as a disabled veteran.

(3) *Examination of employees.* The contractor may require a medical examination (and/or inquiry) of an employee that is job-related and consistent with business necessity. The contractor may make inquiries into the ability of an employee to perform job-related functions.

(4) *Other acceptable examinations and inquiries.* The contractor may conduct voluntary medical examinations and activities, including voluntary medical histories, which are part of an employee health program available to employees at the work site.

(5) Medical examinations conducted in accordance with paragraphs (b)(2) and (b)(4) of this section do not have to be job-related and consistent with business necessity. However, if certain criteria are used to screen out an applicant or applicants or an employee or employees who are disabled veterans as a result of such examinations or inquiries, the contractor must demonstrate that the exclusionary criteria are job-related and consistent with business necessity, and that performance of the essential job functions cannot be accomplished with reasonable accommodations as required in this part.

(c) *Invitation to self-identify.* The contractor shall invite applicants to self-identify as being covered by the Act, as specified in § 60–300.42.

(d) *Confidentiality and use of medical information.* (1) Information obtained under this section regarding the medical condition or history of any applicant or employee shall be collected and maintained on separate forms and in separate medical files and treated as a confidential medical record, except that:

(i) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the applicant or employee and necessary accommodations;

(ii) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) Government officials engaged in enforcing the laws administered by OFCCP, including this part, or enforcing the Americans with Disabilities Act, shall be provided relevant information on request.

(2) Information obtained under this section regarding the medical condition or history of any applicant or employee shall not be used for any purpose inconsistent with this part.

§ 60–300.24 Drugs and alcohol.

(a) *Specific activities permitted.* The contractor:

(1) May prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) May require that employees not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) May require that all employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*);

(4) May hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior to which the contractor holds its other employees, even if any unsatisfactory performance or behavior is related to the employee's drug use or alcoholism;

(5) May require that its employees employed in an industry subject to such regulations comply with the standards established in the regulations (if any) of the Departments of Defense and Transportation, and of the Nuclear Regulatory Commission, and other Federal agencies regarding alcohol and the illegal use of drugs; and

(6) May require that employees employed in sensitive positions comply with the regulations (if any) of the Departments of Defense and Transportation, and of the Nuclear Regulatory Commission, and other Federal agencies that apply to employment in sensitive positions subject to such regulations.

(b) *Drug testing*—(1) *General policy.* For purposes of this part, a test to determine the illegal use of drugs is not considered a medical examination. Thus, the administration of such drug tests by the contractor to its job applicants or employees is not a violation of § 60–300.23. Nothing in this part shall be construed to encourage, prohibit, or authorize the contractor to conduct drug tests of job applicants or employees to determine the illegal use of drugs or to make employment decisions based on such test results.

(2) *Transportation employees.* Nothing in this part shall be construed to encourage, prohibit, or authorize the otherwise lawful exercise by contractors subject to the jurisdiction of the Department of Transportation of authority to test employees in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs or for on-duty impairment by alcohol; and remove from safety-sensitive positions persons who test positive for illegal use of drugs or on-duty impairment by alcohol pursuant to paragraph (b)(1) of this section.

(3) Any information regarding the medical condition or history of any employee or applicant obtained from a test to determine the illegal use of drugs, except information regarding the illegal use of drugs, is subject to the requirements of §§ 60–300.23(b)(5) and 60–300.23(d)(2).

§ 60–300.25 Health insurance, life insurance and other benefit plans.

(a) An insurer, hospital, or medical service company, health maintenance organization, or any agent or entity that administers benefit plans, or similar organizations may underwrite risks, classify risks, or administer such risks that are based on or not inconsistent with state law.

(b) The contractor may establish, sponsor, observe or administer the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with state law.

(c) The contractor may establish, sponsor, observe, or administer the terms of a bona fide benefit plan that is not subject to state laws that regulate insurance.

(d) The contractor may not deny a qualified disabled veteran equal access to insurance or subject a qualified disabled veteran to different terms or conditions of insurance based on disability alone, if the disability does not pose increased risks.

(e) The activities described in paragraphs (a), (b) and (c) of this section are permitted unless these activities are used as a subterfuge to evade the purposes of this part.

Subpart C—Affirmative Action Program

§ 60–300.40 Applicability of the affirmative action program requirement.

(a) The requirements of this subpart apply to every Government contractor that has 50 or more employees and a contract of $100,000 or more.

(b) Contractors described in paragraph (a) of this section shall, within 120 days of the commencement of a contract, prepare and maintain an affirmative action program at each establishment. The affirmative action program shall set forth the contractor's policies and procedures in accordance with this part. This program may be integrated into or kept separate from other affirmative action programs.

(c) The affirmative action program shall be reviewed and updated annually.

(d) The contractor shall submit the affirmative action program within 30 days of a request from OFCCP, unless the request provides for a different time. The contractor also shall make the affirmative action program promptly available on-site upon OFCCP's request.

§ 60–300.41 Availability of affirmative action program.

The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. The location and hours during which the program may be obtained shall be posted at each establishment.

§ 60–300.42 Invitation to self-identify.

(a) *Disabled veterans.* The contractor shall invite applicants to inform the contractor whether the applicant believes that he or she is a disabled veteran who may be covered by the Act and wishes to benefit under the affirmative action program. Such invitation shall be extended after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, except that the contractor may invite disabled veterans to self-identify prior to making a job offer when:

(1) The invitation is made when the contractor actually is undertaking affirmative action for disabled veterans at the pre-offer stage; or

(2) The invitation is made pursuant to a Federal, state or local law requiring affirmative action for disabled veterans.

(b) *Recently separated veterans, other protected veterans, and Armed Forces service medal veterans.* The contractor shall invite applicants to inform the contractor whether the applicant believes that he or she is a recently separated veteran, other protected veteran, or Armed Forces service medal veteran who may be covered by the Act and wishes to benefit under the affirmative action program. Such invitation may be made at any time before the applicant begins his or her employment duties.

(c) The invitations referenced in paragraphs (a) and (b) of this section shall state that a request to benefit under the affirmative action program may be made immediately and/or at any time in the future. The invitations also shall summarize the relevant portions of the Act and the contractor's affirmative action program. Furthermore, the invitations shall state that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will not be used in a manner inconsistent with the Act. (An acceptable form for such an invitation is set forth in Appendix B of this part. Because a contractor usually may not seek advice from a disabled veteran regarding placement and accommodation until after a job offer has been extended, the invitation set forth in Appendix B of this part contains instructions regarding modifications to be made if it is used at the pre-offer stage.)

(d) If an applicant so identifies himself or herself as a disabled veteran, the contractor should also seek the advice of the applicant regarding proper placement and appropriate accommodation, after a job offer has been extended. The contractor also may make such inquiries to the extent they are consistent with the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101, (*e.g.*, in the context of asking applicants to describe or demonstrate how they would perform the job). The contractor shall maintain a separate file in accordance with § 60–300.23(d) on persons who have self-identified as disabled veterans.

(e) The contractor shall keep all information on self identification confidential. The contractor shall provide the information to OFCCP upon request. This information may be used only in accordance with this part.

(f) Nothing in this section shall relieve the contractor of its obligation to take affirmative action with respect to those applicants or employees who are known to the contractor to be disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans.

(g) Nothing in this section shall relieve the contractor from liability for discrimination under the Act.

§ 60–300.43 Affirmative action policy.

Under the affirmative action obligations imposed by the Act contractors shall not discriminate because of status as a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran and shall take affirmative action to employ and advance in employment qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans at all levels of employment, including the executive level. Such action shall apply to all employment activities set forth in § 60–300.20.

§ 60–300.44 Required contents of affirmative action programs.

Acceptable affirmative action programs shall contain, but not necessarily be limited to, the following ingredients:

(a) *Policy statement.* The contractor shall include an equal opportunity policy statement in its affirmative action program, and shall post the policy statement on company bulletin boards. The contractor must ensure that applicants and employees who are disabled veterans are informed of the contents of the policy statement (for example, the contractor may have the statement read to a visually disabled individual, or may lower the posted notice so that it may be read by a person in a wheelchair). The policy statement should indicate the chief executive officer's attitude on the subject matter, provide for an audit and reporting system (see paragraph (h) of this section) and assign overall responsibility for the implementation of affirmative action activities required under this part (see paragraph (i) of this section). Additionally, the policy should state, among other things, that the contractor will: recruit, hire, train and promote persons in all job titles, and ensure that all other personnel actions are administered, without regard to disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran status; and ensure that all employment decisions are based only on valid job requirements. The policy shall state that employees and applicants shall not be subjected to harassment, intimidation, threats, coercion or discrimination because they have engaged in or may engage in any of the following activities:

(1) Filing a complaint;

(2) Assisting or participating in an investigation, compliance evaluation, hearing, or any other activity related to the administration of the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA) or any other Federal, state or local law requiring equal opportunity for disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans;

(3) Opposing any act or practice made unlawful by VEVRAA or its implementing regulations in this part or any other Federal, state or local law requiring equal opportunity for disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans; or

(4) Exercising any other right protected by VEVRAA or its implementing regulations in this part.

(b) *Review of personnel processes.* The contractor shall ensure that its personnel processes provide for careful, thorough, and systematic consideration of the job qualifications of applicants and employees who are known disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. The contractor shall ensure that when a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran is considered for employment opportunities, the contractor relies only on that portion of the individual's military record, including his or her discharge papers, that is relevant to the requirements of the opportunity in issue. The contractor shall ensure that its personnel processes do not stereotype disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans in a manner which limits their access to all jobs for which they are qualified. The contractor shall periodically review such processes and make any necessary modifications to ensure that these obligations are carried out. A description of the review and any necessary modifications to personnel processes or development of new processes shall be included in any affirmative action programs required under this part. The contractor must design procedures that facilitate a review of the implementation of this requirement by the contractor and the Government. (Appendix C of this part is an example of an appropriate set of procedures. The procedures in Appendix C of this part are not required and contractors may develop other procedures appropriate to their circumstances.)

(c) *Physical and mental qualifications.* (1) The contractor shall provide in its affirmative action program, and shall adhere to, a schedule for the periodic review of all physical and mental job qualification standards to ensure that, to the extent qualification standards tend to screen out qualified disabled veterans, they are job-related for the position in question and are consistent with business necessity.

(2) Whenever the contractor applies physical or mental qualification standards in the selection of applicants or employees for employment or other change in employment status such as promotion, demotion or training, to the extent that qualification standards tend to screen out qualified disabled veterans, the standards shall be related to the specific job or jobs for which the individual is being considered and consistent with business necessity. The contractor shall have the burden to demonstrate that it has complied with the requirements of this paragraph (c)(2).

(3) The contractor may use as a defense to an allegation of a violation of paragraph (c)(2) of this section that an individual poses a direct threat to the health or safety of the individual or others in the workplace. (See § 60–300.2(w) defining direct threat.)

(d) *Reasonable accommodation to physical and mental limitations.* As is provided in § 60–300.21(f), as a matter of nondiscrimination the contractor must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified disabled veteran unless it can demonstrate that the accommodation would impose an undue hardship on the operation of its business. As a matter of affirmative action, if an employee who is known to be a disabled veteran is having significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the known disability, the contractor shall confidentially notify the employee of the performance problem and inquire whether the problem is related to the employee's disability; if the employee responds affirmatively, the contractor shall confidentially inquire whether the employee is in need of a reasonable accommodation.

(e) *Harassment.* The contractor must develop and implement procedures to ensure that its employees are not harassed because of their status as a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran.

(f) *External dissemination of policy, outreach and positive recruitment.* The contractor shall undertake appropriate outreach and positive recruitment activities such as those listed in paragraphs (f)(1) through (f)(8) of this section that are reasonably designed to effectively recruit qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans. It is not contemplated that the contractor will necessarily undertake all the activities listed in paragraphs (f)(1) through (f)(8) of this section or that its activities will be limited to those listed. The scope of the contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing employment practices are adequate.

(1) The contractor should enlist the assistance and support of the following persons and organizations in recruiting, and developing on-the-job training opportunities for, qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans, to fulfill its commitment to provide meaningful employment opportunities to such veterans:

(i) The Local Veterans' Employment Representative in the local employment service office nearest the contractor's establishment;

(ii) The Department of Veterans Affairs Regional Office nearest the contractor's establishment;

(iii) The veterans' counselors and coordinators (''Vet-Reps'') on college campuses;

(iv) The service officers of the national veterans' groups active in the area of the contractor's establishment; and

(v) Local veterans' groups and veterans' service centers near the contractor's establishment.

(2) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Plant tours, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefing. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(3) The contractor's recruitment efforts at all educational institutions should incorporate special efforts to reach students who are disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans. An effort should be made to participate in work-study programs with Department of Veterans Affairs rehabilitation facilities which specialize in training or educating disabled veterans.

(4) The contractor should establish meaningful contacts with appropriate veterans' service organizations which serve disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans for such purposes as advice, technical assistance, and referral of potential employees. Technical assistance from the resources described in this paragraph may consist of advice on proper placement, recruitment, training and accommodations contractors may undertake, but no such resource providing technical assistance

shall have authority to approve or disapprove the acceptability of affirmative action programs.

(5) Disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans should be made available for participation in career days, youth motivation programs, and related activities in their communities.

(6) The contractor should send written notification of company policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

(7) The contractor should take positive steps to attract qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans not currently in the work force who have requisite skills and can be recruited through affirmative action measures. These persons may be located through the local chapters of organizations of and for disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans.

(8) The contractor, in making hiring decisions, should consider applicants who are known disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans for all available positions for which they may be qualified when the position(s) applied for is unavailable.

(g) *Internal dissemination of policy.* (1) A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees. In order to assure greater employee cooperation and participation in the contractor's efforts, the contractor shall develop internal procedures such as those listed in paragraph (g)(2) of this section for communication of its obligation to engage in affirmative action efforts to employ and advance in employment qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans. It is not contemplated that the contractor will necessarily undertake all the activities listed in paragraph (g)(2) of this section or that its activities will be limited to those listed. These procedures shall be designed to foster understanding, acceptance and support among the contractor's executive, management, supervisory and other employees and to encourage such persons to take the necessary actions to aid the contractor in meeting this obligation. The scope of the contractor's efforts shall depend upon all the circumstances, including the contractor's size and resources and the extent to which existing practices are adequate.

(2) The contractor should implement and disseminate this policy internally as follows:

(i) Include it in the contractor's policy manual;

(ii) Inform all employees and prospective employees of its commitment to engage in affirmative action to increase employment opportunities for qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans. The contractor should periodically schedule special meetings with all employees to discuss policy and explain individual employee responsibilities;

(iii) Publicize it in the company newspaper, magazine, annual report and other media;

(iv) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude;

(v) Discuss the policy thoroughly in both employee orientation and management training programs;

(vi) Meet with union officials and/or employee representatives to inform them of the contractor's policy, and request their cooperation;

(vii) Include articles on accomplishments of disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans in company publications; and

(viii) When employees are featured in employee handbooks or similar publications for employees, include disabled veterans.

(h) *Audit and reporting system.* (1) The contractor shall design and implement an audit and reporting system that will:

(i) Measure the effectiveness of the contractor's affirmative action program;

(ii) Indicate any need for remedial action;

(iii) Determine the degree to which the contractor's objectives have been attained;

(iv) Determine whether known disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans have had the opportunity to participate in all company sponsored educational, training, recreational and social activities; and

(v) Measure the contractor's compliance with the affirmative action program's specific obligations.

(2) Where the affirmative action program is found to be deficient, the contractor shall undertake necessary action to bring the program into compliance.

(i) *Responsibility for implementation.* An official of the contractor shall be assigned responsibility for implementation of the contractor's affirmative action activities under this part. His or her identity should appear on all internal and external communications regarding the company's affirmative action program. This official shall be given necessary senior management support and staff to manage the implementation of this program.

(j) *Training.* All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes shall be trained to ensure that the commitments in the contractor's affirmative action program are implemented.

Subpart D—General Enforcement and Complaint Procedures

§ 60–300.60 Compliance evaluations.

(a) OFCCP may conduct compliance evaluations to determine if the contractor is taking affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran in all employment practices. A compliance evaluation may consist of any one or any combination of the following investigative procedures:

(1) *Compliance review.* A comprehensive analysis and evaluation of the hiring and employment practices of the contractor, the written affirmative action program, and the results of the affirmative action efforts undertaken by the contractor. A compliance review may proceed in three stages:

(i) A desk audit of the written affirmative action program and supporting documentation to determine whether all elements required by the regulations in this part are included, whether the affirmative action program meets agency standards of reasonableness, and whether the affirmative action program and supporting documentation satisfy agency standards of acceptability. The desk audit is conducted at OFCCP offices;

(ii) An on-site review, conducted at the contractor's establishment to investigate unresolved problem areas identified in the affirmative action program and supporting documentation

during the desk audit, to verify that the contractor has implemented the affirmative action program and has complied with those regulatory obligations not required to be included in the affirmative action program, and to examine potential instances or issues of discrimination. An on-site review normally will involve an examination of the contractor's personnel and employment policies, inspection and copying of documents related to employment actions, and interviews with employees, supervisors, managers, hiring officials; and

(iii) Where necessary, an off-site analysis of information supplied by the contractor or otherwise gathered during or pursuant to the on-site review;

(2) *Off-site review of records.* An analysis and evaluation of the affirmative action program (or any part thereof) and supporting documentation, and other documents related to the contractor's personnel policies and employment actions that may be relevant to a determination of whether the contractor has complied with the requirements of the Executive Order and regulations;

(3) *Compliance check.* A determination of whether the contractor has maintained records consistent with § 60–300.80; at the contractor's option the documents may be provided either on-site or off-site; or

(4) *Focused review.* An on-site review restricted to one or more components of the contractor's organization or one or more aspects of the contractor's employment practices.

(b) Where deficiencies are found to exist, reasonable efforts shall be made to secure compliance through conciliation and persuasion pursuant to § 60–300.62.

(c) *Reporting Requirements.* During a compliance evaluation, OFCCP may verify whether the contractor has complied with applicable reporting requirements required under regulations promulgated by the Veterans' Employment and Training Service (VETS). If the contractor has not complied with any such reporting requirement, OFCCP will notify VETS.

§ 60–300.61 Complaint procedures.

(a) *Place and time of filing.* Any applicant for employment with a contractor or any employee of a contractor may, personally, or by an authorized representative, file a written complaint alleging a violation of the Act or the regulations in this part. The complaint may allege individual or class-wide violation(s). Such complaint must be filed within 300 days of the date of the alleged violation, unless the time for filing is extended by OFCCP for good cause shown. Complaints may be submitted to the OFCCP, 200 Constitution Avenue, NW., Washington, DC 20210, or to any OFCCP regional, district, or area office. Complaints may also be submitted to the Veterans' Employment and Training Service of the Department of Labor directly, or through the Local Veterans' Employment Representative (LVER) at the local employment service office. Such parties will assist veterans in preparing complaints, promptly refer such complaints to OFCCP, and maintain a record of all complaints which they receive and forward. OFCCP shall inform the party forwarding the complaint of the progress and results of its complaint investigation. The state workforce agency shall cooperate with the Deputy Assistant Secretary in the investigation of any complaint.

(b) *Contents of complaints*—(1) *In general.* A complaint must be signed by the complainant or his or her authorized representative and must contain the following information:

(i) Name and address (including telephone number) of the complainant;

(ii) Name and address of the contractor who committed the alleged violation;

(iii) Documentation showing that the individual is a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran. Such documentation must include a copy of the veteran's form DD–214, and, where applicable, a copy of the veteran's Benefits Award Letter, or similar Department of Veterans Affairs certification, updated within one year prior to the date the complaint is filed;

(iv) A description of the act or acts considered to be a violation, including the pertinent dates (in the case of an alleged continuing violation, the earliest and most recent date that the alleged violation occurred should be stated); and

(v) Other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted.

(2) *Third party complaints.* A complaint filed by an authorized representative need not identify by name the person on whose behalf it is filed. The person filing the complaint, however, shall provide OFCCP with the name, address and telephone number of the person on whose behalf it is made, and the other information specified in paragraph (b)(1) of this section. OFCCP shall verify the authorization of such a complaint by the person on whose behalf the complaint is made. Any such person may request that OFCCP keep his or her identity confidential, and OFCCP will protect the individual's confidentiality wherever that is possible given the facts and circumstances in the complaint.

(c) *Incomplete information.* Where a complaint contains incomplete information, OFCCP shall seek the needed information from the complainant. If the information is not furnished to OFCCP within 60 days of the date of such request, the case may be closed.

(d) *Investigations.* The Department of Labor shall institute a prompt investigation of each complaint.

(e) *Resolution of matters.* (1) If the complaint investigation finds no violation of the Act or this part, or if the Deputy Assistant Secretary decides not to refer the matter to the Solicitor of Labor for enforcement proceedings against the contractor pursuant to § 60–300.65(a)(1), the complainant and contractor shall be so notified. The Deputy Assistant Secretary, on his or her own initiative, may reconsider his or her determination or the determination of any of his or her designated officers who have authority to issue Notifications of Results of Investigation.

(2) The Deputy Assistant Secretary will review all determinations of no violation that involve complaints that are not also cognizable under Title I of the Americans with Disabilities Act.

(3) In cases where the Deputy Assistant Secretary decides to reconsider the determination of a Notification of Results of Investigation, the Deputy Assistant Secretary shall provide prompt notification of his or her intent to reconsider, which is effective upon issuance, and his or her final determination after reconsideration, to the person claiming to be aggrieved, the person making the complaint on behalf of such person, if any, and the contractor.

(4) If the investigation finds a violation of the Act or this part, OFCCP shall invite the contractor to participate in conciliation discussions pursuant to § 60–300.62.

§ 60–300.62 Conciliation agreements.

If a compliance evaluation, complaint investigation or other review by OFCCP finds a material violation of the Act or this part, and if the contractor is willing to correct the violations and/or deficiencies, and if OFCCP determines that settlement on that basis (rather than referral for consideration of formal enforcement) is appropriate, a written conciliation agreement shall be

required. The agreement shall provide for such remedial action as may be necessary to correct the violations and/or deficiencies noted, including, where appropriate (but not necessarily limited to) such make whole remedies as back pay and retroactive seniority. The agreement shall also specify the time period for completion of the remedial action; the period shall be no longer than the minimum period necessary to complete the action.

§ 60–300.63 Violation of conciliation agreements.

(a) When OFCCP believes that a conciliation agreement has been violated, the following procedures are applicable:

(1) A written notice shall be sent to the contractor setting forth the violation alleged and summarizing the supporting evidence. The contractor shall have 15 days from receipt of the notice to respond, except in those cases in which OFCCP asserts that such a delay would result in irreparable injury to the employment rights of affected employees or applicants.

(2) During the 15-day period the contractor may demonstrate in writing that it has not violated its commitments.

(b) In those cases in which OFCCP asserts that a delay would result in irreparable injury to the employment rights of affected employees or applicants, enforcement proceedings may be initiated immediately without proceeding through any other requirement contained in this chapter.

(c) In any proceedings involving an alleged violation of a conciliation agreement OFCCP may seek enforcement of the agreement itself and shall not be required to present proof of the underlying violations resolved by the agreement.

§ 60–300.64 Show cause notices.

When the Deputy Assistant Secretary has reasonable cause to believe that the contractor has violated the Act or this part, he or she may issue a notice requiring the contractor to show cause, within 30 days, why monitoring, enforcement proceedings or other appropriate action to ensure compliance should not be instituted. The issuance of such a notice is not a prerequisite to instituting enforcement proceedings (see § 60–300.65).

§ 60–300.65 Enforcement proceedings.

(a) *General.* (1) If a compliance evaluation, complaint investigation or other review by OFCCP finds a violation of the Act or this part, and the violation has not been corrected in accordance with the conciliation procedures in this part, or OFCCP determines that referral for consideration of formal enforcement (rather than settlement) is appropriate, OFCCP may refer the matter to the Solicitor of Labor with a recommendation for the institution of enforcement proceedings to enjoin the violations, to seek appropriate relief, and to impose appropriate sanctions, or any of the above in this sentence. OFCCP may seek back pay and other make whole relief for aggrieved individuals identified during a complaint investigation or compliance evaluation. Such individuals need not have filed a complaint as a prerequisite to OFCCP seeking such relief on their behalf. Interest on back pay shall be calculated from the date of the loss and compounded quarterly at the percentage rate established by the Internal Revenue Service for the underpayment of taxes.

(2) In addition to the administrative proceedings set forth in this section, the Deputy Assistant Secretary may, within the limitations of applicable law, seek appropriate judicial action to enforce the contractual provisions set forth in § 60–300.5, including appropriate injunctive relief.

(b) *Hearing practice and procedure.* (1) In administrative enforcement proceedings the contractor shall be provided an opportunity for a formal hearing. All hearings conducted under the Act and this part shall be governed by the Rules of Practice for Administrative Proceedings to Enforce Equal Opportunity Under Executive Order 11246 contained in 41 CFR part 60–30 and the Rules of Evidence set out in the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges contained in 29 CFR part 18, subpart B: *Provided,* That a final administrative order shall be issued within one year from the date of the issuance of the recommended findings, conclusions and decision of the Administrative Law Judge, or the submission of exceptions and responses to exceptions to such decision (if any), whichever is later.

(2) Complaints may be filed by the Solicitor, the Associate Solicitor for Civil Rights and Labor-Management, Regional Solicitors, and Associate Regional Solicitors.

(3) For the purposes of hearings pursuant to this part, references in 41 CFR part 60–30 to ''Executive Order 11246'' shall mean the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; to ''equal opportunity clause'' shall mean the equal opportunity clause published at § 60–300.5; and to ''regulations'' shall mean the regulations contained in this part.

§ 60–300.66 Sanctions and penalties.

(a) *Withholding progress payments.* With the prior approval of the Deputy Assistant Secretary, so much of the accrued payment due on the contract or any other contract between the Government contractor and the Federal Government may be withheld as necessary to correct any violations of the provisions of the Act or this part.

(b) *Termination.* A contract may be canceled or terminated, in whole or in part, for failure to comply with the provisions of the Act or this part.

(c) *Debarment.* A contractor may be debarred from receiving future contracts for failure to comply with the provisions of the Act or this part subject to reinstatement pursuant to § 60–300.68. Debarment may be imposed for an indefinite period, or may be imposed for a fixed period of not less than six months but no more than three years.

(d) *Hearing opportunity.* An opportunity for a formal hearing shall be afforded to a contractor before the imposition of any sanction or penalty.

§ 60–300.67 Notification of agencies.

The Deputy Assistant Secretary shall ensure that the heads of all agencies are notified of any debarments taken against any contractor.

§ 60–300.68 Reinstatement of ineligible contractors.

(a) *Application for reinstatement.* A contractor debarred from further contracts for an indefinite period under the Act may request reinstatement in a letter filed with the Deputy Assistant Secretary at any time after the effective date of the debarment; a contractor debarred for a fixed period may make such a request following the expiration of six months from the effective date of the debarment. In connection with the reinstatement proceedings, all debarred contractors shall be required to show that they have established and will carry out employment policies and practices in compliance with the Act and this part. Additionally, in determining whether reinstatement is appropriate for a contractor debarred for a fixed period, the Deputy Assistant Secretary also shall consider, among other factors, the severity of the violation which resulted in the debarment, the contractor's attitude towards compliance, the contractor's past compliance history, and whether the contractor's reinstatement would impede the effective enforcement of the Act or this part. Before reaching a decision, the Deputy Assistant Secretary may conduct a compliance evaluation of the contractor and may require the contractor to supply additional

information regarding the request for reinstatement. The Deputy Assistant Secretary shall issue a written decision on the request.

(b) *Petition for review.* Within 30 days of its receipt of a decision denying a request for reinstatement, the contractor may file a petition for review of the decision with the Secretary. The petition shall set forth the grounds for the contractor's objections to the Deputy Assistant Secretary's decision. The petition shall be served on the Deputy Assistant Secretary and the Associate Solicitor for Civil Rights and Labor-Management and shall include the decision as an appendix. The Deputy Assistant Secretary may file a response within 14 days to the petition. The Secretary shall issue the final agency decision denying or granting the request for reinstatement. Before reaching a final decision, the Secretary may issue such additional orders respecting procedure as he or she finds appropriate in the circumstances, including an order referring the matter to the Office of Administrative Law Judges for an evidentiary hearing where there is a material factual dispute that cannot be resolved on the record before the Secretary.

§ 60–300.69 Intimidation and interference.

(a) The contractor shall not harass, intimidate, threaten, coerce, or discriminate against any individual because the individual has engaged in or may engage in any of the following activities:

(1) Filing a complaint;

(2) Assisting or participating in any manner in an investigation, compliance evaluation, hearing, or any other activity related to the administration of the Act or any other Federal, state or local law requiring equal opportunity for disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans;

(3) Opposing any act or practice made unlawful by the Act or this part or any other Federal, state or local law requiring equal opportunity for disabled veterans, recently separated veterans, other protected veterans, or Armed Forces service medal veterans, or

(4) Exercising any other right protected by the Act or this part.

(b) The contractor shall ensure that all persons under its control do not engage in such harassment, intimidation, threats, coercion or discrimination. The sanctions and penalties contained in this part may be exercised by the Deputy Assistant Secretary against any contractor who violates this obligation.

§ 60–300.70 Disputed matters related to compliance with the Act.

The procedures set forth in the regulations in this part govern all disputes relative to the contractor's compliance with the Act and this part. Any disputes relating to issues other than compliance, including contract costs arising out of the contractor's efforts to comply, shall be determined by the disputes clause of the contract.

Subpart E—Ancillary Matters

§ 60–300.80 Recordkeeping.

(a) *General requirements.* Any personnel or employment record made or kept by the contractor shall be preserved by the contractor for a period of two years from the date of the making of the record or the personnel action involved, whichever occurs later. However, if the contractor has fewer than 150 employees or does not have a Government contract of at least $150,000, the minimum record retention period shall be one year from the date of the making of the record or the personnel action involved, whichever occurs later. Such records include, but are not necessarily limited to, records relating to requests for reasonable accommodation; the results of any physical examination; job advertisements and postings; applications and resumes; tests and test results; interview notes; and other records having to do with hiring, assignment, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of two years from the date of the termination, except that contractors that have fewer than 150 employees or that do not have a Government contract of at least $150,000 shall keep such records for a period of one year from the date of the termination. Where the contractor has received notice that a complaint of discrimination has been filed, that a compliance evaluation has been initiated, or that an enforcement action has been commenced, the contractor shall preserve all personnel records relevant to the complaint, compliance evaluation or action until final disposition of the complaint, compliance evaluation or action. The term *personnel records relevant to the complaint, compliance evaluation or action* would include, for example, personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person, and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected.

(b) *Failure to preserve records.* Failure to preserve complete and accurate records as required by paragraph (a) of this section constitutes noncompliance with the contractor's obligations under the Act and this part. Where the contractor has destroyed or failed to preserve records as required by this section, there may be a presumption that the information destroyed or not preserved would have been unfavorable to the contractor: *Provided,* That this presumption shall not apply where the contractor shows that the destruction or failure to preserve records results from circumstances that are outside of the contractor's control.

(c) The requirements of this section shall apply only to records made or kept on or after the date that the Office of Management and Budget has cleared the requirements.

§ 60–300.81 Access to records.

Each contractor shall permit access during normal business hours to its places of business for the purpose of conducting on-site compliance evaluations and complaint investigations and inspecting and copying such books and accounts and records, including computerized records, and other material as may be relevant to the matter under investigation and pertinent to compliance with the Act or this part. Information obtained in this manner shall be used only in connection with the administration of the Act and in furtherance of the purposes of the Act.

§ 60–300.82 Labor organizations and recruiting and training agencies.

(a) Whenever performance in accordance with the equal opportunity clause or any matter contained in the regulations in this part may necessitate a revision of a collective bargaining agreement, the labor organizations which are parties to such agreement shall be given an adequate opportunity to present their views to OFCCP.

(b) OFCCP shall use its best efforts, directly or through contractors, subcontractors, local officials, the Department of Veterans Affairs, vocational rehabilitation facilities, and all other available instrumentalities, to cause any labor organization, recruiting and training agency or other representative of workers who are employed by a contractor to cooperate

with, and to assist in, the implementation of the purposes of the Act.

§ 60–300.83 Rulings and interpretations.

Rulings under or interpretations of the Act and this part shall be made by the Deputy Assistant Secretary.

§ 60–300.84 Responsibilities of appropriate employment service delivery system.

By statute, appropriate employment service delivery systems are required to refer qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans to fill employment openings listed by contractors with such appropriate employment delivery systems pursuant to the mandatory job listing requirements of the equal opportunity clause and are required to give priority to disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans in making such referrals. The employment service delivery systems shall provide OFCCP, upon request, information pertinent to whether the contractor is in compliance with the mandatory job listing requirements of the equal opportunity clause.

Appendix A to Part 60–300—Guidelines on a Contractor's Duty To Provide Reasonable Accommodation

The guidelines in this appendix are in large part derived from, and are consistent with, the discussion regarding the duty to provide reasonable accommodation contained in the Interpretive Guidance on Title I of the Americans with Disabilities Act (ADA) set out as an appendix to the regulations issued by the Equal Employment Opportunity Commission (EEOC) implementing the ADA (29 CFR part 1630). Although the following discussion is intended to provide an independent ''free-standing'' source of guidance with respect to the duty to provide reasonable accommodation under this part, to the extent that the EEOC appendix provides additional guidance which is consistent with the following discussion, it may be relied upon for purposes of this part as well. *See* § 60–300.1(c). Contractors are obligated to provide reasonable accommodation and to take affirmative action. Reasonable accommodation under VEVRAA, like reasonable accommodation required under Section 503 and the ADA, is a part of the nondiscrimination obligation. *See* EEOC appendix cited in this paragraph. Affirmative action is unique to VEVRAA and Section 503, and includes actions above and beyond those required as a matter of nondiscrimination. An example of this is the requirement discussed in paragraph 2 of this appendix that a contractor shall make an inquiry of a disabled veteran who is having significant difficulty performing his or her job.

1. A contractor is required to make reasonable accommodations to the known physical or mental limitations of an ''otherwise qualified'' disabled veteran, unless the contractor can demonstrate that the accommodation would impose an undue hardship on the operation of its business. As stated in § 60–300.2(o), a disabled veteran is qualified if he or she has the ability to perform the essential functions of the position with or without reasonable accommodation. A contractor is required to make a reasonable accommodation with respect to its application process if the disabled veteran is qualified with respect to that process. One is ''otherwise qualified'' if he or she is qualified for a job, except that, because of a disability, he or she needs a reasonable accommodation to be able to perform the job's essential functions.

2. Although the contractor would not be expected to accommodate disabilities of which it is unaware, the contractor has an affirmative obligation to provide a reasonable accommodation for applicants and employees who are known to be disabled veterans. As stated in § 60–300.42(a) (see also Appendix B of this part), the contractor is required to invite applicants who have been provided an offer of employment, before they are placed on the contractor's payroll, to indicate whether they are a disabled veteran who may be covered by the Act and wish to benefit under the contractor's affirmative action program. Section 60–300.42(d) further provides that the contractor should seek the advice of disabled veterans who ''self-identify'' in this way as to proper placement and appropriate accommodation. Moreover, § 60–300.44(d) provides that if an employee who is a known disabled veteran is having significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the disability, the contractor is required to confidentially inquire whether the problem is disability related and if the employee is in need of a reasonable accommodation.

3. An accommodation is any change in the work environment or in the way things are customarily done that enables a disabled veteran to enjoy equal employment opportunities. Equal employment opportunity means an opportunity to attain the same level of performance, or to enjoy the same level of benefits and privileges of employment, as are available to the average similarly situated employee without a disability. Thus, for example, an accommodation made to assist an employee who is a disabled veteran in the performance of his or her job must be adequate to enable the individual to perform the essential functions of the position. The accommodation, however, does not have to be the ''best'' accommodation possible, so long as it is sufficient to meet the job-related needs of the individual being accommodated. There are three areas in which reasonable accommodations may be necessary: (1) Accommodations in the application process; (2) accommodations that enable employees who are disabled veterans to perform the essential functions of the position held or desired; and (3) accommodations that enable employees who are disabled veterans to enjoy equal benefits and privileges of employment as are enjoyed by employees without disabilities.

4. The term ''undue hardship'' refers to any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the contractor's business. The contractor's claim that the cost of a particular accommodation will impose an undue hardship requires a determination of which financial resources should be considered—those of the contractor in its entirety or only those of the facility that will be required to provide the accommodation. This inquiry requires an analysis of the financial relationship between the contractor and the facility in order to determine what resources will be available to the facility in providing the accommodation. If the contractor can show that the cost of the accommodation would impose an undue hardship, it would still be required to provide the accommodation if the funding is available from another source, *e.g.*, the Department of Veterans Affairs or a state vocational rehabilitation agency, or if Federal, state or local tax deductions or tax credits are available to offset the cost of the accommodation. In the absence of such funding, the disabled veteran should be given the option of providing the accommodation or of paying that portion of the cost which constitutes the undue hardship on the operation of the business.

5. Section 60–300.2(t) lists a number of examples of the most common types of accommodations that the contractor may be required to provide. There are any number of specific accommodations that may be appropriate for particular situations. The discussion in this appendix is not intended to provide an exhaustive list of required accommodations (as no such list would be feasible); rather, it is intended to provide general guidance regarding the nature of the obligation. The decision as to whether a reasonable accommodation is appropriate must be made on a case-by-case basis. The contractor generally should consult with the disabled veteran in deciding on the appropriate accommodation; frequently, the individual will know exactly what accommodation he or she will need to perform successfully in a particular job, and may suggest an accommodation which is simpler and less expensive than the accommodation the contractor might have devised. Other resources to consult include the appropriate state vocational rehabilitation services agency, the Equal Employment Opportunity Commission (1–800–669–4000 (voice), 1–800–669–6820 (TTY)), the Job Accommodation Network (JAN) operated by the Office of Disability Employment Policy in the U.S. Department of Labor (1–800–526–7234 or 1–800–232–9675), private disability organizations (including those that serve veterans), and other employers.

6. With respect to accommodations that can permit an employee who is a disabled veteran to perform essential functions successfully, a reasonable accommodation may require the contractor to, for instance,

modify or acquire equipment. For the visually-impaired such accommodations may include providing adaptive hardware and software for computers, electronic visual aids, braille devices, talking calculators, magnifiers, audio recordings and braille or large-print materials. For persons with hearing impairments, reasonable accommodations may include providing telephone handset amplifiers, telephones compatible with hearing aids and telecommunications devices for the deaf (TDDs). For persons with limited physical dexterity, the obligation may require the provision of goose neck telephone headsets, mechanical page turners and raised or lowered furniture.

7. Other reasonable accommodations of this type may include providing personal assistants such as a reader, interpreter or travel attendant, permitting the use of accrued paid leave or providing additional unpaid leave for necessary treatment. The contractor may also be required to make existing facilities readily accessible to and usable by disabled veterans—including areas used by employees for purposes other than the performance of essential job functions such as restrooms, break rooms, cafeterias, lounges, auditoriums, libraries, parking lots and credit unions. This type of accommodation will enable employees to enjoy equal benefits and privileges of employment as are enjoyed by employees who do not have disabilities.

8. Another of the potential accommodations listed in § 60–300.2(t) is job restructuring. This may involve reallocating or redistributing those nonessential, marginal job functions which a qualified disabled veteran cannot perform to another position. Accordingly, if a clerical employee who is a disabled veteran is occasionally required to lift heavy boxes containing files, but cannot do so because of a disability, this task may be reassigned to another employee. The contractor, however, is not required to reallocate essential functions, i.e., those functions that the individual who holds the job would have to perform, with or without reasonable accommodation, in order to be considered qualified for the position. For instance, the contractor which has a security guard position which requires the incumbent to inspect identity cards would not have to provide a blind disabled veteran with an assistant to perform that duty; in such a case, the assistant would be performing an essential function of the job for the disabled veteran. Job restructuring may also involve allowing part-time or modified work schedules. For instance, flexible or adjusted work schedules could benefit disabled veterans who cannot work a standard schedule because of the need to obtain medical treatment, or disabled veterans with mobility impairments who depend on a public transportation system that is not accessible during the hours of a standard schedule.

9. Reasonable accommodation may also include reassignment to a vacant position. In general, reassignment should be considered only when accommodation within the disabled veteran's current position would pose an undue hardship. Reassignment is not required for applicants. However, in making hiring decisions, contractors are encouraged to consider applicants who are known disabled veterans for all available positions for which they may be qualified when the position(s) applied for is unavailable. Reassignment may not be used to limit, segregate, or otherwise discriminate against employees who are disabled veterans by forcing reassignments to undesirable positions or to designated offices or facilities. Employers should reassign the individual to an equivalent position in terms of pay, status, etc., if the individual is qualified, and if the position is vacant within a reasonable amount of time. A ''reasonable amount of time'' should be determined in light of the totality of the circumstances.

10. The contractor may reassign an individual to a lower graded position if there are no accommodations that would enable the employee to remain in the current position and there are no vacant equivalent positions for which the individual is qualified with or without reasonable accommodation. The contractor may maintain the reassigned disabled veteran at the salary of the higher graded position, and must do so if it maintains the salary of reassigned employees who are not disabled veterans. It should also be noted that the contractor is not required to promote a disabled veteran as an accommodation.

11. With respect to the application process, appropriate accommodations may include the following: (1) Providing information regarding job vacancies in a form accessible to disabled veterans who are vision or hearing impaired, e.g., by making an announcement available in braille, in large print, or on audio tape, or by responding to job inquiries via TDDs; (2) providing readers, interpreters and other similar assistance during the application, testing and interview process; (3) appropriately adjusting or modifying employment-related examinations, e.g., extending regular time deadlines, allowing a disabled veteran who is blind or has a learning disorder such as dyslexia to provide oral answers for a written test, and permitting an applicant, regardless of the nature of his or her ability, to demonstrate skills through alternative techniques and utilization of adapted tools, aids and devices; and (4) ensuring a disabled veteran with a mobility impairment full access to testing locations such that the applicant's test scores accurately reflect the applicant's skills or aptitude rather than the applicant's mobility impairment.

Appendix B to Part 60–300—Sample Invitation to Self-identify

Note: When the invitation to self-identify is being extended to disabled veterans prior to an offer of employment, as is permitted in limited circumstances under §§ 60–300.42(a)(1) and (2), paragraph 7(ii) of this appendix, relating to identification of reasonable accommodations, should be omitted. This will avoid a conflict with the EEOC's ADA Guidance, which in most cases precludes asking a job applicant (prior to a job offer being made) about potential reasonable accommodations.

[Sample Invitation to Self-Identify]

1. This employer is a Government contractor subject to the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, which requires Government contractors to take affirmative action to employ and advance in employment qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans.

2. [THE FOLLOWING TEXT SHOULD BE USED WHEN EXTENDING AN INVITATION TO RECENTLY SEPARATED VETERANS, OTHER PROTECTED VETERANS, AND ARMED FORCES SERVICE MEDAL VETERANS ONLY.] If you are a recently separated veteran, other protected veteran, or Armed Forces service medal veteran, we would like to include you under our affirmative action program. If you would like to be included under the affirmative action program, please tell us. The term ''recently separated veteran'' refers to any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty. The term ''other protected veteran'' refers to a person who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized, under laws administered by the Department of Defense. The term ''Armed Forces service medal veteran'' refers to a person who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (62 FR 1209).

[THE FOLLOWING TEXT SHOULD BE USED WHEN EXTENDING AN INVITATION TO DISABLED VETERANS ONLY.] If you are a disabled veteran, we would like to include you in our affirmative action program. If you would like to be included under the affirmative action program, please tell us. This information will assist us in placing you in an appropriate position and in making accommodations for your disability. The term ''disabled veteran'' refers to a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary, or was discharged or released from active duty because of a service-connected disability.

[THE FOLLOWING TEXT SHOULD BE USED WHEN EXTENDING AN INVITATION TO DISABLED VETERANS AS WELL AS RECENTLY SEPARATED VETERANS, OTHER PROTECTED VETERANS, AND ARMED FORCES SERVICE MEDAL VETERANS.] If you are a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran, we would like to include you under our affirmative action program. If you would like to be included under the affirmative action program, please tell us. [The contractor should include here the definitions of ''disabled veteran,'' ''recently separated veteran,'' ''other protected veteran,'' and ''Armed Forces service medal veteran'' found in the two preceding paragraphs.]

3. You may inform us of your desire to benefit under the program at this time and/or at any time in the future.

4. Submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment. The information provided will be used only in ways that are not inconsistent with the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended.

5. The information you submit will be kept confidential, except that (i) supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans, and regarding necessary accommodations; (ii) first aid and safety personnel may be informed, when and to the extent appropriate, if you have a condition that might require emergency treatment; and (iii) Government officials engaged in enforcing laws administered by OFCCP, or enforcing the Americans with Disabilities Act, may be informed.

6. [The contractor should here insert a brief provision summarizing the relevant portion of its affirmative action program.]

7. [THE FOLLOWING TEXT SHOULD BE USED ONLY WHEN EXTENDING AN INVITATION TO DISABLED VETERANS, EITHER BY THEMSELVES OR IN COMBINATION WITH RECENTLY SEPARATED VETERANS, OTHER PROTECTED VETERANS, AND ARMED FORCES SERVICE MEDAL VETERANS. PARAGRAPH 7(II) SHOULD BE OMITTED WHEN THE INVITATION TO SELF-IDENTIFY IS BEING EXTENDED PRIOR TO AN OFFER OF EMPLOYMENT.] If you are a disabled veteran it would assist us if you tell us about (i) any special methods, skills, and procedures which qualify you for positions that you might not otherwise be able to do because of your disability so that you will be considered for any positions of that kind, and (ii) the accommodations which we could make which would enable you to perform the job properly and safely, including special equipment, changes in the physical layout of the job, elimination of certain duties relating to the job, provision of personal assistance services or other accommodations. This information will assist us in placing you in an appropriate position and in making accommodations for your disability.

Appendix C to Part 60–300—Review of Personnel Processes

The following is a set of procedures which contractors may use to meet the requirements of § 60–300.44(b):

1. The application or personnel form of each known applicant who is a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran should be annotated to identify each vacancy for which the applicant was considered, and the form should be quickly retrievable for review by the Department of Labor and the contractor's personnel officials for use in investigations and internal compliance activities.

2. The personnel or application records of each known disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran should include (i) the identification of each promotion for which the covered veteran was considered, and (ii) the identification of each training program for which the covered veteran was considered.

3. In each case where an employee or applicant who is a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran is rejected for employment, promotion, or training, the contractor should prepare a statement of the reason as well as a description of the accommodations considered (for a rejected disabled veteran). The statement of the reason for rejection (if the reason is medically related), and the description of the accommodations considered, should be treated as confidential medical records in accordance with § 60–300.23(d). These materials should be available to the applicant or employee concerned upon request.

4. Where applicants or employees are selected for hire, promotion, or training and the contractor undertakes any accommodation which makes it possible for him or her to place a disabled veteran on the job, the contractor should make a record containing a description of the accommodation. The record should be treated as a confidential medical record in accordance with § 60–300.23(d).

[FR Doc. E7–15385 Filed 8–7–07; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7985]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

EFFECTIVE DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office.

FOR FURTHER INFORMATION CONTACT: David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of

Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

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

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

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

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

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 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.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current Effective map date	Date Certain Federal assistance no longer available in SFHAs
Region II				
New York:				
Auburn, City of, Cayuga County	360102	February 16, 1973, Emerg, March 2, 1981, Reg, August 2, 2007, Susp.	Aug. 2, 2007	Aug. 2, 2007.
Aurelius, Town of, Cayuga County	360103	April 17, 1974, Emerg, November 4, 1983, Reg, August 2, 2007, Susp.	do *	Do.
Aurora, Village of, Cayuga County	360101	January 17, 1975, Emerg, April 15, 1980, Reg, August 2, 2007, Susp.	do	Do.
Cayuga, Village of, Cayuga County	360107	July 23, 1973, Emerg, July 5, 1977, Reg, August 2, 2007, Susp.	do	Do.
Conquest, Town of, Cayuga County	360108	June 24, 1977, Emerg, April 4, 1983, Reg, August 2, 2007, Susp.	do	Do.
Fair Haven, Village of, Cayuga County	360109	April 20, 1973, Emerg, February 1, 1978, Reg, August 2, 2007, Susp.	do	Do.
Genoa, Town of, Cayuga County	360111	February 1, 1977, Emerg, November 4, 1983, Reg, August 2, 2007, Susp.	do	Do.
Ira, Town of, Cayuga County	360112	March 17, 1976, Emerg, February 6, 1984, Reg, August 2, 2007, Susp.	do	Do.
Ledyard, Town of, Cayuga County	360113	September 15, 1975, Emerg, February 6, 1984, Reg, August 2, 2007, Susp.	do	Do.
Locke, Town of, Cayuga County	360114	April 4, 1975, Emerg, November 4, 1983, Reg, August 2, 2007, Susp.	do	Do.
Mentz, Town of, Cayuga County	360115	April 18, 1973, Emerg, July 17, 1978, Reg, August 2, 2007, Susp.	do	Do.
Montezuma, Town of, Cayuga County	360116	August 8, 1975, Emerg, April 18, 1983, Reg, August 2, 2007, Susp.	do	Do.
Moravia, Town of, Cayuga County	360117	May 27, 1977, Emerg, June 19, 1985, Reg, August 2, 2007, Susp.	do	Do.
Niles, Town of, Cayuga County	360119	July 21, 1975, Emerg, February 6, 1984, Reg, August 2, 2007, Susp.	do	Do.
Owasco, Town of, Cayuga County	360120	April 2, 1976, Emerg, February 6, 1984, Reg, August 2, 2007, Susp.	do	Do.
Sennett, Town of, Cayuga County	360124	May 23, 1977, Emerg, June 22, 1979, Reg, August 2, 2007, Susp.	do	Do.
Summer Hill, Town of, Cayuga County	360127	July 24, 1975, Emerg, November 4, 1983, Reg, August 2, 2007, Susp.	do	Do.
Throop, Town of, Cayuga County	360128	August 21, 1975, Emerg, August 3, 1979, Reg, August 2, 2007, Susp.	do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current Effective map date	Date Certain Federal assistance no longer available in SFHAs
Victory, Town of, Cayuga County	360131	January 3, 1977, Emerg, February 6, 1984, Reg, August 2, 2007, Susp.	.....do.....	Do.
Region IV				
Alabama:				
Eldridge, City of, Walker County	010382	November 7, 2006, Emerg; Reg, August 2, 2007, Susp.	.....do.....	Do.
Tennessee:				
Shelbyville, Town of, Bedford County	470008	February 8, 1974, Emerg, February 17, 1988, Reg, August 2, 2007, Susp.	.....do.....	Do.
Wartrace, Town of, Bedford County	470009	May 20, 1987, Emerg, September 1, 1987, Reg, August 2, 2007, Susp.	.....do.....	Do.
Region V				
Illinois:				
Breese, City of, Clinton County	170046	February 3, 1976, Emerg, February 2, 1984, Reg, August 2, 2007, Susp.	.....do.....	Do.
Carlyle, City of, Clinton County	170047	September 8, 1975, Emerg, September 4, 1985, Reg, August 2, 2007, Susp.	.....do.....	Do.
Centralia, City of, Clinton County	170453	July 2, 1975, Emerg, December 18, 1984, Reg, August 2, 2007, Susp.	.....do.....	Do.
Clark County, Unincorporated Areas	170940	September 23, 1985, Emerg, November 4, 1988, Reg, August 2, 2007, Susp.	.....do.....	Do.
Clinton County, Unincorporated Areas	170044	June 10, 1977, Emerg, May 1, 1987, Reg, August 2, 2007, Susp.	.....do.....	Do.
Divernon, Village of, Sangamon County	170949	October 25, 1983, Emerg, May 15, 1984, Reg, August 2, 2007, Susp.	.....do.....	Do.
Thayer, Village of, Sangamon County	170804	November 25, 1975, Emerg, May 3, 1982, Reg, August 2, 2007, Susp.	.....do.....	Do.
Indiana:				
Bargersville, Town of, Johnson County	180112	July 6, 1976, Emerg, July 21, 1978, Reg, August 2, 2007, Susp.	.....do.....	Do.
Edinburgh, Town of, Johnson County	180113	February 13, 1975, Emerg, September 16, 1981, Reg, August 2, 2007, Susp.	.....do.....	Do.
Franklin, City of, Johnson County	180114	January 20, 1975, Emerg, April 1, 1981, Reg, August 2, 2007, Susp.	.....do.....	Do.
Greenwood, City of, Johnson County	180115	May 19, 1975, Emerg, May 17, 1982, Reg, August 2, 2007, Susp.	.....do.....	Do.
Johnson County, Unincorporated Areas	180111	July 24, 1975, Emerg, March 2, 1989, Reg, August 2, 2007, Susp.	.....do.....	Do.
New Whiteland, Town of, Johnson County.	180116	September 30, 1975, Emerg, August 16, 1982, Reg, August 2, 2007, Susp.	.....do.....	Do.
Princes Lake, Town of, Johnson County	180117	March 17, 1975, Emerg, September 16, 1981, Reg, August 2, 2007, Susp.	.....do.....	Do.

*-do- =Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: July 26, 2007.

David I. Maurstad,

Assistant Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E7–15425 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 03–151; FCC 07–97]

Amendment of the Commission's Rules Regarding AM Directional Antennas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission issued this document in order to resolve a conflict between the requirements of the rules regarding what corrective actions an AM broadcast station licensee must take when experiencing difficulties in the operation of a station's AM directional antenna.

DATES: Effective September 7, 2007.

FOR FURTHER INFORMATION CONTACT: Karen Kosar, *Karen.Kosar@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120 or Charles Miller, *Charles.Miller@fcc.gov* of the Media Bureau, Audio Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order (Order)*, FCC 07–97, adopted on May 22, 2007 and released on May 25, 2007. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th

Street, SW., CY–A257, Washington, DC, 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (''PRA''), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burdens for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Summary of the Report and Order

I. Introduction

1. This *Report and Order (''Order'')* is issued to resolve a conflict between the requirements of §§ 73.62 and 73.1350(d)(2) of the Commission's rules regarding what corrective actions an AM broadcast station licensee must take when encountering certain difficulties in the operation of a station's AM directional antenna. Specifically, we consider the proposed amendments as set forth in FCC 03–160 of the *Notice of Proposed Rulemaking* (''NPRM'') 68 FR 44273, July 28, 2003, issued in the above-captioned proceeding and the comments filed in response thereto; see *In the Matter of §§ 73.62 and 73.1350 of the Commission's Rules,* 18 FCC Rcd 13570 (2003) (''NPRM''). A list of parties filing comments and reply comments is set forth in Appendix A.

II. Discussion

2. Each of the rules at issue is invoked when an AM broadcast station's directional antenna operating parameters and/or monitoring point field strengths exceed operating tolerances. The operating parameters of an AM directional antenna are the relative amplitudes and phases of the currents in the individual towers of the array. Stations that use directional antennas are required to have an FCC authorized antenna monitor to measure the operating parameters. Each AM station using a directional antenna must take field strength measurements at the monitoring point locations specified in the instrument of authorization, as often as necessary to ensure that fields at those points do not exceed the values specified in the station authorization. According to the Commission's current version of the rules, §§ 73.62 and 73.1350(d)(2) require different courses of action when an AM station's directional monitoring parameters exceed the required operating tolerances. Section 73.62 of the rules, specifically addressing directional antenna system tolerances, requires that whenever the operating parameters of a directional antenna cannot be maintained within the tolerances specified in the rule, an AM licensee has 24 hours within which to identify any excessive monitoring point field strengths followed by three additional hours to take corrective action.

In contrast, § 73.1350(d)(2) of the rules, which addresses transmission system operation, requires that, in the event of any condition of antenna parameters or monitoring points out of tolerance, station operation be terminated within three minutes unless power is reduced sufficiently to eliminate any excess radiation. The *NPRM* proposed amendments to both sections of the rules in order to resolve any conflict by clearly delineating situations that require 24 hour, three-hour and/or three-minute responses by AM licensees experiencing directional antenna out-of-tolerance operation. The *NPRM* stated that clarity in the Commission's rules is especially critical when the rules may require that broadcast operations terminate within a matter of minutes. Moreover, when broadcast operations cease and programming is disrupted, broadcast listeners, in some cases, may be deprived of critical information regarding hazardous weather and other emergency conditions. Broadcast licensees also may be faced with fines and forfeitures when found to be out of compliance with Commission rules. It is therefore essential that the rules governing licensee compliance be unambiguous.

3. The *NPRM* tentatively concluded that § 73.1350(d)(2) of the rules requiring termination of broadcast operation in three minutes was excessively stringent and was not intended to apply to instances of minor out-of-tolerance AM directional antenna operating parameters. It proposed that a requirement to terminate operation in three minutes should apply only to catastrophic events that are likely to cause significant disruption to the operation of other stations or that pose a threat to life or property. It also proposed that a requirement to terminate operation within three hours should apply to instances of out-of-tolerance operation that are likely to result in minor interference to other stations. The *NPRM* tentatively concluded that in the case of minor variances of operating parameters caused by environmental changes, the provision of § 73.62 which allows 24 hours to determine the existence of an out-of-tolerance condition for an AM directional antenna system is reasonable. The *NPRM* also tentatively concluded that the language currently included in § 73.1350(d) that specifically addresses AM directional antenna systems should be relocated to § 73.62 because that section of the rules applies only to AM licensees, while § 73.1350 applies equally to AM, FM and TV licensees.

4. The commenters participating in this proceeding generally support the substantive amendments proposed by the Commission in the *NPRM*. Womble Carlyle Sandridge & Rice, PLLC (''WCSR'') state that there is a clear conflict between the two rules and the proposed amendments will provide AM licensees with unambiguous guidance regarding appropriate conduct involving cases of AM directional antenna out-of-tolerance operation. The National Association of Broadcasters (''NAB'') states that it strongly supports the Commission's proposal that the three-minute rule should not apply to instances of minor-out-of-tolerance AM directional operating parameters and that the abbreviated time frame should apply only when operation poses significant disruption to another licensee or poses a threat to life or property. Likewise, NAB supports the three-hour rule for operations likely to result in minor interference to other licensees and a 24-hour time period to determine minor operating variances caused by environmental changes.

5. While Mullaney Engineering, Inc. (''MEI'') states that it fully supports the amendments proposed in the *NPRM*, it claims that there are two areas of ambiguity that remain regarding the proposals and the actions that AM licensees are required to take when confronted with AM directional out-of-tolerance conditions. First, MEI states that clarification is needed regarding the proposed version of § 73.62 and the language used to determine whether the three-minute or 24-hour/three-hour time frame applies in a given situation. According to MEI, the issue arises when trying to determine whether the out-of-

tolerance condition results in operation *substantially at variance* from the authorized radiation pattern or whether the out-of-tolerance condition consists of only *minor variations* from the required tolerances. The proposed version of § 73.62(b) states that '' [i]n the event of a failure of system components, improper pattern switching or any other event that results in operation substantially at variance from the radiation pattern specified in the instrument of authorization for the pertinent time of day, operation must be terminated within three minutes unless power can be reduced sufficiently to eliminate any excessive radiation.'' The proposed version of § 73.62(c) states that '' [i]n the event of minor variations of directional antenna operating parameters from the tolerances specified in paragraph (a) of this section, the following procedures will apply: (1)–(4).'' MEI states that neither the proposed amendments nor the text of the *NPRM* provide any clear definition of what is to be considered ''*substantially at variance*'' or what is meant by ''*minor variations*.'' MEI points out that the *NPRM* states that a requirement to terminate operation in three minutes should apply only to catastrophic events that are likely to cause significant disruption to the operation of other stations or that pose a threat to life or property. With regard to the three-hour criteria, MEI observes that the *NPRM* states that a requirement to terminate operation during this time frame should apply to instances of out-of-tolerance operation that are likely to result in interference to other stations. According to MEI, however, these statements in the *NPRM* do not provide any objective basis for making the requisite distinctions as to whether the out-of-tolerance condition would be substantial or minor. MEI maintains that it is imperative that these phrases be defined because the former triggers the three-minute requirement, while the latter would only invoke the 24-hour/three-hour rule. Without further guidance from the Commission, MEI asserts that it is left to broadcast licensees to determine whether an incident is to be considered substantial or minor, which may leave licensees open to fines or forfeitures if their judgment differs from that of a Commission field inspector.

6. MEI suggests that a possible solution might be to set a multiple of the tolerances (offering three to five times as an example), which if exceeded, would trigger the three minute time frame for responding to out-of-tolerance conditions. MEI also proposes that rather than requiring a complete termination of operation in response to a substantial variation in tolerances, an alternative response might be to require reduction of power to 25 percent of the authorized value, pending a check of the monitor point field strengths within a 24-hour period. MEI notes that this course of action would only be appropriate if there were no complaints of interference. MEI asserts that the Commission routinely grants short-term operation under Special Temporary Authority (''STA'') at 25 percent of authorized power, absent interference complaints, without regard to whether or not this maintains the radiated field strength within authorized limits in any given azimuth. According to MEI, especially if large excursions from authorized parameters are the result of extremes in environmental conditions, the public interest is better served by maintaining some level of on-air capability rather than requiring the affected station to completely shut down.

7. MEI further asserts that a second area in which ambiguity exists is when the out-of-tolerance condition of directional antenna operation parameters is relatively short lived, i.e., only a few hours or less. MEI argues that it is possible in such a case that the antenna operating parameters may return to within tolerance before the monitoring point field strengths can be checked. MEI requests further guidance in this area because checking monitoring point readings under such conditions may be a waste of time because engineers would be checking those readings for antenna parameters that are within required limits and would not be checking the original out-of-tolerance state.

8. The purpose of §§ 73.62 and 73.1350 of the Commission's rules is to instruct AM broadcast licensees employing directional antennas as to what corrective action to take when monitoring parameters exceed required operating tolerances and in what amount of time that action must be taken. Section 73.62 of the rules is narrowly aimed at directional system tolerances and requires that action must be taken when directional operating parameters exceed the +/−5 percent current and +/−3 degree phase tolerances required by the rules, or when any monitoring point field strength exceeds the value specified on the station license. Section 73.1350 of the rules regarding transmission system operation is more general in its coverage and can affect FM and TV licensees, as well as AM licensees. Section 73.62 provides a more liberal amount of time to determine and address issues specific to AM directional antennas (27 hours), as compared to § 73.1350 (three minutes).

9. We believe that the adoption of the proposed substantive amendments to §§ 73.62 and 73.1350 of the Commission's rules has been supported by the record in this proceeding. We agree with MEI that it is necessary to delineate the difference between minor variations of operating parameters and operation substantially at variance from the license. We believe that the proposal offered by MEI on this issue has merit and we adopt the following definition to be added to § 73.62 of the rules: Any variation of operating parameters by more than +/−15 percent sample current ratio or +/−10 degrees in phase, any monitor point that exceeds 125 percent of the licensed limit, or any operation at variance from the license that results in complaints of interference shall be considered operation substantially at variance from the license and will require immediate corrective action, i.e., action within the three minute time frame for responding to substantially variant out-of-tolerance conditions, or within three minutes of a bona fide complaint if the variation does not exceed the foregoing limits. In the absence of interference complaints, lesser variances shall be considered minor variations in operating parameters subject to the corrective actions called for in § 73.62 of the Commission's rules.

10. The Commission's rules already provide for reduction of operating power to eliminate excessive radiation. In addition, § 73.1680 provides that if AM directional antenna systems become damaged and can no longer operate properly, prior Commission approval is not required for licensees to commence operation with an emergency nondirectional antenna and power reduced to 25 percent or less of the nominal licensed power, or a higher power, not exceeding licensed power, while ensuring that the radiated field strength does not exceed that authorized in any given azimuth. Licensees, however, must file a request for special temporary authority within 24 hours following commencement of emergency antenna operation. Because the current rules adequately provide for reduced power and emergency antenna operation, we find no need for any rule changes in this regard. With regard to MEI's concern about ''short-lived'' variances, it is impossible to predict in advance that a given out-of-tolerance condition will restore itself without the need for corrective action. Therefore, we are not persuaded that checking

monitoring point readings necessarily will be a waste of time in these circumstances and decline to respond to MEI's request for further guidance on this matter.

11. We believe that our actions in this proceeding will result in clearer and more easily understandable rules that will assist AM broadcast licensees employing directional antennas to implement corrective action in the appropriate time frame when monitoring parameters exceed required operating tolerances during the operation of their stations. The clarification of these ambiguities will assist broadcast licenses in avoiding unnecessary termination of operation of their stations and provide the necessary guidance to maintain compliance with our rules.

III. Procedural Matters

12. *Final Regulatory Flexibility Act*. As required by the Regulatory Flexibility Act (''RFA''), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated into the *NPRM*. The Commission sought written public comment on the possible significant economic impact of the proposed policies and rules on small entities in the *NPRM*, including comments on the IFRA. Pursuant to the RFA, a Final Flexibility Analysis is contained in Appendix C.

13. *Paperwork Reduction Act Analysis*. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (''PRA''), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burdens for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

14. *Congressional Review Act.* The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

IV. Final Regulatory Flexibility Act Analysis

15. As required by the Regulatory Flexibility Act of 1980, as amended, (''RFA''), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the *Notice of Proposed Rulemaking* in MB Docket No. 03–151 (hereinafter referred to as the *NPRM*). The Commission sought written comment on the proposal in the *NPRM*, including comment on the IRFA. The comments received are discussed below. This present Final Regulatory Flexibility Analysis (''FRFA'') conforms to the RFA.

A. Need for, and Objectives, of the Report and Order

16. The Report and Order was issued to resolve a conflict between §§ 73.62 and 73.1350(d)(2) of the Commission's rules. Both rules are invoked when an AM broadcast station's directional operating parameters and/or monitoring point field strengths exceed the required operating tolerances. It was considered important to resolve the conflict in our rules because these rules affect termination of broadcast operations, which may deprive listeners of necessary information regarding hazardous or other emergency conditions. Moreover, if broadcasters are found not to be in compliance with these rules, they may face fines or have forfeiture action instituted against them.

17. The *Report and Order* adopts the substantive amendments proposed by the Commission in the Notice. It was determined that § 73.1350(d)(2) of the rules requiring termination of broadcast operation in three minutes was too stringent to apply to instances of minor out-of-tolerance AM directional operating parameters. As such, it was determined that a requirement to terminate operation in three minutes should apply only to catastrophic events likely to cause significant disruption to the operation of other stations or that pose a threat to life or property. In addition, it was determined that a requirement to terminate operation within three hours should apply to instances of out-of-tolerance operation that are likely to result in minor interference to other stations. Moreover, in the case of minor variances of operating power caused by environmental changes, it was determined that the 24 hour time period provided for in § 73.62 of the rules was a reasonable period of time in order to determine the existence of the out-of-tolerance condition. The Report and Order also clarified the rules to delineate the difference between minor variations of operating parameters and operation substantially at variance from the broadcast license. The Commission found that the rules at issue need not be amended regarding the reduction of power as an alternative to termination of operation or with regard to emergency antenna operation because the current rules adequately address these matters.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

18. There were no comments filed on the IRFA.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

19. The RFA directs agencies to provide a description of, and, where feasible an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

20. The amendments to §§ 73.1350 and 73.62 will primarily apply to certain AM directional radio broadcasting licensees and potential licensees. The amendments to § 73.1350 would also affect FM broadcast stations in the event that any FM broadcast station operates in a manner that poses a threat to life or property or in a manner that is likely to cause significant disruption to the operation of other stations. The SBA defines a radio broadcast entity that has $6.5 million or less in annual receipts as a small business. Business concerns included in this industry are those ''primarily engaged in broadcasting aural programs by radio to the public.'' According to Commission staff review of the BIA Publications, Inc., Master Access Radio Analyzer Database, as of May 16, 2003, about 10,427 of the 10,945 commercial radio stations in the United States have revenues of $6 million or less. We note, however, that many radio stations are affiliated with much larger corporations with much higher revenue, and that in assessing whether a business concern qualifies as small under the above definition, such business (control) affiliations (''Concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.'' 13 CFR 121.103(a)(1)) are included. ''SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are

organized for profit, in determining the concern's size.'' 13 CFR 121(a)(4). Our estimate, therefore likely overstates the number of small businesses that might be affected by the rules because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

21. The amendments to § 73.1350 would also affect television stations in the event that any television station operates in a manner that poses a threat to life or property or is likely to significantly disrupt the operation of other stations. The SBA defines a television broadcasting station that has no more than $13 million in annual receipts as a small business. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' This category description continues, ''These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studios, from an affiliated network, or from external sources.'' Separate census categories pertain to businesses primarily engaged in producing programming. See id. at 502–05, NAICS code 51210. Motion Picture and Video Production: code 512120, Motion Picture and Video Distribution, code 512191, Teleproduction and Other Post-Production Services, and code 512199, Other Motion Picture and Video Industries. According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database as of May 16, 2003, about 814 of the 1,220 commercial television stations in the United States have revenues of $12 million or less. We note, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimates, therefore, likely overstate the number of small entities that might be affected by the rules because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

22. The rule changes will not impose any additional reporting or recordkeeping requirements.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

23. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

24. The Report and Order has been issued to remedy a conflict in the Commission's rules that affect AM broadcast stations that employ directional antennas. Amendment of the rules also affects FM and television broadcast services. As we stated in the Notice of Proposed Rulemaking, no alternatives to our proposal were mentioned because we did not anticipate a differential impact on smaller entities. While we welcomed comment on modifications of our proposals if based on evidence of potential differential impact, we received no comments on the IRFA.

25. Report to Congress. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

V. Ordering Clauses

26. Accordingly, *it is ordered* that, pursuant to authority found in sections 1, 4(i) and (j), 301, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 301, 303, and 403, the Commission's rules *are hereby amended* as set forth in Appendix B.

27. *It is ordered* that the rules adopted herein *will become effective* thirty days after publication in the **Federal Register**.

28. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel of the Small Business Administration.

List of Subjects in 47 CFR Part 73

Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73–RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

■ 2. Section 73.62 is revised to read as follows:

§ 73.62 Directional antenna system operation and tolerances.

(a) Each AM station operating a directional antenna must maintain the relative amplitudes of the antenna currents, as indicated by the antenna monitor, within 5% of the values specified on the instrument of authorization. Directional antenna relative phases must be maintained within 3 degrees of the values specified on the instrument of authorization.

(b) In the event of a failure of system components, improper pattern switching or any other event that results in operation substantially at variance from the radiation pattern specified in the instrument of authorization for the pertinent time of day, operation must be terminated within three minutes unless power can be reduced sufficiently to eliminate any excessive radiation. *See* § 73.1350(e).

(1) Any variation of operating parameters by more than ±15 percent sample current ratio or ±10 degrees in phase, any monitor point that exceeds 125 percent of the licensed limit, or any operation at variance that results in complaints of interference shall be considered operation substantially at variance from the license and will require immediate corrective action.

(2) [Reserved]

(c) In the event of minor variations of directional antenna operating parameters from the tolerances specified in paragraph (a) of this section, the following procedures will apply:

(1) The licensee shall measure and log every monitoring point at least once for each mode of directional operation. Subsequent variations in operating

parameters will require the remeasuring and logging of every monitoring point to assure that the authorized monitoring point limits are not being exceeded. The licensee will be permitted 24 hours to accomplish these actions; provided that, the date and time of the failure to maintain proper operating parameters have been recorded in the station log.

(2) Provided each monitoring point is within its specified limit, operation may continue for a period up to 30 days before a request for Special Temporary Authority (STA) must be filed, pursuant to paragraph (c)(4) of this section, to operate with parameters at variance from the provisions of paragraph (a) of this section.

(3) If any monitoring point exceeds its specified limit, the licensee must either terminate operation within three hours or reduce power in accordance with the applicable provisions of § 73.1350(d), in order to eliminate any possibility of interference or excessive radiation in any direction.

(4) If operation pursuant to paragraph (c)(3) of this section is necessary, or before the 30-day period specified in paragraph (c)(2) of this § expires, the licensee must request a Special Temporary Authority (STA) in accordance with section 73.1635 to continue operation with parameters at variance and/or with reduced power along with a statement certifying that all monitoring points will be continuously maintained within their specified limits.

(d) In any other situation in which it might reasonably be anticipated that the operating parameters might vary out of tolerance (such as planned array repairs or adjustment and proofing procedures), the licensee shall, before such activity is undertaken, obtain a Special Temporary Authority (STA) in accordance with § 73.1635 in order to operate with parameters at variance and/or with reduced power as required to maintain all monitoring points within their specified limits.

■ 3. Section 73.1350 is amended by revising paragraphs (b)(2) and (d), redesignate paragraph (e) through (h) as paragraphs (f) through (i), and by adding a new paragraph (e) to read as follows:

§ 73.1350 Transmission system operation.

* * * * *

(b) * * *

(2) The transmitter control personnel must have the capability to turn the transmitter off at all times. If the personnel are at a remote location, the control system must provide this capability continuously or must include an alternate method of acquiring control that can satisfy the requirement of paragraph (e) of this section that operation be terminated within three minutes.

* * * * *

(d) In the event that a broadcast station is operating in a manner that is not in compliance with the applicable technical rules set forth elsewhere in this part or the terms of the station authorization, and the condition is not listed in paragraph (e) or (f) of this section, broadcast operation must be terminated within three hours unless antenna input power is reduced sufficiently to eliminate any excess radiation. Examples of conditions that require termination of operation within three hours include excessive power, excessive modulation or the emission of spurious signals that do not result in harmful interference.

(e) If a broadcast station is operating in a manner that poses a threat to life or property or that is likely to significantly disrupt the operation of other stations, immediate corrective action is required. In such cases, operation must be terminated within three minutes unless antenna input power is reduced sufficiently to eliminate any excess radiation. Examples of conditions that require immediate corrective action include the emission of spurious signals that cause harmful interference, any mode of operation not specified by the station license for the pertinent time of day, or operation substantially at variance from the authorized radiation pattern.

* * * * *

[FR Doc. E7–15373 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WP Docket No. 07–100, DA 07–3256]

Amendment of Part 90 of the Commission's Rules; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: In this document, the Federal Communications Commission (''Commission'') published in the **Federal Register** of Wednesday, June 27, 2007, a document, wherein §§ 90.20(d)(42), 90.157, 90.203(n) and 90.235(e) was incorrectly amended. This document corrects those amendments.

DATES: Effective on July 27, 2007.

FOR FURTHER INFORMATION CONTACT: Rodney P. Conway, at *Rodney.Conway@FCC.gov*, Wireless Telecommunications Bureau, (202) 418–2904, or TTY (202) 418–7233; or via e-mail at *Rodney.Conway@fcc.gov*.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections supersedes §§ 90.20, 90.157, 90.203 and 90.235.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and need to be clarified.

List of Subjects in 47 CFR Part 90

Administrative practice and procedure, Common carriers, Communications equipment, Radio.

■ Accordingly, 47 CFR part 90 is corrected by making the following correcting amendments:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7).

■ 2. Amend § 90.20 by revising paragraph (d)(42) to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(d) * * *

(42) This frequency may not be assigned within 161 km (100 miles) of New Orleans, La. (coordinates 29°56′53″ N and 90°04′10″ W).

* * * * *

■ 3. Revise § 90.157 to read as follows:

§ 90.157 Discontinuance of station operation.

(a) An authorization shall cancel automatically upon permanent discontinuance of operations. Unless stated otherwise in this part or in a station authorization, for the purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued.

(b) For DSRCS Roadside Units (RSUs) in the 5850–5925 MHz band, it is the DSRCS licensee's responsibility to delete from the registration database any RSUs that have been discontinued.

■ 4. Amend § 90.203 by revising paragraph (n) to read as follows:

§ 90.203 Certification required.

* * * * *

(n) Transmitters designed to operate in the voice mode on channels

designated in §§ 90.531(b)(5) or 90.531(b)(6) that do not provide at least one voice path of 6.25 kHz of spectrum bandwidth shall not be manufactured in or imported into the United States after December 31, 2014. Marketing of these transmitters shall not be permitted after December 31, 2014.

* * * * *

■ 5. Amend § 90.235 by revising paragraph (e) to read as follows:

§ 90.235 Secondary fixed signaling operations.

* * * * *

(e) Until December 31, 1999, for systems in the Public Safety Pool authorized prior to June 20, 1975, and Power and Petroleum licensees as defined in § 90.7 authorized prior to June 1, 1976, the maximum duration of any signaling transmission shall not exceed 6 seconds and shall not be repeated more than 5 times. For Power licensees authorized between June 1, 1976, and August 14, 1989, signaling duration shall not exceed 2 seconds and shall not be repeated more than 5 times. Such systems include existing facilities and additional facilities which may be authorized as a clear and direct expansion of existing facilities. After December 31, 1999, all signaling systems shall be required to comply with the 2 second message duration and 3 message repetition requirements.

* * * * *

Federal Communications Commission.

Scot Stone,

Deputy Chief, Mobility Division.

[FR Doc. E7–15085 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 72, No. 152
Wednesday, August 8, 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

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 03–002–4]

RIN 0579–AC55

Importation of Nursery Stock; Postentry Quarantine Requirements for Potential Hosts of Chrysanthemum White Rust and Definition of *From*

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; withdrawal and reproposal.

SUMMARY: We are proposing to amend the regulations on importing nursery stock by providing an option in which the postentry quarantine growing period for articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* that are imported from certain locations would be reduced from 6 months to 2 months, provided that the grower of those plants has implemented a systems approach to prevent the imported articles from being infected with chrysanthemum white rust. This proposal replaces part of a previous proposal that would also have provided an option in which the length of the postentry quarantine period for potential hosts of chrysanthemum white rust would have been reduced provided that the grower entered into a disease-prevention program. We are issuing this reproposal to further discuss the evidence that led us to conclude that a 2-month postentry quarantine period is adequate and to clarify how the systems approach would work. We are also proposing to amend the definition of *from.* The definition proposed in this document would replace the definition of *from* that was included in a previous proposal. We are proposing the new definition in response to concerns raised by comments on the previous proposal.

DATES: We will consider all comments that we receive on or before October 9, 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–2005–0081 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. 03–002–4, 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. 03–002–4.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Arnold T. Tschanz, Senior Import Specialist, Plants for Planting Import and Analysis, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–5306.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of plant pests. The regulations contained in ''Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products,'' §§ 319.37 through 319.37–14 (referred to below as the regulations), restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

The regulations in § 319.37–7(a) designate as restricted articles any articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* that meet the conditions for importation in § 319.37–5(c) and that are imported from any foreign locality except Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canada, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and United Kingdom); and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude. Articles designated as restricted articles in § 319.37–7(a) must be grown in postentry quarantine under the conditions described in paragraphs (c) and (d) of § 319.37–7. Paragraph (d)(7)(ii) currently requires restricted articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* to be grown in postentry quarantine for a period of 6 months.

The pest of concern with regard to imported articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* is chrysanthemum white rust (CWR). CWR is caused by *Puccinia horiana* Henn., a filamentous fungus and obligate parasite. CWR is not established in the United States and is a disease of quarantine significance. This disease has the potential to be extremely damaging to the commercial horticulture and florist industries if it becomes established in the United

States. The postentry quarantine growing period for articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* is intended to allow symptoms of the disease, if it is present, to express themselves, so that any restricted articles that are affected with CWR can be prevented from entering U.S. commerce.

On December 15, 2005, we published in the **Federal Register** (Docket No. 03–002–1, 70 FR 74215–74235) a proposal [1] to make several amendments to the nursery stock regulations. We solicited comments concerning the proposal for 60 days ending February 13, 2006. We reopened and extended the deadline for comments until March 31, 2006, in a document published in the **Federal Register** on February 28, 2006 (71 FR 9978, Docket No. 03–002–2).

Among the changes discussed in the December 2005 proposal was providing an option in which the postentry quarantine growing period for articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* would be reduced from 6 months to 2 months if the articles were grown in accordance with a best management practices program approved by the Animal and Plant Health Inspection Service (APHIS). The Plant Protection and Quarantine (PPQ) program had evaluated the available scientific literature and found that 2 months was an adequate amount of time for CWR to express itself in postentry quarantine; we proposed to require the best management practices program as an additional safeguard.

We received 25 comments on the proposed rule, from 23 commenters, including private citizens, State and local governments, industry organizations, individual industry companies, and foreign national plant protection organizations. Sixteen of these commenters addressed the proposed change to the postentry quarantine requirements for articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum*. While many commenters supported the change, many commenters were confused regarding whether the best management practices program was intended to apply to production in the country of origin or to postentry quarantine in the United States. In addition, some commenters disputed our conclusion that 2 months is an adequate amount of time for symptoms of CWR infection to be expressed in postentry quarantine.

To address these comments, we are withdrawing that portion of the December 2005 proposal that dealt with postentry quarantine for imported articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum*. We are replacing it with this proposal, which discusses in greater detail the evidence that leads us to conclude that a 2-month postentry quarantine period for imported articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* is adequate. This proposal also presents new requirements for the systems approach that more clearly indicate that they apply to growing in the country of origin. We are also explaining in more detail how the systems approach would be used. (We used the term ''best management practices program'' to describe the intended program in the December 2005 proposed rule. We are replacing it with the term ''systems approach'' in this reproposal to clarify our terminology.)

We discuss the postentry quarantine period and the requirements of the systems approach in detail directly below.

Evidence Supporting Reducing the Postentry Quarantine Period for Articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* From 6 Months to 2 Months

In the December 2005 proposed rule, we stated the following: ''PPQ's Center for Plant Health Science and Technology has reviewed the available evidence regarding the time within which CWR will express symptoms. Although substantial evidence indicates that articles affected with CWR will express symptoms within 2 months, meaning that 2 months would be an adequate postentry quarantine period for these articles, not all the available evidence confirms that.''

We received several comments on our statement that 2 months would be an adequate postentry quarantine period for these articles. The issues raised by these commenters are described below.

Four commenters strongly supported all aspects of the proposal, including our determination that a 2-month postentry quarantine period was sufficient to allow expression of CWR in articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum*. One of these commenters reviewed the available literature and concluded that most available studies indicate that CWR is expressed in normal conditions within 2 weeks, with an upper limit of 2 months in extreme conditions such as high temperatures or massive inoculations in a research setting.

This commenter also noted that, in the June 2002 version of the APHIS document ''Chrysanthemum White Rust: A National Management Plan for Exclusion and Eradication,'' we stated that in the event that a nursery is found to be infected with CWR, no plant should leave the nursery for 8 weeks or until the nursery has been inspected and certified as being free of CWR. The current version of this document provides for an 8-week host-free period at any nursery at which plants are found to be infected with CWR. The commenter indicated that this document supports the statement that the 2-month postentry quarantine is adequate for expression of CWR symptoms.

Two more commenters supported the proposed reduction in the postentry quarantine period on the condition that the reduction was based on science.

Three commenters were concerned about our statement that not all the available evidence confirms that CWR is expressed in postentry quarantine within 2 months, asking us to discuss any evidence that might show that a longer postentry quarantine period is necessary for the expression of CWR.

Seven commenters took issue with the proposed reduction in the postentry quarantine period for articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum*. Five of these commenters stated that, under certain environmental and climatic conditions, CWR would not be expressed in a 2-month postentry quarantine period; they stated that the disease cycle of CWR requires cool, wet conditions in order to exhibit its symptoms. One commenter stated specifically that basidiospores (airborne spores) of the CWR fungus are produced and released during periods of relatively high humidity and when temperatures are between 40 °F and 73 °F, with optimum expression at 63 °F. In southern California, these cool temperatures occur only from November through June. Even using APHIS-approved best management practices, the commenter stated, the conditions necessary for CWR infections could not be created in a greenhouse during the hot summer months. Under the December 2005 proposal, stated the commenter, cuttings infected with CWR

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2005–0081.* **Note:** Since the publication of the proposed rule, a final rule published in the **Federal Register** on April 3, 2007 (Docket No 03–016–3, 72 FR 15805–15812) expanded the list of countries from which exportation of CWR hosts is subject to postentry quarantine restrictions.

could conceivably be imported in July and released 2 months later in September and never show any symptoms, because climatic conditions at that time of year preclude symptoms from being exhibited.

Based on these comments, we again reviewed the available evidence regarding the expression of CWR. Our statement in the December 2005 proposal that ''not all the available evidence confirms'' that 2 months is an adequate postentry quarantine period for CWR hosts was incorrect. The longest time between infection and symptom development that has been reported is 8 weeks. This was reported to have been achieved when infected cuttings were experimentally exposed to 86 °F (30 °C) temperatures for several hours, in an effort to simulate hot climatic conditions. However, efforts to reproduce this effect experimentally have been unsuccessful, and it has not been reported in the field.

Most references on CWR concur that the disease usually expresses itself in between 5 to 14 days, depending on the prevailing climatic conditions. Warm temperatures increase the latency period, but in most cases not beyond 14 days, and we are not aware of any reports describing increases in the latency period beyond 2 months. The commenter who stated that CWR requires cool temperatures for expression, and thus that warm temperatures will delay expression of the disease indefinitely, did not provide a reference to support that statement, and we have been unable to locate any references confirming it. We invite commenters to submit any additional information that may be pertinent to this subject.

We would also like to clarify the difference between the purpose of the 8-week host-free period in our CWR management plan and the time necessary for expression of symptoms of CWR in postentry quarantine. Teliospores of *P. horiana* can survive for up to 8 weeks in favorable climatic conditions on the leaves of CWR hosts, even in the absence of living plants. Keeping premises free of host plants for at least 8 weeks ensures that all the teliospores in the premises die, making it safe to repopulate the premises with CWR hosts. By contrast, the postentry quarantine period is not used to ensure disease freedom at a premises, but rather to determine whether potential hosts are infected with CWR. If a living plant is infected with CWR (either with teliospores or the shorter lived basidiospores), the disease will express itself within 5 to 14 days under normal conditions. The period required for eradication of CWR from a premises and the postentry quarantine period we are proposing are of similar length, but they have no relationship to each other.

While 2 months appears to be an adequate postentry quarantine growing period for CWR hosts, we would require that CWR hosts grown in postentry quarantine for 2 months also be produced under a systems approach. We would include this additional safeguard because of the danger CWR presents to the domestic floral industry. Efforts to eradicate CWR outbreaks in the United States have been costly for growers, who typically must destroy all plants within a 1-meter radius of any infected plant, treat the entire production site to neutralize any remaining CWR spores, and implement a host-free period to prevent reintroduction of the rust. In a 2006 outbreak of CWR in California, the estimated cost per acre of implementing the host-free period alone was $54,594. Given that the entire production site must implement the host-free period in order to eradicate CWR, the eradication costs to producers can be considerable. The requirements of the systems approach would provide additional assurance that CWR-infected plants would not be introduced into the United States under the 2-month postentry quarantine period.

One commenter additionally objected to the proposed 2-month postentry quarantine period as too short to allow for the necessary inspection of the plants being grown in postentry quarantine. This commenter stated that postentry quarantine inspections are usually conducted in spring and fall to increase the chances of finding a quarantine pest. Under the December 2005 proposal, the commenter stated, an importer could conceivably time the importation of cuttings to essentially avoid inspection. In this commenter's experience, when plants are imported for postentry quarantine, 2 or more months may pass before authorities at the local level receive notification from APHIS that the plants have arrived in the area. With a 2-month postentry quarantine period, the commenter stated, the material may have been shipped throughout the United States before local authorities have been notified that it was imported and before they have had a chance to conduct an inspection.

The regulations in § 319.37–7(c) set out requirements for the postentry quarantine agreements that APHIS concludes with States. Under paragraph (c)(3)(iii), the Administrator is required to notify State officials, in writing and within 10 days of the arrival, when plant material destined for postentry quarantine in their State arrives in the United States. Under paragraph (c)(2)(iii), States are required to provide the services of State inspectors to inspect plants for evidence of exotic pests at least once for plants required to be grown in quarantine for less than 2 years. After this, again under paragraph (c)(3)(iii), the Administrator shall notify State officials in writing when materials in postentry quarantine may be released from quarantine in their State. We do not notify State officials that materials in postentry quarantine may be released from quarantine until we have received the results of the State inspection of the materials. If an importer removes plant material in postentry quarantine from the approved site before the Administrator notifies State officials that it may be released, then that importer is in violation of the regulations.

Two other commenters objected generally to what they perceived as the loosening of restrictions on the importation of articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum*, given that CWR outbreaks continue to occur occasionally in the United States. In these commenters' opinions, unless the reduced postentry quarantine period and the systems approach would encourage legal importation of those articles that are currently imported without complying with our regulations, the perceived additional risk of reducing the postentry quarantine period would not be warranted.

As discussed earlier, our decision to reduce the postentry quarantine period for imported articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* is supported by science; it is not motivated by the goal of reducing illegal trade of those articles. We do not believe that providing an option in which the postentry quarantine period for imported articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* is reduced to 2 months will increase the risk of allowing a plant that is infected with CWR to enter U.S. commerce, especially if the plants are produced in compliance with the requirements of systems approach.

It is important to note that the postentry quarantine restrictions placed on CWR hosts in the regulations apply to the importation of CWR hosts from countries where CWR is not known to occur. We prohibit the importation of CWR hosts from countries where CWR is known to occur in § 319.37–2(a). CWR has not been detected in any host plants

imported under the current postentry quarantine program in the last 10 years. We believe the introductions of CWR that the commenter cites were the result of illegal importations. We are continuing to work through our Smuggling Interdiction and Trade Compliance program and with the Department of Homeland Security's Bureau of Customs and Border Protection to prevent such introductions.

Because the option we are proposing would reduce the postentry quarantine period to the time actually required for expression of symptoms while imposing additional phytosanitary safeguards on the production of CWR host materials, we believe the program we are proposing here would be as effective as our current program.

Two commenters suggested that APHIS issue a departmental permit to allow a reduction in the postentry quarantine period.

Departmental permits are issued under § 319.37–2(c) and provide for the importation of articles that are listed as prohibited under paragraphs (a) and (b) of § 319.37–2 for experimental or scientific purposes; APHIS may specify conditions for such importation that are adequate to prevent the introduction into the United States of plant pests. However, articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* that are eligible to be imported under postentry quarantine conditions are, by definition, not prohibited articles. Therefore, using the departmental permit to facilitate their importation in this way would not be appropriate. In addition, the departmental permit is intended for us only to allow importation for experimental or scientific purposes.

Systems Approach for Articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* Imported Into the United States

As many commenters noted, our explanation of the best management practices program cited in the December 2005 proposed rule did not make clear whether the program would be applied to imported articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* during their growth in their country of origin or to their growth during postentry quarantine. Many commenters interpreted our description of the best management practices program to mean that it would apply to the growth of these articles during postentry quarantine, and objected to the increased responsibility placed on Federal and State entities to monitor postentry quarantine under the conditions of the best management practices program. Some of these commenters further stated that a program to prevent the articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* from being infected with CWR while being grown in the country of origin, prior to importation into the United States, would be more effective, both in terms of cost and in terms of phytosanitary security.

We agree with these comments. We had intended for the best management practices program described in the December 2005 proposal to apply to the growth of these plants in the country of origin, and the systems approach we are proposing to require as a condition of reducing the postentry quarantine period from 6 to 2 months would also apply to the growth of articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* in their country of origin. In this proposal, we have revised the requirements of the systems approach in order to make it clear that they would apply to growth in the country of origin.

In order to be eligible for participation in this program, the articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* would have to be grown in a production site that is a greenhouse or other enclosed building. The proposed systems approach would specify several basic requirements to be fulfilled during the production of those articles and prior to their importation to the United States. These requirements are the following:

- Production sites would have to generate plants for planting from propagative material that is free of CWR.
- Production sites would have to write and implement standard operating procedures that include provisions for adequate pest control, isolation of the production site from host material not intended for export to the United States, regular inspection and testing, and training of production site employees.
- Production sites would have to keep detailed records of all aspects of plant production, including the origin of articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* that will be exported so that they may be traced back if necessary. Production sites would have to label the containers in which the articles are shipped in order to facilitate traceback investigations.
- The national plant protection organization (NPPO) of the country in which the production site is located would have to oversee the production site and perform regular audits to ensure that all elements of the production system are in compliance with the requirements of the systems approach and the workplan.
- APHIS would have to be allowed to perform on-site audits of the production site as well. APHIS would also perform audits at the port of entry into which the plants are imported to ensure that these articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* meet the requirements of the systems approach and the workplan.
- The NPPO of the country in which the production site is located and APHIS would impose penalties and remedial actions in the case of noncompliance. The NPPO would not issue phytosanitary certificates for shipments of articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* exported under the systems approach if an audit revealed that the articles were not grown in compliance with the requirements of the systems approach and the workplan. Penalties that could be imposed would include, but would not necessarily be limited to, removal of the exporting production site from the list of growers approved by APHIS to ship these articles to the United States under this program.
- The government of the country in which the articles are produced or its designated representative would have to enter into a trust fund agreement with APHIS before each growing season. The government of the country in which the articles are produced or its designated representative would have to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of the systems approach. (The specific level of APHIS involvement will vary with the terms of the workplan; APHIS involvement may range from regular inspections of production sites to occasional on-site audits.) Details on this requirement can be found in the proposed regulatory text at the end of this document.

Two commenters on the December 2005 proposal asked to review the program we described in that rule. We are not proposing to add specific phytosanitary requirements to the regulations. Instead, we are proposing to set out the performance standards in the regulations. If this rule is finalized, the NPPO of a country that wishes to export articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* to the United States for a postentry quarantine

growing period of 2 months (rather than 6 months) would submit to us a detailed proposal for operational plans and procedures that fulfill the performance standards. We would then work with the NPPO of the exporting country to agree upon a final set of operational plans and procedures, which would be codified in a bilateral workplan.[2] Thus, the regulations would require that the articles be produced in accordance with a workplan that meets the requirements of the systems approach, as listed in the regulations. We anticipate that the specific conditions required by a workplan will vary according to the conditions in the country and facility where the workplan is implemented, and as such we do not have a single workplan that we can make available.

The changes discussed in this proposal would reduce the cost of postentry quarantine for importers of articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* while continuing to protect against the introduction of CWR into the United States.

Proposed Amendments to the Regulations

In § 319.37–7, paragraph (d)(7)(ii) lists articles of *Chrysanthemum* spp., *Dendranthema* spp.,[3] *Leucanthemella serotina*, and *Nipponanthemum nipponicum*, articles of *Dianthus* spp., and articles of *Hydrangea* spp. as articles for which a postentry quarantine growing period of less than 2 years is permitted. In the December 2005 proposal, we proposed to add articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* produced in accordance with a best management practices program to this list, with a 2-month postentry quarantine period.

In this document, we are proposing to amend the regulations in § 319.37–5(c). This paragraph presently requires that any restricted article (except seeds) of *Chrysanthemum* spp., *Leucanthemella serotina*, or *Nipponanthemum nipponicum* from any foreign place other than countries where CWR is known to occur shall, at the time of arrival at the port of first arrival in United States, be accompanied by a phytosanitary certificate of inspection containing a declaration that the article was grown in a greenhouse nursery and found by the NPPO of the country in which grown to be free from CWR. This finding must be based on visual examination of the parent stock, the articles for importation, and the greenhouse nursery in which the articles for importation and the parent stock were grown, once a month for 4 consecutive months immediately prior to importation. Imported articles of *Chrysanthemum* spp., *Leucanthemella serotina*, or *Nipponanthemum nipponicum* must satisfy this requirement in order to be eligible to enter the United States for postentry quarantine. We would move these current requirements into paragraph (c)(1) and add the systems approach requirements described earlier in a new paragraph (c)(2).

In § 319.37–7(d)(7)(ii), we would break up the list of articles eligible for postentry quarantine of less than 2 years into subparagraphs for ease of reading.

Under this proposal, paragraph (d)(7)(ii)(A) of § 319.37–7 would indicate that an article of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* that meets the requirements of § 319.37–5(c)(2) would be required to be grown in postentry quarantine for 2 months.

Paragraph (d)(7)(ii)(B) would state that an article of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* that meets the requirements of § 319.37–5(c)(1) would be required to be grown in postentry quarantine for 6 months.

Paragraphs (d)(7)(ii)(C) and (d)(7)(ii)(D) would contain the current language regarding articles of *Dianthus* spp. and *Hydrangea* spp.

Other Comments on the December 2005 Proposal

Two commenters on the December 2005 proposal suggested that APHIS include provisions for a trust fund. The commenters suggested that the fund could be used to properly administer the current CWR regulations and monitor for the disease, and to help defray the cost of eradication when outbreaks occur.

We provide for trust funds in the regulations when the regulations require that APHIS provide services to foreign growers, such as monitoring or certification. The trust fund that would be required for the implementation of the systems approach for CWR in this proposal is one example. We do not use trust funds as a means of providing insurance against the introduction of a disease. APHIS will continue to enforce the regulations governing the importation of all articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* and to survey for signs of CWR infection in plants in the United States in cooperation with State governments.

One commenter, the Netherlands Ministry of Agriculture, Nature, and Food Quality (the Netherlands NPPO), noted that importation of articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* from the Netherlands (as well as the rest of Europe) is prohibited under § 319.37–2(a). The Netherlands NPPO asked that APHIS recognize the European Union (EU) Directive 2000/29, Annex IV–A–II, item 21.1, which requires propagative material of *Chrysanthemum* spp. to be regularly inspected during the growing season and to be inspected prior to export. The commenter also noted that the Netherlands NPPO is not aware of CWR ever having been detected on *Chrysanthemum* spp. cuttings exported from the Netherlands. The commenter stated that articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* from the Netherlands that are produced under the requirements of this directive should be admissible.

The commenter further noted that one grower in its country has a program in place that appears to satisfy the requirements of the best management practices program as we described it in the December 2005 proposed rule.

As the commenter noted, importation of articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* from the Netherlands is currently prohibited under § 319.37–2(a). The December 2005 proposal did not propose to change that, nor does this proposal.

The Netherlands has submitted a formal request for APHIS to evaluate the conditions provided under the EU directive and the conditions of these programs in place at the grower cited in the comment. APHIS will evaluate the request to determine whether articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* produced under these conditions should be either allowed to be imported subject to postentry quarantine or generally admissible. If the evaluation indicates that their importation should be allowed, we will

[2] We published in the **Federal Register** a notice providing background information on bilateral workplans on May 10, 2006 (71 FR 27221–27224, Docket No. APHIS–2005–0085). It can be accessed at *http://www.regulations.gov/fdmspublic/component/main?main=DocumentDetail&d=APHIS-AOGUS–2005–0085–0001.*

[3] The April 2007 final rule referred to earlier was intended to remove all references to *Dendranthema* spp. within the text of the regulations but inadvertently did not remove the reference in this paragraph. In this proposed rule, we would correct that error.

publish a separate proposal to amend the regulations.

Definition of From

The definition of *from* in § 319.37–1 currently provides that an article is considered to be ''from'' any country or locality in which it was grown. The current regulations also provide that an article imported into Canada from another country or locality shall be considered as being solely ''from'' Canada if it is imported into the United States directly from Canada after having been grown for at least 1 year in Canada; has never been grown in a country from which it would be a prohibited article or from which it would be subject to special foreign inspection, certification, treatment, or other requirements; was not grown in a country or locality from which it would be subject to postentry quarantine requirements, unless it was grown in Canada under postentry growing conditions equivalent to those specified for the article in § 319.37–7; and was not imported into Canada in growing media.

In the December 2005 proposed rule, we proposed to replace this definition with a new definition of *from*, in order to remove the special provisions related to the importation of regulated articles from Canada. The proposed definition of *from* read: ''An article is considered to be 'from' an exporting country or area when it was grown or propagated only in the exporting country or area, or when it was grown in the exporting country or area after it entered the exporting country or area from another country or area under conditions that are equivalent to those that would be required by the United States if the plant were imported into the United States directly from any of the countries or areas where the plant was grown prior to its entry into the exporting country or area.''

We received several comments on our proposed definition. Many of these commenters were concerned that the proposed definition might weaken our protections against the importation of potentially risky nursery stock. Three commenters asked us to clarify whether articles whose importation is prohibited from one country would continue to be prohibited even after importation to a second country, regardless of the time that the articles remained in the second country.

Some commenters expressed concern that the proposed definition would be difficult to enforce, since the NPPOs of exporting countries would have to keep track of any plant material that entered their country and that might be reexported at some point in the future, as well as any propagations of that plant material. Other commenters expressed general concern about whether the restrictions on the importation of nursery stock in general are adequate to prevent the introduction of plant pests, when it can be difficult to determine what pests a plant has been exposed to.

Based on these comments, we have rethought our proposed definition of *from.* While in theory it would make sense to provide that nursery stock that is imported into one country and then exported from that country to the United States must satisfy the same requirements that it would have to if it was imported directly into the United States, in practice such a requirement would be difficult to enforce. As an example, assume that Country A does not impose restrictions on the importation of *Pelargonium* spp. from Country B, but the United States allows *Pelargonium* spp. from Country A to be imported with a phytosanitary certificate with an additional declaration under § 319.37–5(r)(2) and requires *Pelargonium* spp. from Country B to be imported under the systems approach described in § 319.37–5(r)(3). In order for Country A to export *Pelargonium* plants to the United States, the NPPO of Country A would have to track all *Pelargonium* plants of foreign origin, even after they were legally imported, in order to be able to certify that any *Pelargonium* spp. exported from Country A to the United States were either not from Country B or were grown in accordance with a systems approach for which there would be no regulatory enforcement mechanism in place. This would be a logistically unfeasible task for the NPPO of Country A to undertake.

The International Plant Protection Convention's (IPPC) 2002 Glossary of Phytosanitary Terms (International Standards for Phytosanitary Measures [ISPM] publication number 5)[4] takes a different approach to the issue. The Glossary of Phytosanitary Terms includes a definition of the term *country of origin* for consignments of plants that reads: ''Country where the plants were grown.'' (The IPPC definition of *country of origin* is thus functionally equivalent to the term *from* as it is used in our regulations.) The definition and the glossary do not provide any further guidance on how to determine what country that is or how long plants need to be growing in the exporting country, however, making it difficult for an importing NPPO to evaluate the risk associated with the plant material if it has previously been grown in a third country.

We are proposing a compromise. We would define the term *from* as follows: ''An article is considered to be 'from' the country where it, or the plants from which the article was derived, was actively growing for at least 9 months immediately prior to export.'' If the plant material did not meet this definition, the NPPO of the exporting country would not issue a phytosanitary certificate to accompany it; as a phytosanitary certificate is required for almost all imported nursery stock other than certain articles from Canada and small lots of seed, this would restrict the importation of those articles that have not been grown for 9 months in the country from which they would be exported.

We chose 9 months because it is a common length for a growing season for nursery stock; if a plant has been growing in a country for a full growing season, it is reasonable to assume that it poses the same potential pest risk as other plants of the same genus grown in that country. This definition would provide an enforceable standard.

We do not mean to minimize the problem of plants that originate in countries where the pest risk is high and are then re-exported to the United States through countries where the pest risk is lower. However, to refer again to the example discussed earlier, if Country A does not have restrictions on the importation of *Pelargonium* spp. from Country B, it would be difficult for the country to track those plants once they have been imported. Another solution would be simply to impose the same restrictions on the importation of *Pelargonium* spp. from Country A as we do on *Pelargonium* spp. from Country B, given that the importation restrictions in place in Country A make it difficult to determine which *Pelargonium* spp. exported from Country A may have originated in Country B and thus pose an elevated pest risk. We may pursue this avenue of regulatory action in the future. However, such regulatory action would be undertaken independent of our definitions of the word *from.*

Executive Order 12866 and Regulatory Flexibility Act

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

[4] ISPMs may be viewed on the World Wide Web at *https://www.ippc.int/IPP/En/default.jsp.* Click on the ''Standards'' link on the home page to view the ISPMs.

The Regulatory Flexibility Act requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 603 of the Act requires an agency to prepare and make available for public comment an initial regulatory flexibility analysis (IRFA) describing the expected impact of a proposed rule on small entities, unless the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. APHIS has prepared this IRFA in order that the public may have the opportunity to offer comments on expected small-entity effects of this proposed rule. We address here items as required by section 603(b) of the Act.

APHIS is proposing to amend the regulations on importing nursery stock by providing an option in which the postentry quarantine growing period for articles *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* that are imported from certain locations would be reduced from 6 months to 2 months, provided that the grower of those plants has implemented a systems approach to prevent the imported articles from being infected with CWR.

PPQ has determined that imported chrysanthemums that might be affected with CWR are likely to express symptoms of this disease if it is present within a 2-month postentry quarantine period; the fact that the chrysanthemums would originate in countries not considered to be affected with CWR and would be grown in accordance with an APHIS-approved workplan that meets the requirements of the systems approach would reduce the likelihood that they would be infected with CWR. Articles identified in postentry quarantine as being infected with CWR are then prevented from entering U.S. commerce.

Under the Plant Protection Act (7 U.S.C. 8301 *et seq.*), the Secretary of Agriculture is authorized to implement programs and policies designed to prevent the spread of plant pests and diseases. The objective of this proposed rule is to provide another option for importation of chrysanthemums that is based on current science and does not compromise the phytosanitary safety of U.S. floral plants.

This proposed rule may affect the volume of chrysanthemums imported into the United States because some importers may find that the reduction of costs due to the shortened postentry quarantine period will be greater than the additional cost for chrysanthemums produced under the systems approach. These reduced costs would then encourage a greater volume of importation. We expect that this will occur.

The economic effects of the proposed change are expected to be positive, if small, for U.S. importers of chrysanthemums into the United States. In 2005, the value of imported chrysanthemums was around $80.2 million, or 8 percent of the value of all imported flowers (i.e., fresh cut flowers and florist plants).[5] In the same year, the wholesale value of the domestic sales of chrysanthemums reached $210.8 million.[6]

The shorter postentry quarantine period for imported chrysanthemums may benefit U.S. importers/wholesalers and florist retailers. The proposed change would reduce the cost to chrysanthemum importers (categorized within North American Industry Classification System [NAICS] code 424930), and those savings may be at least partially passed along to retailers of these plants (NAICS code 453110). The Small Business Administration (SBA) has established size standards for determining which economic entities meet the definition of a small firm. The small-entity size standard for importers/wholesalers of flowers, nursery stock, and florists' supplies is 100 or fewer employees. For retail florists, the small-entity size standard is $6.5 million or less in annual sale receipts.

According to the 2002 Economic Census, there were approximately 4,854 wholesale establishments importing flowers, nursery stock, and florists' supplies, and they employed 59,954 people. All but four of these establishments were likely small entities.[7] According to the same census, there were 22,750 retail florist establishments with total annual sales of $6.63 billion in 2002. Their size distribution is not reported. Both wholesale and retail entities, regardless of their size, would benefit from the shorter quarantine period, but we are unable to determine the size of the benefit.

APHIS welcomes information that the public may provide concerning the expected magnitude of the benefit of the proposed rule and the number of small entities that may be affected.

The proposed change to amend the definition of from is administrative in nature. We do not expect that it would have any impact on any U.S. entities, whether small or large.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (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 Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 03–002–4. Please send a copy of your comments to: (1) Docket No. 03–002–4, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are proposing to provide an option in which the postentry quarantine growing period for articles *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* that are imported from certain locations would be reduced from 6 months to 2 months, provided that the grower of those plants has implemented a systems approach to prevent the imported articles from being infected with CWR. This would require the use of bilateral workplans and phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping

[5] U.S. Department of Agriculture, Foreign Agricultural Service, U.S. Trade Statistics, Harmonized Schedule 10-digit import codes 0603107010, 0603107020, and 0602903010.

[6] U.S. Department of Agriculture, NASS, Agricultural Statistics Board, Floriculture Crops 2005 Summary, April 2006, pages 37 and 53. The sum of wholesale value of all sales of potted Hardy/Garden Chrysanthemums ($141,845,000) and wholesale value of all sales of potted Florist Chrysanthemums ($68,944,000). And, U.S. Department of Agriculture, Economic Research Service, Floriculture and Nursery Crops Outlook, Electronic Outlook Report, FLO–05, Table: Summary 9, September 22, 2006.

[7] Personal communication with Joe W. Begley, General Manager, Technical Services Group, Yoder Brothers, Inc., Parrish, Florida.

requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency s functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed 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 (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 45.1 hours per response.

Respondents: Importers of nursery stock and NPPOs.

Estimated annual number of respondents: 7.

Estimated annual number of responses per respondent: 1.4285714.

Estimated annual number of responses: 10.

Estimated total annual burden on respondents: 451 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.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are proposing to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.37–1 is amended by revising the definition of *from* to read as follows:

§ 319.37–1 Definitions.

* * * * *

From. An article is considered to be ''from'' the country where it, or the plants from which the article was derived, was actively growing for at least 9 months immediately prior to export.

* * * * *

3. In § 319.37–5, paragraph (c) is revised to read as follows:

§ 319.37–5 Special foreign inspection and certification requirements.

* * * * *

(c) Any restricted article (except seeds) of *Chrysanthemum* spp. (chrysanthemum, includes *Dendranthema* spp.), *Leucanthemella serotina,* or *Nipponanthemum nipponicum,* from any foreign place except Andorra, Argentina, Australia, Belarus, Bosnia and Herzegovina, Brazil, Brunei, Canada, Canary Islands, Chile, China, Colombia, Croatia, Ecuador, Iceland, Japan, Korea, Liechtenstein, Macedonia, Malaysia, Mexico, Moldova, Monaco, New Zealand, Norway, Peru, Republic of South Africa, Russia, San Marino, Switzerland, Taiwan, Thailand, Tunisia, Ukraine, Uruguay, Venezuela, Yugoslavia; the European Union; and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° East longitude must, at the time of arrival at the port of first arrival in United States, be accompanied by a phytosanitary certificate of inspection containing one of the following declarations:

(1) A declaration that such article was grown in a greenhouse nursery and found by the plant protection service of the country in which it was grown to be free from white rust of chrysanthemum (caused by the rust fungus *Puccinia horiana* P. Henn.) based on visual examination of the parent stock, the articles for importation, and the greenhouse nursery in which the articles for importation and the parent stock were grown, once a month for 4 consecutive months immediately prior to importation; or

(2) A declaration that such article was grown in a production site that is a greenhouse or other enclosed building and in accordance with an APHIS-approved operational workplan that contains provisions for fulfilling the systems approach requirements listed below. The systems approach requirements are:

(i) Production sites must generate plants for planting from propagative material that is free of chrysanthemum white rust (*Puccinia horiana* Henn.).

(ii) Production sites must write and implement standard operating procedures that include provisions for adequate pest control, isolation of the production site from host material not intended for export to the United States, regular inspection and testing, and training of production site employees.

(iii) Production sites must keep detailed records of all aspects of plant production, including the origin of articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* that will be exported so that they may be traced back if necessary. Production sites must label the containers in which the articles are shipped in order to facilitate traceback investigations.

(iv) The national plant protection organization of the country in which the production site is located must oversee the production site and perform regular audits to ensure that all elements of the production system are in compliance with the requirements set out in this paragraph (c)(2) and in the workplan.

(v) APHIS must be allowed to perform on-site audits of the production site as well. APHIS will perform audits at the port of entry into which the plants are imported to ensure that these articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* meet the requirements set out in this paragraph (c)(2) and in the workplan.

(vi) The national plant protection organization of the country in which the production site is located and APHIS will impose penalties and remedial action in the case of noncompliance. The national plant protection organization may not issue phytosanitary certificates for shipments of articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* exported under the systems approach if an audit reveals that the articles were not grown in compliance with the requirements set out in this paragraph (c)(2) and in the workplan. Penalties that could be imposed will include, but may not necessarily be limited to, removal of the exporting production site from the list of growers approved by APHIS to ship these articles to the United States under this program.

(vii) The government of the country in which the articles of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* are produced or its designated representative must enter into a trust fund agreement with APHIS before each growing season. The government of the country in which the articles are produced or its designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of this paragraph (c)(2). These costs will include administrative expenses incurred in conducting the services enumerated in this paragraph (c)(2) and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The government of the country in which the articles are produced or its designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the government of the country in which the articles are produced or its designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the government of the country in which the articles are produced or its designated representative or held on account until needed.

* * * * *

4. Section 319.37–7 is amended by revising paragraph (d)(7)(ii) to read as follows:

§ 319.37–7 Postentry quarantine.

* * * * *

(d) * * *

(7) * * *

(ii) If an article of a genus or species listed in this paragraph, to grow the article or increase therefrom only in a greenhouse or other enclosed building for the period listed below:

(A) If an article of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* that meets the requirements of § 319.37–5(c)(2) of this subpart, for a period of 2 months after importation.

(B) If an article of *Chrysanthemum* spp., *Leucanthemella serotina,* and *Nipponanthemum nipponicum* that meets the requirements of § 319.37–5(c)(1) of this subpart, for a period of 6 months after importation.

(C) If an article of *Dianthus* spp. (carnation, sweet-william), for a period of 1 year after importation.

(D) If an article of *Hydrangea* spp., for a period of 9 months after importation.

* * * * *

Done in Washington, DC, this 2nd day of August 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–15421 Filed 8–7–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28884; Directorate Identifier 2007–NM–116–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Boeing Model 727 airplanes. This proposed AD would require repetitive external high frequency eddy current (HFEC) inspections of the crown skin for cracks at certain stringer attachment holes, and repair if necessary. This proposed AD results from a report of cracks at multiple locations on certain areas of the crown skin. We are proposing this AD to detect and correct fatigue cracks of the crown skin, which could result in rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by September 24, 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.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for the service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2007–28884; Directorate Identifier 2007–NM–116–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket 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 on the

ground level of the West Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

We have received a report indicating that fatigue tests resulted in cracks at multiple locations on the 727 body section 43 and 46 crown skin between stringers 11L and 11R. The first fatigue test cracks were found at approximately 66,000 simulated flight cycles. Subsequent inspection by Boeing on in-service airplanes also revealed similar crown skin cracks. In-service cracks were found on airplanes with between 71,236 and 81,234 total flight cycles. Fatigue cracks of the crown skin, if not detected and corrected, could result in rapid decompression of the airplane.

Relevant Service Information

We have reviewed Boeing Alert Service Bulletin 727–53A0224, dated April 10, 2003. The service information describes procedures for repetitive external high frequency eddy current (HFEC) inspections of the crown skin for cracks at stringer attachment holes between stringer 11L and stringer 11R and from body station (BS) 259.5 to BS 1183, and repair of any crack. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other airplanes of this same type design. For this reason, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and Referenced Service Information.''

Difference Between Proposed AD and Referenced Service Information

Operators should note that, although the Accomplishment Instructions of the referenced service information describe procedures for reporting all cracks to Boeing, this proposed AD would not require that action.

Costs of Compliance

There are about 842 airplanes of the affected design in the worldwide fleet. This proposed AD would affect about 459 airplanes of U.S. registry. The proposed inspection would take about 110 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $4,039,200, or $8,800 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BOEING: Docket No. FAA–2007–28884; Directorate Identifier 2007–NM–116–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by September 24, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report of cracks at multiple locations on certain areas of the crown skin. We are issuing this AD to detect and correct fatigue cracks of the crown skin, which could result in rapid decompression of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Repetitive Inspections and Repair

(f) Before the accumulation of 66,000 total flight cycles, or within 3,500 flight cycles after the effective date of this AD, whichever occurs later, do an external high frequency eddy current inspection of the crown skin for cracks at stringer attachment holes between stringer 11L and stringer 11R and from body station (BS) 259.5 to BS 1183. Repair any crack found before further flight. Do the actions in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 727–53A0224, dated April 10, 2003, except as provided by paragraph (g) of this AD. Repeat the inspection at intervals not to exceed 3,500 flight cycles.

(g) Although the service bulletin referred to in this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time

for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Issued in Renton, Washington, on July 30, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–15426 Filed 8–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28909; Directorate Identifier 2007–NM–135–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been found cases in which some wiring harnesses were not protected in accordance with SFAR–88 (Special Federal Aviation Regulation No. 88) requirements.

The potential of ignition sources, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by September 7, 2007.

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

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *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:* Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–28909; Directorate Identifier 2007–NM–135–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2006–07–02, effective August 21, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

It has been found cases in which some wiring harnesses were not protected in accordance with SFAR–88 (Special Federal Aviation Regulation No. 88) requirements.

The potential of ignition sources, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane. The corrective action includes installing heat shrinkable sleeves on the inspection and refueling panel illumination lights wiring, and installing nipples on the terminal lugs to protect the wire terminals. You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s),

and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

EMBRAER has issued Service Bulletin 145LEG–28–0016, Revision 01, dated June 27, 2005. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 8 products of U.S. registry. We also estimate that it would take about 6 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $32 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $4,096, or $512 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Empresa Brasileira de Aeronautica S.A. (Embraer): Docket No. FAA–2007–28909; Directorate Identifier 2007–NM–135–AD.

Comments Due Date

(a) We must receive comments by September 7, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model EMB–135BJ airplanes, certificated in any category; as identified in EMBRAER Service Bulletin 145LEG–28–0016, Revision 01, dated June 27, 2005.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

It has been found cases in which some wiring harnesses were not protected in accordance with SFAR–88 (Special Federal Aviation Regulation No. 88) requirements.

The potential of ignition sources, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane. The corrective action includes installing heat shrinkable sleeves on the inspection and refueling panel illumination lights wiring, and installing nipples on the terminal lugs to protect the wire terminals.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 5,000 flight hours after the effective date of this AD, install heat shrinkable sleeves on the inspection and refueling panel illumination lights wiring, and install nipples on the terminal lugs to protect the wire terminals, in accordance with the detailed instructions and procedures in EMBRAER Service Bulletin 145LEG–28–0016, Revision 01, dated June 27, 2005.

(2) Actions done before the effective date of this AD in accordance with EMBRAER Service Bulletin 145LEG–28–0016, dated March 8, 2004, are acceptable for compliance with the corresponding actions of this AD.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Brazilian Airworthiness Directive 2006–07–02, effective August 21, 2006, and EMBRAER Service Bulletin 145LEG–28–0016, Revision 01, dated June 27, 2005, for related information.

Issued in Renton, Washington, on July 30, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–15411 Filed 8–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket Nos. RM07–19–000 and AD07–7–000]

Wholesale Competition in Regions With Organized Electric Markets; Notice of Extension of Comment Date

June 22, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Advance notice of proposed rulemaking: Extension of comment date.

SUMMARY: On June 22, 2007, The Federal Energy Regulatory Commission (Commission) is issuing an Advance Notice of Proposed Rulemaking (ANOPR) with regard to potential reforms to improve the operation of organized wholesale electric markets. 72 FR 36,275 (July 2, 2007). The Commission is extending the date for filing comments on the ANOPR at the request of interested parties.

DATES: Comments on this ANOPR are now due on September 14, 2007.

ADDRESSES: You may submit comments identified by Docket Nos. RM07–19–000 and AD07–7–000 by one of the following methods:

- *Agency Web Site: http://www.ferc.gov.* Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures section of the ANOPR.
- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures section of the June 22, 2007 ANOPR for additional information on how to file paper comments.

FOR FUTHER INF0RMATION CONTACT: David Kathan (Technical Information), Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 200426, *David.Kathan@ferc.gov,* (202) 502–6404. Elizabeth Rylander (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, *Elizabeth.Rylander@ferc.gov,* (202) 502–8466.

SUPPLEMENTARY INFORMATION:

Notice of Extension of Time

July 27, 2007.

On July 23, 2007, the American Public Power Association, the Edison Electric Institute, the Electric Power Supply Association, the ISO/RTO Council, the Large Public Power Council, the National Association of Regulatory Utility Commissioners, the National Rural Electric Cooperative Association, the Organization of MISO States, and the Transmission Access Policy Study Group (collectively, ''the Joint Movants'') filed a motion requesting an extension of time until September 14, 2007 to file comments in response to the Advance Notice of Proposed Rulemaking issued June 22, 2007, in the above-referenced proceeding. *Wholesale Competition in Regions with Organized Electric Markets,* 72 FR 36,275 (July 2, 2007), FERC Stats. & Regs. ¶ 32,617 (2007) (June 22 ANOPR). The Joint Movants state that they need additional time to conduct member company consultations and to prepare reasoned comments in this docket. On July 25, 2007, the California Public Utilities Commission filed an answer supporting the Joint Movants' request for additional time.

On July 25, 2007, Central Hudson Gas & Electric Company, Consolidated Edison Company of New York, Inc., LIPA, New York Power Authority, New York State Electric & Gas Corporation, Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Company (collectively, the ''New York Transmission Owners'') filed a similar motion, which also requests an extension of the comment date until September 14, 2007. The New York Transmission Owners state that additional time will allow them to provide the Commission with more meaningful and substantive comments than would be possible under the current time constraints.

Upon consideration, notice is hereby given that an extension of time for filing comments on the June 22 ANOPR is granted, to and including September 14, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–15276 Filed 8–7–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35 and 37

[Docket Nos. RM05–17–002 and RM05–25–002]

Preventing Undue Discrimination and Preference in Transmission Service

Issued July 27, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice allowing Post-Technical Conference comments.

SUMMARY: On July 30, 2007, the Federal Energy Regulatory Commission convened a technical conference addressing issues related to lead-time for undesignated network resources in order to make firm third-party sales and the eligibility of on-system seller's choice and system sales to be designated as network resources. This notice provides an opportunity for interested parties to file written comments in relation to the issues that were the subject of the technical conference.

FOR FURTHER INFORMATION CONTACT: Thomas E. Dautel, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6196.

SUPPLEMENTARY INFORMATION:

Notice Allowing Post-Technical Conference Comments

August 1, 2007.

Pursuant to the Commission's June 26, 2007 Order in this proceeding, 119 FERC ¶ 61,322 (2007), a staff technical conference was convened on Monday, July 30, 2007, from 9 a.m. to 3 p.m. at the offices of the Federal Energy Regulatory Commission. The technical conference addressed issues related to the minimum lead-time for undesignating network resources in order to make firm third-party sales and the eligibility of on-system seller's choice and system sales to be designated as network resources, as clarified in Order No. 890.[1]

All interested persons are invited to file written comments no later than August 13, 2007 in relation to the issues that were the subject of the technical conference. Those filing comments are specifically encouraged to identify alternative ways to address the minimum lead-time for undesignating network resources in order to make firm third-party sales and the eligibility of on-system seller's choice and system sales to be designated as a network resource without impairing the ability of transmission providers to calculate available transfer capability (ATC) or unduly discriminating among classes of transmission customers. Comments may either be filed on paper or electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.*

For further information, please contact Tom Dautel at (202) 502–6196 or e-mail at *thomas.dautel@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E7–15401 Filed 8–7–07; 8:45 am]

BILLING CODE 6717–01–P

[1] *Preventing Undue Discrimination and Preference in Transmission Service,* Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 at PP 1483 and 1557–59 (2007), *reh'g pending.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 260 and 284

[Docket Nos. RM07–10–000 and AD06–11–000]

Transparency Provisions of Section 23 of the Natural Gas Act; Transparency Provisions of the Energy Policy Act

August 2, 2007.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking: Extension of reply comment period.

SUMMARY: On April 19, 2007, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking (NOPR) concerning new rules to facilitate price transparency in markets for the sale and transportation of physical natural gas in interstate commerce. 72 FR 20791 (April 27, 2007). The Commission is extending the date for filing reply comments on the NOPR at the request of Enbridge Energy Company, Inc.

DATES: Reply comments are now due August 23, 2007.

ADDRESSES: You may submit comments identified by Docket No. RM07–10–000, by one of the following methods:

- *Agency Web Site: http://ferc.gov.* Follow the instructions for submitting comments via the eFiling link found in the Comment Procedures Section of the preamble.
- *Mail:* Commenters unable to file comments electronically must mail or hand deliver an original and 14 copies of their comments to the Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426. Please refer to the Comment Procedures Section of Docket Nos. RM07–10–000 and AD06–11–000 in the preamble of the April 19, 2007 NOPR for additional information on how to file paper comments.

FOR FURTHER INFORMATION CONTACT: Stephen J. Harvey (Technical), 888 First Street NE., Washington, DC 20426, (202) 502–6372, *Stephen.Harvey@ferc.gov.* Eric Ciccoretti (Legal), 888 First Street NE., Washington, DC 20426, (202) 502–8493, *Eric.Ciccoretti@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Notice of Extension of Time

August 2, 2007.

On July 11, 2007, Enbridge Energy Company, Inc. filed a motion for an extension of time to file reply comments to the Notice of Proposed Rulemaking (NOPR) issued April 19, 2007, in the above-referenced proceeding, 72 FR 20791 (Apr. 26, 2007), FERC. Stats. and Regs. ¶ 32,614 (2007). The motion states that additional time is needed in order to fully consider the discussions that took place at the Transparency workshop on July 24, 2007, so as to prepare more meaningful reply comments and to provide time to respond to the issues raised during the Workshop discussions and in various initial comments filed by the parties.

Upon consideration, notice is hereby given that an extension of time for filing reply comments on the NOPR is granted to and including August 23, 2007, thirty days after the Workshop.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–15392 Filed 8–7–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM07–16–000]

Filing Via the Internet

August 1, 2007.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Technical Conference.

SUMMARY: The Federal Energy Regulatory Commission is hosting a technical conference to discuss the proposed changes to electronic filing and electronic file and document format instructions that are associated with the

Commission's Notice of Proposed Rulemaking issued July 27, 2007. 72 FR 42330 (August 2, 2007). The conference will be held from 9 a.m. to 4 p.m. in the offices of the Commission.

DATES: Conference will be held on August 22, 2007.

FOR FURTHER INFORMATION CONTACT: Wilbur Miller, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 502–8953, E-mail: *wtmiller@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Notice of Technical Conference

August 1, 2007.

Take notice that on August 22, 2007, Federal Energy Regulatory Commission (Commission) staff will host a technical conference to discuss the proposed changes to electronic filing and electronic file and document format instructions that are associated with the Notice of Proposed Rulemaking (NOPR) on expanding electronic filing, RM07–16–000, that FERC issued on July 27, 2007. *Filing Via the Internet,* 120 FERC ¶ 61,081 (2007). The technical conference will be held from 9 a.m. until 4 p.m. (EDT) in a room to be designated at the offices of the Commission, 888 First Street, NE., Washington, DC 20426.

The conference will be conducted in two sessions. Session 1 will present an overview of the electronic filing submission instructions that will apply universally. Session 2 will be divided into sections that will discuss information that is specific to each industry. The draft electronic filings and electronic file and document format instructions are available through the calendar of events for this technical conference on *http://www.ferc.gov.*

The conference is open to the public and does not require pre-registration. FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

Arrangements will be made for participation in the technical conference via telephone. For more information about this conference and to make telephone conference call arrangements, please contact Wilbur Miller, Office of General Counsel at (202) 502–8953 or *Wilbur.Miller@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E7–15409 Filed 8–7–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0445; FRL–8138–8]

Acephate, Chlorpyrifos, Fenbutatin-Oxide (Hexakis), Metolachlor, MCPA, Pyrethrins and Triallate; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke certain tolerances for the herbicide metolachlor, and the insecticides acephate, chlorpyrifos, and pyrethrins. Also, EPA is proposing to modify certain tolerances for the herbicide metolachlor, and the insecticides acephate, chlorpyrifos, and pyrethrins. In addition, EPA is proposing to establish new tolerances for the herbicides metolachlor, MCPA, and triallate, and the insecticides chlorpyrifos, fenbutatin-oxide (hexakis), and pyrethrins. The regulatory actions proposed in this document are in follow-up to the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and tolerance reassessment program under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q).

DATES: Comments must be received on or before October 9, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0445, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.
- *Instructions*: Direct your comments to docket ID number EPA–HQ–OPP–2007–0445. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e–mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.
- *Docket*: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Jane Smith, Special Review and

Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone number: (703) 308–0048; e-mail address: *smith.jane-scott@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. 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. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

C. What Can I do if I Wish the Agency to Maintain a Tolerance that the Agency Proposes to Revoke?

This proposed rule provides a comment period of 60 days for any person to state an interest in retaining a tolerance proposed for revocation. If EPA receives a comment within the 60–day period to that effect, EPA will not proceed to revoke the tolerance immediately. However, EPA will take steps to ensure the submission of any needed supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f) if needed. The order would specify data needed and the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. If the data are not submitted as required in the order, EPA will take appropriate action under FFDCA.

EPA issues a final rule after considering comments that are submitted in response to this proposed rule. In addition to submitting comments in response to this proposal, you may also submit an objection at the time of the final rule. If you fail to file an objection to the final rule within the time period specified, you will have waived the right to raise any issues resolved in the final rule. After the specified time, issues resolved in the final rule cannot be raised again in any subsequent proceedings.

II. Background

A. What Action is the Agency Taking?

EPA is proposing to revoke, remove, modify, and establish specific tolerances for residues of the acephate, chlorpyrifos, fenbutatin-oxide, metolachlor, MCPA, pyrethrins, and triallate in or on commodities listed in the regulatory text.

EPA is proposing these tolerance actions to implement the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). As part of these processes, EPA is required to determine whether each of the amended tolerances meets the safety standard of FFDCA. The safety finding determination of ''reasonable certainty of no harm'' is discussed in detail in each Reregistration Eligibility Decision (RED) and Report of the Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED) for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed copies of many REDs and TREDs may be obtained from EPA's National Service Center for Environmental Publications (EPA/NSCEP), P.O. Box 42419, Cincinnati, OH 45242–2419, telephone 1–00–490–9198; fax 1–513–489–8695; internet at *http://www.epa.gov/ncepihom* and from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone 1–800–553–6847 or 703–605–6000; internet at *http://www.ntis.gov*. Electronic copies of REDs and TREDs are available on the internet and in the public dockets EPA–HQ–OPP–2007–0445 or for EPA–HQ–OPP–2004–0154 (fenbutatin-oxide/hexakis), EPA–HQ–OPP–2002–0223 (metolachlor), EPA–HQ–OPP–2004–0156 (MCPA), and EPA–HQ–OPP–2005–0043 (pyrethrins), EPA–HQ–OPP–2006–0586 (triallate) at *http://www.regulations.gov* and at *http://www.epa.gov/pesticides/reregistration/status.htm*.

The selection of an individual tolerance level is based on crop field residue studies designed to produce the maximum residues under the existing or proposed product label. Generally, the level selected for a tolerance is a value slightly above the maximum residue found in such studies, provided that the tolerance is safe. The evaluation of

whether a tolerance is safe is a separate inquiry. EPA recommends the raising of a tolerance when data show that:

1. Lawful use (sometimes through a label change) may result in a higher residue level on the commodity; and

2. The tolerance remains safe, notwithstanding increased residue level allowed under the tolerance.

In REDs, Chapter IV on ''Risk management, Reregistration, and Tolerance reassessment'' typically describes the regulatory position, FQPA assessment, cumulative safety determination, determination of safety for U.S. general population, and safety for infants and children. In particular, the human health risk assessment document which supports the RED describes risk exposure estimates and whether the Agency has concerns. In TREDs, the Agency discusses its evaluation of the dietary risk associated with the active ingredient and whether it can determine that there is a reasonable certainty (with appropriate mitigation) that no harm to any population subgroup will result from aggregate exposure. EPA also seeks to harmonize tolerances with international standards set by the Codex Alimentarius Commission, as described in Unit III.

Explanations for proposed modifications in tolerances can be found in the RED and TRED document and in more detail in the Residue Chemistry Chapter document which supports the RED and TRED. Copies of the Residue Chemistry Chapter documents are found in the Administrative Record and EPA's electronic copies are available through EPA's electronic public docket and comment system, regulations.gov at *http://www.regulations.gov* You may search for docket number EPA–HQ–OPP–2007–0445 and also EPA–HQ–OPP–2004–0154 (fenbutatin-oxide/hexakis), EPAHQ–OPP–2002–0223 (metolachlor), EPA–HQ–OPP–2004–0156 (MCPA), and EPA–HQ–OPP–2005–0043 (pyrethrins), EPA–HQ–OPP–2006–0586 (triallate), then click on that docket number to view its contents.

EPA has determined that the aggregate exposures and risks are not of concern for the above mentioned pesticide active ingredients based upon the data identified in the RED or TRED which lists the submitted studies that the Agency found acceptable.

EPA has found that the tolerances that are proposed in this document to be modified, are safe; i.e., that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C). (Note that changes to tolerance nomenclature do not constitute modifications of tolerances). These findings are discussed in detail in each RED or TRED. The references are available for inspection as described in this document under **SUPPLEMENTARY INFORMATION.**

In addition, EPA is proposing to revoke certain specific tolerances because either they are no longer needed or are associated with food uses that are no longer registered under FIFRA. Those instances where registrations were canceled were because the registrant failed to pay the required maintenance fee and/or the registrant voluntarily requested cancellation of one or more registered uses of the pesticide. It is EPA's general practice to propose revocation of those tolerances for residues of pesticide active ingredients on crop uses for which there are no active registrations under FIFRA, unless any person in comments on the proposal indicates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

1. *Acephate.* Tolerances for residues of acephate in/on plant and animal commodities in 40 CFR 180.108 are currently expressed in terms of the combined residues of acephate and methamidophos (O,S-dimethylphosphura-midothioate). Although the available plant and animal metabolism studies indicate that the residues of concern are acephate and methamidophos, the Agency has determined that acephate tolerances should be expressed in terms of acephate *per se* for permanent and regional tolerances because residues of methamidophos (O,S-dimethylphosphura-midothioate) resulting from acephate applications are regulated under 40 CFR 180.315 and this change also provides compatibility between the EPA and CODEX in terms of the residue definition for acephate. Since the tolerance expression is being revised to acephate *per se*, the terminology ''of which no more than 1 part per million (ppm) or 0.5 ppm is O,S-dimethyl acetylphosphoramidothioate'' associated with certain tolerances is no longer needed in 40 CFR 180.108. Lastly, for clarity, the Agency determined a footnote is necessary stating that residues of the acephate metabolite, methamidophos, are regulated under 40 CFR part 180.315. Therefore, the Agency proposes revising the residues for regulation in 40 CFR part180.108(a)(1), (a)(2) and (c) from ''acephate (O,S-dimethyl acetylphosphoramidothioate) and its cholinesterase-inhibiting metabolite O,S-dimethylphosphura-midothioate'' to ''acephate *per se* (O,S-dimethyl acetylphosphoramidothioate)'' and remove the terminology ''of which no more than 1 ppm, 0.5 ppm, or 0.1 ppm is O,S-dimethyl acetylphosphoramidothioate'' from the tolerances on bean (succulent and dry form), Brussels sprouts, cauliflower, celery, cranberry, lettuce, mint hay, and pepper and adding in 40 CFR 180.108(a)(1) a footnote. [1]Residues of the acephate metabolite, methamidophos, are regulated under 40 CFR 180.315.

Based on the available field trial data that indicate residues of acephate average 0.16 ppm in or on cottonseed and 0.32 ppm in/on cottonseed meal (concentration factor 2x) and hulls (4x), the Agency determined that the tolerances should be decreased to 0.5 ppm in/on cottonseed and 1.0 ppm in/on cottonseed hulls and cottonseed meal. Based on the available field trial data that indicate residues of acephate average 9.5 ppm in/on mint, the Agency determined that the tolerance should be increased to 27 ppm in/on mint hay. EPA is also revising commodity terminology to conform to current Agency practice. Therefore, EPA proposes decreasing tolerances in 40 CFR 180.108(a)(1) for residues of acephate per se in/on cotton, undelinted seed from 2 to 0.5 ppm; cotton, hulls from 4 to 1.0 ppm; cotton, meal from 8 to 1.0 ppm; increasing the tolerance in/on mint, hay from 15.0 to 27 ppm; and revising mint, hay to peppermint, tops and spearmint, tops. The Agency determined that the increased tolerances are safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on the reevaluation of the soybean processing data that indicate residues of acephate do not concentrate and will not exceed the tolerance on soybeans, the Agency has determined that a separate tolerance is not needed on soybean meal. Therefore, EPA proposes revoking the tolerance in 40 CFR 180.108(a)(1) for the residues of acephate *per se* in/on soybean, meal at 4 ppm.

EPA is revising commodity terminology to conform to current Agency practice and removing the term ''additive'' because pesticides are no longer defined as food additives in FFDCA. Therefore, the Agency proposes revising tolerances in 40 CFR 180.108(a)(1) from bean (succulent and dry form) to bean, dry, seed and bean, succulent; and soybean to soybean, seed; in 40 CFR 180.108(a)(2) delete the

term ''additive''; in 40 CFR 180.108(c) from macadamia nut to nut, macadamia and correcting 180.1(n) to 180.1(m).

The proposed tolerance actions herein for acephate, to implement the recommendations of the acephate TRED will result in harmonized residues for regulation between the U. S. and Codex.

2. *Chlorpyrifos.* Based on available field trial data that indicate residues of chlorpyrifos are less than the level of detection (0.01 ppm) in/on apples, and less than 0.05 ppm in/on corn, the Agency determined that the tolerances should be decreased to 0.01 ppm in/on apple and 0.05 ppm in/on corn, sweet, kernel plus cob with husks removed. Based on the available processing data that indicate residues of chlorpyrifos concentrate in corn oil by a factor of 3.3x, the Agency has determined the tolerance in/on refined corn oil should be decreased to 0.25 ppm. Based on revisions for calculating processed food tolerances, the Agency has determined the tolerance in/on citrus oil should be decreased from 25 ppm to 20 ppm. Based on available field trial data that indicate residues of chlorpyrifos are less than 0.5 ppm in/on sorghum forage and grain; less than 2.0 ppm in/on sorghum stover and less than 1.0 ppm in/on sunflower seeds, the Agency determined that the tolerances should be decreased to 0.5 ppm in/on sorghum forage; 0.5 ppm in/on sorghum, grain, grain; 2.0 ppm in/on sorghum, grain, stover; and 0.1 ppm in/on sunflower, seed. The Agency is also revising commodity terminology to conform to current Agency practice. Therefore, EPA proposes decreasing the tolerances in 40 CFR 180.342(a)(1) for the combined chlorpyrifos residues of concern in/on apple from 1.5 to 0.01 ppm; corn, sweet, kernel plus cob with husks removed from 0.1 to 0.05 ppm; corn, field, refined oil from 3.0 to 0.25 ppm; citrus, oil from 25.0 to 20 ppm; sorghum, forage from 1.5 to 0.5 ppm; sorghum, grain, grain from 0.75 to 0.50 ppm; sorghum, grain, stover from 6.0 to 2.0 ppm and sunflower, seed from 0.25 to 0.1 ppm; and revise sorghum, forage to sorghum, grain, forage.

Because there are currently no active registrations for uses of chlorpyrifos in/on blueberries and tomatoes, the Agency determined that the tolerances in/on blueberry and tomato are no longer needed. The Agency is revising commodity terminology to conform to current Agency practice. Therefore, EPA proposes revoking the tolerances in 40 CFR 180.342(a)(1) for the combined chlorpyrifos residues of concern in/on blueberry at 2 ppm (of which no more than 1 ppm is chlorpyrifos) and tomato at 0.5 ppm; and revising fruit, citrus to fruit, citrus, group 10; and onion, dry bulb to onion, bulb.

Based on available field trial data that indicate average residues of chlorpyrifos at 0.11 ppm and a concentration factor of 1.7x in/on peanut oil, the Agency determined that the tolerance in/on peanut oil should be decreased to 0.2 ppm and revise the tolerance to conform to current Agency commodity terminology. Therefore, EPA proposes decreasing and revising the tolerance in 40 CFR 180.342(a)(2) for chlorpyrifos *per se* residues of concern in/on peanut, oil from 0.4 to peanut, refined oil at 0.2 ppm.

Based on revisions for calculating processed food tolerances, the Agency has determined the tolerance in/on wheat milling fractions will be covered by the current wheat, grain tolerance of 0.5 ppm; therefore, the tolerance in/on ''milling fractions (except flour) of wheat'' are no longer needed. Because the grazing of livestock and feeding of soybean forage and hay to livestock is prohibited for foliar type applications to soybeans, the Agency determined that the tolerance for soybean forage is no longer needed. Banana pulp is no longer regulated as a commodity in accordance with Table 1. Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops which is found in Residue Chemistry Test Guidelines OPPTS 860.1000 dated August 1996, available at *http://www.epa.gov/opptsfrs/publications/OPPTS Harmonized/860 Residue Chemistry Test Guidelines/Series*; consequently, the Agency has determined that a banana pulp tolerance is no longer needed. Therefore, EPA proposes removing the tolerances in 40 CFR 180.342(a)(2) for chlorpyrifos per se residues of concern in/on milling fractions (except flour) of wheat at 1.5 ppm; soybean, forage at 0.7 ppm; and banana pulp at 0.01 ppm.

The Agency is revising commodity terminology to conform to current Agency practice. Therefore, EPA proposes revising the tolerances in 40 CFR 180.342(a)(2) for chlorpyrifos *per se* residues of concern in/on cattle, meat and meat byproducts at 0.05 ppm; to cattle, meat at 0.05 ppm; and cattle, meat byproducts at 0.05 ppm; cherry to cherry, sweet and cherry, tart; corn, forage and fodder at 8 ppm to corn, field, forage; corn, field, stover; corn, sweet, forage; and corn, sweet, stover each at 8 ppm; goat, meat and meat byproducts at 0.05 ppm; to goat, meat at 0.05 ppm; and goat, meat byproducts at 0.05 ppm; hog, meat and meat byproducts at 0.05 ppm; to hog, meat at 0.05 ppm; and hog, meat byproducts at 0.05 ppm; sheep, meat and meat byproducts at 0.05 ppm; to sheep, meat at 0.05 ppm; and sheep, meat byproducts at 0.05 ppm; horse, meat, fat, and meat byproducts at 0.25 ppm; to horse, fat at 0.25 ppm; horse, meat at 0.25 ppm; and horse, meat byproducts at 0.25 ppm; mint, hay to peppermint, tops and spearmint, tops; mint oil to peppermint, oil and spearmint, oil; plum to plum, prune, fresh; poultry, meat, fat, and meat byproducts (inc. turkeys) at 0.1 ppm; to poultry, fat at 0.1 ppm; poultry, meat at 0.1 ppm;, and poultry, meat byproducts at 0.1 ppm; rutabagas to rutabaga; turnip, greens to turnip, tops; and turnip to turnip, roots.

Currently 40 CFR 180.342(a)(1) regulates the combined residues of chlorpyrifos and its metabolite 3,5,6-trichloro-2-pyridinol (TCP). The Agency has concluded that the 3,5,6-trichloro-2-pyridinol (TCP) metabolite is not of toxicological concern and in accordance with FFDCA §408(a)(3) no longer needs to be regulated. The residue for regulation is chlorpyrifos per se which is the regulated residue in 40 CFR 180.342(a)(2). Therefore, EPA proposes transferring the tolerances in 40 CFR 180.342(a)(1) to (a)(2) and changing the designations of 40 CFR 180.342 (a)(2), (a)(3), and (a)(4) to 40 CFR 180.342(a)(1), (a)(2), and (a)(3).

The established crop group tolerance for tree nut group 14 should be revoked because the use rates are not identical, i.e. the rate on pecans differs. In lieu of the tree nut crop group, the Agency has determined that individual tolerances should be established for hazelnut (the preferred commodity term), and pecan each at 0.2 ppm and there are currently tolerances in place for almonds and walnuts. Therefore, EPA proposes revoking the tolerance in newly proposed 40 CFR 180.342(a)(1) for residues of chlorpyrifos per se in/on nut, tree, group 14 and establishing the tolerances for hazelnut at 0.2 ppm; and pecan at 0.2 ppm.

There is currently a tolerance for ''vegetable, brassica, leafy, group 5 at 2.0 ppm which covers broccoli; Bussels sprouts; cabbage; cabbage Chinese; and cauliflower each at 1 ppm; therefore, the Agency has determined that the individual tolerances on these commodities are no longer needed and vegetable, brassica, leafy, group 5 at 2.0 ppm should be decreased to 1 ppm consistent with the individual tolerance levels. Further, the footnote (of which no more than 1.0 ppm is chlorpyrifos) associated with the vegetable, brassica, leafy, group 5 at 12.0 ppm is no longer needed since the residues of concern are chlorpyrifos *per se*. There is currently a tolerance for ''legume vegetables, succulent or dried (except soybean)'' at

0.05 ppm which covers lima beans and succulent snap beans; therefore, the Agency has determined that the tolerances for bean, lima and bean, snap, succulent are no longer needed. Additionally, the milk fat tolerance covers the whole milk tolerance and the whole milk tolerance is no longer needed. EPA is also revising commodity terminology to conform to current Agency practice. Therefore, EPA proposes removing the tolerances in newly proposed 40 CFR 180.342(a)(1) for residues of chlorpyrifos per se in/on broccoli; Bussels sprouts; cabbage; cabbage, chinese; and cauliflower each at 1.0 ppm; bean, lima and bean, snap, succulent each at 0.05 ppm; the footnote[1] of which no more than 1.0 ppm is chlorpyrifos; milk, whole at 0.01 ppm; revise ''legume vegetables, succulent or dried (except soybean)'' to ''vegetable, legume, group 6, except soybean''; milk fat to milk, fat (reflecting 0.01 ppm in whole milk); and decreasing vegetable, brassica, leafy, group 5 from 2.0 ppm to 1.0 ppm.

Based on the available apple processing data that indicate chlorpyrifos concentrates at 2.1x in wet apple pomace, the Agency has determined that a tolerance should be established in/on apple, wet pomace at 0.02 ppm. Based on available field trial studies that indicate residues of chlorpyrifos are less than 1 ppm in/on lettuce, the Agency determined a tolerance should be established in/on lettuce at 1 ppm. Therefore, EPA proposes establishing a tolerance in newly proposed 40 CFR 180.342(a)(1) for residues of chlorpyrifos *per se* in/on apple, wet pomace at 0.02 ppm and lettuce at 1.0 ppm.

Based on current U.S. use patterns of chlorpyrifos on grapes the residues are expected to be less than the level of quantitation (<0.01 ppm); therefore, the Agency has determined the tolerance should be decreased in/on grapes to 0.01 ppm. Therefore, EPA proposes decreasing the tolerance in 40 CFR 180.342(c)(1) for residues of chlorpyrifos per se in/on grape from 0.05 to 0.01 ppm.

Currently 40 CFR 180.342(c)(1) regulates the combined residues of chlorpyrifos and its metabolite 3,5,6-trichloro-2-pyridinol (TCP). The Agency has concluded that the 3,5,6-trichloro-2-pyridinol (TCP) metabolite is not of toxicological concern and no longer needs to be regulated. The residue for regulation is chlorpyrifos per se which is the regulated residue in 40 CFR 180.342(c)(2). Additionally, because there are currently no active registrations having uses on leeks, cherimoya, feijoa, and sapote, the Agency has determined the tolerances on leek, cherimoya, feijoa and sapote should be revoked. Therefore, EPA proposes transferring the tolerances in 40 CFR 180.342(c)(1) in/on asparagus, grape and leek (of which no more than 0.2 ppm is chlorpyrifos) to (c)(2) for residues of chlorpyrifos *per se*; revoking the tolerances in proposed recodified 40 CFR 180.342(c)(2) in/on leek (of which no more than 0.2 ppm is chlorpyrifos) at 0.5 ppm, cherimoya at 0.05 ppm, feijoa (pineapple guava) at 0.05 ppm and sapote at 0.05 ppm; and redesignate 40 CFR 180.342(c)(2) to 40 CFR 180.342(c).

The proposed tolerance actions herein for chlorpyrifos, to implement the recommendations of the chlorpyrifos TRED, reflect use patterns in the U.S. which support a different tolerance than the Codex level on broccoli (vegetable, brassica, leafy, group 5) and grape, because of differences in good agricultural practices. However, compatibility exists for eggs, field corn (maize) and will exist between the proposed reassessed U.S. tolerances and Codex MRLs for chlorpyrifos residues in or on Chinese cabbage, citrus fruits, sorghum, and cabbage head.

3. *Fenbutatin-oxide (Hexakis).* The Interregional Research Project No. 4 (IR–4) submitted a petition (PP 6E7052) which published as a notice of filing document in the **Federal Register** of July 5, 2006 (71 FR 38153) (FRL–8074–1), requesting a tolerance of 0.5 ppm for residues of fenbutatin-oxide in pistachio. Currently, there are individual tolerances for almonds, pecans, and walnuts each at 0.5 ppm. The Agency proposed that the data for almond, pecan, and walnut support a crop group tolerance for the nut, tree, group 14 at 0.5 ppm in a document published in the **Federal Register** of August 4, 2004 (69 FR 47051) (FRL–7368–7). The Agency has determined that the data to support the tree nut crop group should also be used to support a separate tolerance for pistachio at 0.5 ppm. Therefore, EPA proposes establishing a tolerance in 40 CFR 180.362(a) for the combined fenbutatin-oxide residues of concern in/on pistachio at 0.5 ppm.

Currently, there are no Codex MRLs in place for fenbutatin-oxide on pistachio.

4. *MCPA.* Based on available data that indicate MCPA residues of concern as high as 2.6 ppm, the Agency determined that a tolerance should be established in/on aspirated grain fractions at 3.0 ppm. This action was inadvertently omitted in the proposal of September 27, 2006 (71 FR 56429)(FRL–8089–5). Therefore, EPA proposes establishing the tolerance in 40 CFR 180.339(a)(1) for the combined MCPA residues of concern in/on grain, aspirated fractions at 3.0 ppm.

5. *Metolachlor (including S-Metolachlor).* Tolerances for residues of metolachlor in/on barley, buckwheat, millet, oats, rice, rye, wheat, and the nongrass livestock feeds group were initially established to cover residues of metolachlor in these crops when planted as rotational crops following a primary crop that was treated with metolachlor; therefore, the Agency has determined that these tolerances should be considered inadvertent or indirect residues in a new subsection 40 CFR 180.368(d)(1). Further, based on available field trial data that indicate the combined metolachlor residues of concern were as high as 0.54 ppm in/on nongrass forage and < 0.47 ppm in/on nongrass hay, the Agency determined the tolerance should be decreased to 1.0 ppm in/on nongrass animal feed (forage, fodder, straw, hay), group 18. The Agency is also revising the commodity terminology for certain tolerances to current Agency practice. Therefore, EPA proposes transferring tolerances from 40 CFR 180.368(a)(1) to a new section designated 40 CFR 180.368 (d)(1) for the combined residues (free and bound) of the herbicide metolachlor [(2-chloro-*N*-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methylethyl)acetamide] and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on barley, grain at 0.1; barley straw at 0.5 ppm; buckwheat, grain at 0.1 ppm; millet, fodder at 0.5 ppm; millet, forage at 0.5 ppm; millet, grain at 0.1 ppm; oat, forage 0.5 ppm; oat, grain at 0.1 ppm; oat, straw at 0.5 ppm; rice, grain at 0.1 ppm; rice, straw at 0.5 ppm; rye, forage 0.5 ppm; rye, grain at 0.1 ppm; rye, straw at 0.5 ppm; wheat, forage at 0.5 ppm; wheat, grain at 0.1 ppm; and wheat, straw at 0.5 ppm; decreasing and revising nongrass animal feed (forage, fodder, straw, and hay), group 18 from 3.0 to animal feed, nongrass, group 18 at 1.0 ppm; revising millet, fodder to millet, straw; and changing the designation of 40 CFR 180.368(d) to 40 CFR 180.368(d)(2).

Extrapolating the residue data from the ruminant feeding study to a 1x feeding level for cattle, goats, horses, and sheep the maximum combined residues of concern for metolachlor would be 0.011 ppm in fat, 0.057 ppm in liver, 0.016 ppm in meat and <0.04 ppm in meat byproducts; therefore, the Agency determined that the tolerances

should be increased for cattle, goat, horse, and sheep fat to 0.04 ppm, liver to 0.10 ppm, meat to 0.04 ppm, and meat byproducts (except kidney and liver) at 0.04 ppm. Based on feeding studies in hens dosed up to 3.9x the maximum theoretical dietary burden, metolachlor residues of concern were not detected (<0.04 ppm the combined levels of quantitation (LOQ)) in eggs, liver, meat and meat byproducts; therefore, the Agency determined the tolerance for eggs, poultry meat, poultry fat, and poultry meat byproducts should each be increased to 0.04 ppm and revoked for poultry liver. Therefore, EPA proposes increasing the tolerances in 40 CFR 180.368(a)(1) for the combined metolachlor residues of concern in/on cattle, fat; goat, fat; horse, fat; and sheep, fat from 0.02 to 0.04 ppm; cattle, liver; goat, liver; horse, liver; and sheep, liver from 0.05 to 0.10 ppm; cattle, meat; goat, meat; horse, meat; and sheep, meat from 0.02 to 0.04 ppm; cattle, meat byproducts (except kidney and liver); goat, meat byproducts (except kidney and liver); horse, meat byproducts (except kidney and liver); and sheep, meat byproducts (except kidney and liver) from 0.02 to 0.04 ppm; egg; poultry, fat; poultry, meat; and poultry, meat byproducts (except liver) from 0.02 to 0.04 ppm; revoking poultry, liver at 0.05 ppm and revising poultry meat byproducts (except liver) to poultry meat byproducts. The Agency determined that the increased tolerances are safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

There are no longer any active registrations with uses of metolachlor on cabbage, celery, stone fruits, and bell peppers; therefore, the Agency determined the tolerances for these commodities are no longer needed. The tolerances for sorghum cover the tolerances for milo; therefore, the tolerances for milo are not needed. Rice forage and peanut forage are no longer regulated commodities in accordance with Table 1.—Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops which is found in Residue Chemistry Test Guidelines OPPTS 860.1000 dated August 1996, available at *http://www.epa.gov/opptsfrs/publications/OPPTS Harmonized/860 Residue Chemistry Test Guidelines/Series*; consequently, the Agency has determined that the rice, forage and peanut forage tolerances are no longer needed. Therefore, EPA proposes revoking the tolerances in 40 CFR 180.368 (a)(1) for the combined residues of metolachlor in/on cabbage at 1.0 ppm; celery at 0.1 ppm; fruit, stone, group 12 at 0.1 ppm; bell, pepper at 0.1 ppm; milo, fodder 0.5 ppm; milo, forage at 0.5 ppm; milo, grain at 0.1 ppm; peanut, forage at 30 ppm and rice, forage at 0.5 ppm.

Based on the available field trial data that indicate the combined residues of metolachlor were as high as 2.28 ppm on field corn stover, 5.54 ppm in/on sweet corn stover, 3.02 ppm on field corn forage, and 5.75 ppm in/on sweet corn forage, the Agency determined the tolerances for corn, fodder and corn, forage should be decreased to 6.0 ppm. Based on the available field trial data that indicate the combined residues of metolachlor were as high as 0.19 ppm in/on peanut, 16.5 ppm in/on peanut hay, 0.45 ppm in/on sorghum forage, 3.19 ppm in/on sorghum fodder, and 4.37 ppm in/on soybean forage; the Agency determined the tolerances should be decreased to 0.20 ppm in/on peanut, 20.0 ppm in/on peanut hay; 5.0 ppm in /on soybean, forage, and 1.0 ppm in/on sorghum, forage and increased to 4.0 ppm in/on sorghum fodder. The EPA is also revising commodity terminology. Therefore, EPA proposes decreasing the tolerances in 40 CFR 180.368 (a)(1) for the combined residues of metolachlor in/on corn, fodder from 8.0 to 6.0 ppm; corn, forage from 8.0 to 6.0 ppm; peanut from 0.5 to 0.20 ppm; and peanut, hay from 30 to 20.0 ppm; and sorghum, forage from 2.0 to 1.0 ppm; soybean, forage from 8.0 to 5.0 ppm; increasing sorghum, fodder from 2.0 to 4.0 ppm; and revising corn, fodder to corn, field, stover and corn, sweet, stover; corn, forage to corn, field, forage and corn, sweet, forage; corn, grain to corn, field, grain; sorghum, forage to sorghum, grain, forage; sorghum, fodder to sorghum, grain, stover; sorghum, grain to sorghum, grain, grain and soybean to soybean, seed.

Based on the available field trial data that indicate the metolachlor residues of concern were as high as 4.37 ppm in/on soybean forage and 6.9 ppm in/on soybean hay, the Agency determined tolerances should be separated and decreased to 5.0 ppm on soybean, forage and maintained at 8.0 ppm in/on soybean hay. Therefore, EPA proposes decreasing and separating the tolerances in 40 CFR 180.368(a)(1) for the combined metolachlor residues of concern from soybean, forage and hay at 8.0 ppm to soybean, forage at 5.0 ppm and soybean, hay at 8.0 ppm.

EPA is revising commodity terminology to current Agency practice. The current terminology for seed and pod vegetables (except soybean) crop group is vegetable, legume, edible podded, subgroup 6A; pea and bean, succulent shelled, subgroup 6B; and pea and bean, dried shelled, except soybean, subgroup 6C. Based on the available field trial data that indicate the combined residues of metolachlor were as high as 0.11 ppm in/on dried shelled peas and beans and 0.44 ppm in/on edible-podded legumes, the Agency determined the tolerances should be increased on edible-podded legumes from 0.3 to 0.5 ppm and decreased in/on dried shelled peas and beans from 0.3 to 0.10 ppm. Therefore, EPA proposes revising the tolerances in 40 CFR 180.368(a)(1) for the combined metolachlor residues of concern in/on seed and pod vegetables (except soybean) at 0.3 ppm to vegetable, legume, edible podded, subgroup 6A at 0.5 ppm; pea and bean, succulent shelled, subgroup 6B at 0.3 ppm; and pea and bean, dried shelled, subgroup 6C, except soybean at 0.10 ppm. The Agency determined that the increased tolerances are safe; i.e. there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue.

Based on the available field trial and processing data that indicate the metolachlor residues of concern were as high as 3.2 ppm in/on cotton gin byproducts and <3.83 ppm in/on peanut meal, the Agency determined tolerances should be established in/on cotton, gin byproducts at 4.0 ppm and peanut, meat at 0.40 ppm. Therefore, EPA proposes establishing tolerances in 40 CFR 180.368(a)(1) for the combined metolachlor residues of concern in/on cotton, gin byproducts at 4.0 ppm and peanut, meal at 0.40 ppm.

There are no longer any active registered uses of metolachlor in/on dry bulb onions, chili peppers and cubanelle peppers; therefore, the tolerances are no longer needed. EPA is also revising commodity terminology. Finally, the regional registrations are defined in 40 CFR 180.1(m) rather than 180.1(n) as currently appears in the 40 CFR 180.368(c). Therefore, EPA proposes revoking the tolerances in 40 CFR 180.368 (c)(1) for the combined metolachlor residues of concern in/on onion, dry bulb; pepper, chili; and pepper, cubanelle; and revising in 40 CFR 180.368(c)(1) and (2) the terms pepper, tabasco to pepper, nonbell and 180.1(n) to 180.1(m).

Subsequent to the revised TRED, the tolerance expression for S-metolachlor was modified to include the R-enantiomer; therefore, the Agency has determined the tolerances in 40 CFR 180.368(a)(2) and 40 CFR 180.368(a)(3) should be combined and regulated in accordance with the tolerance

expression in 40 CFR 180.368(a)(3) which includes regulation of the R-enantiomer. Therefore, EPA proposes combining 40 CFR 180.368(a)(2) and (a)(3) by transferring the tolerances from 40 CFR 180.368(a)(2) on asparagus at 0.1 ppm; beet, sugar, molasses at 2.0 ppm; beet, sugar, roots at 0.5 ppm; beet, sugar, tops at 15 ppm; grass, forage at 10 ppm; grass, hay at 0.2 ppm; spinach at 0.5 ppm; sunflower, seed at 0.5 ppm; sunflower, meal at 1 ppm to 40 CFR 180.368(a)(3) and changing the designation of 40 CFR 180.368(a)(3) to 40 CFR 180.368(a)(2).

EPA is revising commodity terminology to current Agency practice. Therefore, EPA proposes revising the tolerance in the proposed recodified 40 CFR 180.368(d)(2) from nongrass, animal feed (forage, fodder, straw, hay) group 18 to animal feed, nongrass, group 18 and revising the tolerance in proposed recodified 40 CFR 180.368 (a)(2) from vegetable, fruiting group 8, (except tabasco pepper) to vegetable, fruiting, group 8, except nonbell pepper and onion, dry bulb to onion, bulb.

Currently, there are no Codex MRLs in place for metolachlor.

6. *Pyrethrins.* Currently, the tolerance expression in 40 CFR 180.128(a)(1) is for the residues of the insecticide pyrethrins (insecticidally active principles of chrysanthemum cinerariaefolium). Since residues of pyrethrins are identified by a marker compound, the Agency has determined that tolerances in 40 CFR 180.128(a)(1) should be updated. Therefore, EPA proposes the tolerance expression be revised in 40 CFR 180.128(a)(1) for residues of pyrethrins ((1S)-2-methyl-4-oxo-3-(2Z)-2,4-pentadienylcyclopenten-1-yl (1R,3R)-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate (pyrethrin 1), (1S)-2-methyl-4-oxo-3-(2Z)-2,4-pentadienyl-2-cyclopenten-1-yl (1R,3R)-3-[(1E)-3-methoxy-2-methyl-3-oxo-1-propenyl]-2,2-dimethylcyclopropane-carboxylate (pyrethrin 2), (1S)-3-(2Z)-2-butenyl-2-methyl-4-oxo-2-cyclopenten-1-yl (1R,3R)-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate (cinerin 1), (1S)-3-(2Z)-2-butenyl-2-methyl-4-oxo-2-cyclopenten-1-yl (1R,3R)-3-[(1E)-3-methoxy-2-methyl-3-oxo-1-propenyl]-2,2-dimethylcyclopropanecarboxylate (cinerin 2), (1S)-2-methyl-4-oxo-3-(2Z)-2-pentenyl-2-cyclopenten-1-yl (1R, 3R)-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate (jasmolin 1), and (1S)-2-methyl-4-oxo-3-(2Z)-pentenyl-2-cyclopenten-1-yl (1R,3R)-3-[(1E)-3-methoxy-2-methyl-3-oxo-1-propenyl]-2,2-dimethylcyclopropanecarboxylate (jasmolin 2)), the insecticidally active principles of Chrysanthemum cinerariaefolium, which are measured as cumulative residues of pyrethrin 1, cinerin 1, and jasmolin 1.

The last active product involving uses of pyrethrins on food stored in multi-walled paper or cloth bags was cancelled October 15, 1989. Therefore, the Agency has determined that the stored food tolerances in 40 CFR 180.128(a)(2)(iii)(B), 180.128(a)(2)(iii)(D) and 180.128(a)(3) (all subsections) should be removed. Also, the language in 40 CFR 180.128(a)(2)(iv) is outdated and no longer used in the CFR, therefore, the Agency has determined it should be removed. Therefore, EPA is proposing to remove 40 CFR 180.128(a)(2)(iii)(B), 180.128(a)(2)(iii)(D), 180.128(a)(3)(i)(A, B), (ii), (iii), (iv), (v), and 180.128(a)(2)(iv).

Currently, 40 CFR 180.128(a)(2)(iii)(C) refers to ''foods treated in accordance with 180.367(a)(2)''. To provide clarity, the citation 40 CFR 180.367(a)(2) is being replaced with the statement to which the citation refers as follows:

- ''A tolerance of 1.0 ppm is established for residues of the insecticide pyrethrins in or on all food items in food handling establishments where food and food products are held, processed, prepared and/or served. Food must be removed or covered prior to use'' and recodify 40 CFR 180.128(a)(2)(iii)(C) as 40 CFR 180.128 (a)(3) in accordance will all the subsection changes. Therefore, EPA proposes revising 40 CFR 180.128(a)(2)(iii)(C) to read as follows:
- ''A tolerance of 1.0 ppm is established for residues of the insecticide pyrethrins in or on all food items in food handling establishments where food and food products are held, processed, prepared and/or served. Food must be removed or covered prior to use'' and change the designation of 40 CFR 180.128 (a)(2)(iii)(C) to 180.128(a)(3).

Currently, 40 CFR 180.128(a)(2)(i)(A)-(E) and (ii) indicate use in combination with other active ingredients (piperonyl butoxide and MGK-264). The Agency has determined that all references to the use of multiple chemicals should be removed from the CFR because 40 CFR 180.128 is solely for the regulation of pyrethrins. Therefore, EPA proposes removing the 40 CFR 180.128 (a)(2)(i)(A-E) and (ii) and recodify 40 CFR 180.128(a)(2)(iii)(A) to newly revised 40 CFR 180.128(a)(2) to read as follows:

''A tolerance of 1.0 ppm is established for residues of the insecticide pyrethrins in or on milled fractions derived from grain, cereal when present as a result of its use in cereal grain mills and in storage areas for milled cereal grain products.'' As a result of all the changes in 40 CFR 180.128(a), EPA is also proposing to change the designation of 40 CFR 180.128(a)(2)(v) to 180.128(a)(4).

Because 40 CFR 180.128 (a)(2)(i)(D) and (E) have been removed, 40 CFR 180.128(a)(2)(iii)(E) which refer to these sections is no longer relevant and also should be removed. Therefore, EPA is proposing to remove 40 CFR 180.128(a)(2)(iii)(E).

The Agency is revising commodity terminology to conform to current Agency practice. Therefore, EPA proposes revising commodity terminology for tolerances in 40 CFR 180.128(a)(1) as follows: Barley, postharvest to barley, grain, postharvest; bean, postharvest to bean, succulent, postharvest; pea, postharvest to pea, dry, seed, postharvest; rye, postharvest to rye, grain, postharvest; and wheat, postharvest to wheat, grain, postharvest.

Based on the maximum dietary burden and assuming a linear relationship between feeding levels and tissue concentrations, estimated residues are calculated to be as high as <0.05 ppm, in milk, meat, and meat byproducts of cattle, goats, horses, hogs and sheep and 0.5 ppm in/on the fat of cattle, goats, horses, hogs, and sheep. The Agency determined the tolerances for cattle, goats, hogs, horses, and sheep meat and meat byproducts and milk should be decreased to 0.05 ppm and tolerances for the fat of cattle, goats, hogs, horses, and sheep should be increased to 1.0 ppm. Also the ''N'' indicating negligible residues should be deleted in accordance with current Agency practice. Therefore, EPA is proposing in 40 CFR 180.128(a)(1) for pyrethrins residues of concern to decrease the tolerances in/on milk fat (reflecting negligible residues in milk) from 0.5 to 0.05 ppm; cattle, meat; cattle, meat byproducts; goat, meat; goat, meat byproducts; hog, meat; hog, meat byproducts; horse, meat; horse, meat byproducts; sheep, meat; sheep, meat byproducts from 0.1(N) to 0.05 ppm and increase the tolerances in/on cattle, fat; goat, fat; hog, fat; horse, fat; and sheep, fat from 0.1(N) to 1.0 ppm.

Based on exaggerated feed and premise treatment studies, there are no reasonable expectations of finite residues in poultry, meat, meat byproducts, fat and eggs (Category 3 of 40 CFR 180.6(a)(3)). Therefore, the Agency has determined that the tolerances for pyrethrins residues of concern in poultry commodities are not needed and should be revoked. Therefore, the Agency proposes revoking the tolerances in 40 CFR

180.128(a)(1) for egg at 0.1 ppm; and poultry, fat; poultry, meat; poultry, meat byproducts each at 0.2 ppm.

The proposed tolerance actions herein for pyrethrins, to implement the recommendations of the pyrethrins RED, reflect use patterns in the United States which support a different tolerance than the Codex level because of differences in good agricultural practices and the specified postharvest application timing.

7. *Triallate.* Based on the available field trial data that indicate triallate residues of concern as high as 0.42 ppm, the Agency determined that a tolerance should be established in/on wheat forage at 0.5 ppm. This action was inadvertently omitted in the proposal of September 27, 2006 (71 FR 56429) (FRL–8089–5). Therefore, EPA proposes establishing the tolerance in 40 CFR 180.314(c) for the combined triallate residues of concern in/on wheat, forage at 0.5 ppm.

B. What is the Agency's Authority for Taking this Action?

''A tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore, ''adulterated'' under section 402(a) of FFDCA, 21 U.S.C. 342(a). Such food may not be distributed in interstate commerce (21 U.S.C. 331(a)). For a food-use pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under FIFRA (7 U.S.C. 136 *et seq.*). Food-use pesticides not registered in the United States must have tolerances in order for commodities treated with those pesticides to be imported into the United States.

EPA is proposing these tolerance actions in follow-up to the tolerance recommendations made during the reregistration and tolerance reassessment processes (including follow-up on canceled or additional uses of pesticides). The safety finding determination under section 408 of FFDCA standard is discussed in detail in each Post-FQPA RED and TRED for the active ingredient. REDs and TREDs recommend the implementation of certain tolerance actions, including modifications to reflect current use patterns, to meet safety findings, and change commodity names and groupings in accordance with new EPA policy. Printed and electronic copies of the REDs and TREDs are available as provided in Unit II.A.

EPA has issued a Post-FQPA RED for pyrethrins , MCPA, triallate, and TREDs for acephate, chlorpyrifos, fenbutatin-oxide and metolachlor, whose REDs were both completed prior to FQPA. REDs and TREDs contain the Agency's evaluation of the data base for these pesticides, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and in REDs state conditions under which these uses and products will be eligible for reregistration. The REDs and TREDs recommended the establishment, modification, and/or revocation of specific tolerances. RED and TRED recommendations such as establishing or modifying tolerances, and in some cases revoking tolerances, are the result of assessment under the FFDCA standard of ''reasonable certainty of no harm.'' However, tolerance revocations recommended in REDs and TREDs that are proposed in this document do not need such assessment when the tolerances are no longer necessary.

EPA's general practice is to propose revocation of tolerances for residues of pesticide active ingredients on crops for which FIFRA registrations no longer exist and on which the pesticide may therefore no longer be used in the United States. EPA has historically been concerned that retention of tolerances that are not necessary to cover residues in or on legally treated foods may encourage misuse of pesticides within the United States. Nonetheless, EPA will establish and maintain tolerances even when corresponding domestic uses are canceled if the tolerances, which EPA refers to as ''import tolerances,'' are necessary to allow importation into the United States of food containing such pesticide residues. However, where there are no imported commodities that require these import tolerances, the Agency believes it is appropriate to revoke tolerances for unregistered pesticides in order to prevent potential misuse.

Furthermore, as a general matter, the Agency believes that retention of import tolerances not needed to cover any imported food may result in unnecessary restriction on trade of pesticides and foods. Under section 408 of FFDCA, a tolerance may only be established or maintained if EPA determines that the tolerance is safe based on a number of factors, including an assessment of the aggregate exposure to the pesticide and an assessment of the cumulative effects of such pesticide and other substances that have a common mechanism of toxicity. In doing so, EPA must consider potential contributions to such exposure from all tolerances. If the cumulative risk is such that the tolerances in aggregate are not safe, then every one of these tolerances is potentially vulnerable to revocation. Furthermore, if unneeded tolerances are included in the aggregate and cumulative risk assessments, the estimated exposure to the pesticide would be inflated. Consequently, it may be more difficult for others to obtain needed tolerances or to register needed new uses. To avoid potential trade restrictions, the Agency is proposing to revoke tolerances for residues on crops uses for which FIFRA registrations no longer exist, unless someone expresses a need for such tolerances. Through this proposed rule, the Agency is inviting individuals who need these import tolerances to identify themselves and the tolerances that are needed to cover imported commodities.

Parties interested in retention of the tolerances should be aware that additional data may be needed to support retention. These parties should be aware that, under FFDCA section 408(f), if the Agency determines that additional information is reasonably required to support the continuation of a tolerance, EPA may require that parties interested in maintaining the tolerances provide the necessary information. If the requisite information is not submitted, EPA may issue an order revoking the tolerance at issue.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticides residues (40 CFR 180.6). When considering this possibility, EPA can conclude that:

1. Finite residues will exist in meat, milk, poultry, and/or eggs.

2. There is a reasonable expectation that finite residues will exist.

3. There is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities (40 CFR 180.6(b) and (c)).

EPA has evaluated certain specific meat, milk, poultry, and egg tolerances proposed for revocation in this rule and has concluded that there is no reasonable expectation of finite pesticide residues of concern in or on those commodities.

C. When do These Actions Become Effective?

1. EPA is proposing that modifications, establishment, commodity terminology revisions, and revocation of these tolerances become effective on the date of publication of the final rule in the **Federal Register** because:

i. With respect to the revocations, their associated uses have been canceled for several years.

ii. None of the other tolerance actions proposed here are expected to result in adulterated commodities.

The Agency believes that, with respect to the tolerances proposed for revocation, treated commodities have had sufficient time for passage through the channels of trade. However, if EPA is presented with information that existing stocks would still be available and that information is verified, the Agency will consider extending the expiration date of the tolerance. If you have comments regarding existing stocks and whether the effective date allows sufficient time for treated commodities to clear the channels of trade, please submit comments as described under **SUPPLEMENTARY INFORMATION**.

2. Any commodities listed in this proposal treated with the pesticides subject to this proposal, and in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by FQPA. Under this section, any residues of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that:

i. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA.

ii. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates when the pesticide was applied to such food.

III. Are the Proposed Actions Consistent with International Obligations?

The tolerance actions in this proposal are not discriminatory and are designed to ensure that both domestically produced and imported foods meet the food safety standards established by FFDCA. The same food safety standards apply to domestically produced and imported foods.

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international Maximum Residue Limits (MRLs) established by the Codex Alimentarius Commission, as required by section 408(b)(4) of FFDCA. The Codex Alimentarius is a joint U.N. Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level in a notice published for public comment. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs and TREDs, and in the Residue Chemistry document which supports the RED and TRED, as mentioned in Unit II.A. Specific tolerance actions in this rule and how they compare to Codex MRLs (if any) are discussed in Unit II.A.

IV. Statutory and Executive Order Reviews

In this proposed rule, EPA is proposing to establish tolerances under FFDCA section 408(e), and also modify and revoke specific tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions (e.g., establishment and modification of a tolerance and tolerance revocation for which extraordinary circumstances do not exist) from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether establishment of tolerances, exemptions from tolerances, raising of tolerance levels, expansion of exemptions, or revocations might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. These analyses for tolerance establishments and modifications, and for tolerance revocations were published on May 4, 1981 (46 FR 24950) and on December 17, 1997 (62 FR 66020), respectively, and were] provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, and available information concerning the pesticides listed in this proposed rule, the Agency hereby certifies that this proposed action will not have a significant negative economic impact on a substantial number of small entities. In a memorandum dated May 25, 2001, EPA determined that eight conditions must all be satisfied in order for an import tolerance or tolerance exemption revocation to adversely affect a significant number of small entity importers, and that there is a negligible joint probability of all eight conditions holding simultaneously with respect to any particular revocation. This Agency document is available in the docket of this proposed rule). Furthermore, for the pesticide named in this proposed rule, the Agency knows of no extraordinary circumstances that exist as to the present proposal that would change the EPA's previous analysis. Any comments about the Agency's determination

should be submitted to the EPA along with comments on the proposal, and will be addressed prior to issuing a final rule. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 26, 2007.

Debra Edwards,

Director, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2.Section 180.108 is amended by revising paragraph (a)(1), paragragh (a)(2) introductory text, and (c) to read as follows:

§ 180.108 Acephate; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of acephate *per se* (*O,S*-dimethyl acetylphosphoramidothioate) in or on the following food commodities[1]:

Commodity	Parts per million
Bean, dry, seed	3.0
Bean, succulent	3.0
Brussels sprouts	3.0
Cattle, fat	0.1
Cattle, meat	0.1
Cattle, meat byproducts	0.1
Cauliflower	2.0
Celery	10
Cotton, undelinted seed	0.5
Cotton, hulls	1.0
Cotton, meal	1.0
Cranberry	0.5
Egg	0.1
Goat, fat	0.1
Goat, meat	0.1
Goat, meat byproducts	0.1
Hog, fat	0.1
Hog, meat	0.1
Hog, meat byproducts	0.1
Horse, fat	0.1
Horse, meat	0.1
Horse, meat byproducts	0.1
Lettuce, head	10
Milk	0.1
Peanut	0.2
Pepper	4.0
Peppermint, tops	27
Poultry, fat	0.1
Poultry, meat	0.1
Poultry, meat byproducts	0.1
Sheep, fat	0.1
Sheep, meat	0.1
Sheep, meat byproducts	0.1
Spearmint, tops	27
Soybean, seed	1.0

[1]Residues of the acephate metabolite, methamidophos, are regulated under 40 CFR 180.315.

(2) A food tolerance of 0.02 ppm is established for residues of acephate *per se* (*O,S*-dimethyl acetylphosphoramidothioate) as follows:

* * * * *

(c) *Tolerances with regional registration.* Tolerances with regional registration, as defined in § 180.1(m), are established for residues of acephate *per se* (*O,S*-dimethyl acetylphosphoramidothioate) in or on the following food commodities:

Commodity	Parts per million
Nut, macadamia	0.05

* * * * *

■ 3. Section 180.128 is amended by revising paragraph (a) to read as follows:

§ 180.128 Pyrethrins; tolerances for residues.

(a)*General.* (1) Tolerances for residues of the insecticide pyrethrins ((1S)-2-methyl-4-oxo-3-(2Z)-2,4-pentadienylcyclopenten-1-yl (1R,3R)-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate (pyrethrin 1), (1S)-2-methyl-4-oxo-3-(2Z)-2,4-pentadienyl-2-cyclopenten-1-yl (1R,3R)-3-[(1E)-3-methoxy-2-methyl-3-oxo-1-propenyl]-2,2-dimethylcyclopropane-carboxylate (pyrethrin 2), (1S)-3-(2Z)-2-butenyl-2-methyl-4-oxo-2-cyclopenten-1-yl (1R,3R)-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate (cinerin 1), (1S)-3-(2Z)-2-butenyl-2-methyl-4-oxo-2-cyclopenten-1-yl (1R,3R)-3-[(1E)-3-methoxy-2-methyl-3-oxo-1-propenyl]-2,2-dimethylcyclopropanecarboxylate (cinerin 2), (1S)-2-methyl-4-oxo-3-(2Z)-2-pentenyl-2-cyclopenten-1-yl (1R, 3R)-2,2-dimethyl-3-(2-methyl-1-propenyl)cyclopropanecarboxylate (jasmolin 1), and (1S)-2-methyl-4-oxo-3-(2Z)-pentenyl-2-cyclopenten-1-yl (1R,3R)-3-[(1E)-3-methoxy-2-methyl-3-oxo-1-propenyl]-2,2-dimethylcyclopropanecarboxylate (jasmolin 2)), the insecticidally active principles of Chrysanthemum cinerariaefolium, which are measured as cumulative residues of pyrethrin 1, cinerin 1, and jasmolin 1 are not to exceed the following:

Commodity	Parts per million
Almond, postharvest	1.0
Apple, postharvest	1.0
Barley, grain, postharvest	3.0
Bean, succulent, postharvest	1.0
Birdseed, mixtures, postharvest	3.0
Blackberry, postharvest	1.0
Blueberry, postharvest	1.0
Boysenberry, postharvest	1.0
Buckwheat, grain, postharvest	3.0

Commodity	Parts per million
Cacao bean, roasted bean, postharvest	1.0
Cattle, fat	1.0
Cattle, meat	0.05
Cattle, meat byproducts	0.05
Cherry, sweet, postharvest	1.0
Cherry, tart, postharvest	1.0
Coconut, copra, postharvest	1.0
Corn, field, grain, postharvest	3.0
Corn, pop, grain, postharvest	3.0
Cotton, undelinted seed, postharvest	1.0
Crabapple, postharvest	1.0
Currant, postharvest	1.0
Dewberry, postharvest	1.0
Fig, postharvest	1.0
Flax, seed, postharvest	1.0
Goat, fat	1.0
Goat, meat	0.05
Goat, meat byproducts	0.05
Gooseberry, postharvest	1.0
Grape, postharvest	1.0
Guava, postharvest	1.0
Hog, fat	1.0
Hog, meat	0.05
Hog, meat byproducts	0.05
Horse, fat	1.0
Horse, meat	0.05
Horse, meat byproducts	0.05
Loganberry, postharvest	1.0
Mango, postharvest	1.0
Milk, fat (reflecting negligible residues in milk)	0.05
Muskmelon, postharvest	1.0
Oat, grain, postharvest	1.0
Orange, postharvest	1.0
Pea, dry, seed, postharvest	1.0
Peach, postharvest	1.0
Peanut, postharvest	1.0
Pear, postharvest	1.0
Pineapple, postharvest	1.0
Plum, prune, fresh, postharvest	1.0
Potato, postharvest	0.05
Raspberry, postharvest	1.0
Rice, grain, postharvest	3.0
Rye, grain, postharvest	3.0
Sheep, fat	1.0
Sheep, meat	0.05
Sheep, meat byproducts	0.05
Sorghum, grain, grain, postharvest	1.0
Sweet potato, postharvest	0.05
Tomato, postharvest	1.0
Walnut, postharvest	1.0
Wheat, grain, postharvest	3.0

(2) A tolerance of 1.0 ppm is established for residues of the insecticide pyrethrins in or on milled fractions derived from grain, cereal when present as a result of its use in cereal grain mills and in storage areas for milled cereal grain products.

(3) A tolerance of 1.0 ppm is established for residues of the insecticide pyrethrins in or on all food items in food handling establishments where food and food products are held, processed, prepared and/or served. Food must be removed or covered prior to use.

(4) Where tolerances are established on both the raw agricultural commodities and processed foods made there-from, the total residues of pyrethrins in or on the processed food shall not be greater than that permitted by the larger of the two tolerances.

* * * * *

■ 4. Section 180.314 is amended by alphabetically adding the following commodity to the table in paragraph (c) to read as follows:

§ 180.314 Triallate; tolerance for residues.

* * * * *

(c) *Tolerances with regional registations.* * * *

Commodity	Parts per million
* * *	* *
Wheat, forage	0.05
* * *	* *

* * * * *

■ 5. Section 180.339 is amended by alphabetically adding the following commodity to the table in paragraph (a)(1) to read as follows.

§ 180.339 MCPA; tolerances for residues.

(a)(1) *General.* * * *

Commodity	Parts per million
* * *	* *
Grain, aspirated fractions	3.0
* * *	* *

* * * * *

■ 6. Section 180.342 is amended by revising paragraphs (a) and (c) to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the insecticide chlorpyrifos *per se* (*O,O*-diethyl- *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) in or on the following food commodities:

Commodity	Parts per million
Alfafa, forage	3.0
Alfalfa, hay	13
Almond	0.2
Almond, hulls	12
Apple	0.01
Apple, wet pomace	0.02
Banana	0.1
Beet, sugar, dried pulp	5.0
Beet, sugar, molasses	15
Beet, sugar, roots	1.0
Beet, sugar, tops	8.0
Cattle, fat	0.3
Cattle, meat	0.05
Cattle, meat byproducts	0.05
Cherry, sweet	1.0
Cherry, tart	1.0
Citrus, dried pulp	5.0
Citrus, oil	20
Corn, field, forage	8.0
Corn, field, grain	0.05
Corn, field, refined oil	0.25
Corn, field, stover	8.0
Corn, sweet, forage	8.0
Corn, sweet, kernel plus cob with husks removed	0.05
Corn, sweet, stover	8.0
Cotton, undelinted seed	0.2
Cranberry	1.0
Cucumber	0.05
Egg	0.01
Fig	0.01
Fruit, citrus, group 10	1.0
Goat, fat	0.2
Goat, meat	0.05
Goat, meat byproducts	0.05
Hazelnut	0.2
Hog, fat	0.2
Hog, meat	0.05
Hog, meat byproducts	0.05
Horse, fat	0.25
Horse, meat	0.25
Horse, meat byproducts	0.25
Kiwifruit	2.0
Lettuce	1.0
Milk, fat (reflecting 0.01 ppm in whole milk)	0.25
Nectarine	0.05
Onion, bulb	0.5
Peach	0.05
Peanut	0.2
Peanut, refined oil	0.2
Pear	0.05
Pecan	0.2
Pepper	1.0
Peppermint, tops	0.8
Peppermint, oil	8.0
Plum, prune, fresh	0.05
Poultry, fat	0.1
Poultry, meat	0.1
Poultry, meat byproducts	0.1
Pumpkin	0.05
Radish	2.0
Rutabaga	0.5
Sheep, fat	0.2
Sheep, meat	0.05
Sheep, meat byproducts	0.05
Spearmint, tops	0.8
Spearmint, oil	8.0
Sorghum, grain, forage	0.5
Sorghum, grain, grain	0.5
Sorghum, grain, stover	2.0
Soybean, seed	0.3
Strawberry	0.2
Sunflower, seed	0.1
Sweet potato, roots	0.05
Turnip, roots	1.0
Turnip, tops	0.3
Vegetable, brassica, leafy, group 5	1.0
Vegetable, legume, group 6, except soybean	0.05

Commodity	Parts per million
Walnut	0.2
Wheat, forage	3.0
Wheat, grain	0.5
Wheat, straw	6.0

* * * * *

(c) *Tolerances with regional registrations*. Tolerances with regional registration, as defined in 180.1(m), are established for residues of the insecticide chlorpyrifos *per se* (*O,O*-diethyl- *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) in or on the following food commodities:

Commodity	Parts per million
Asparagus	5.0
Grape	0.01

* * * * *

■ 7. Section 180.362 amended by alphabetically adding the following commodity to the table in paragraph (a) to read as follows.

§ 180.362 Hexakis (2-methyl-2-phenylpropyl)distannoxane; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * *	* *
Pistachio	0.5
* * *	* *

* * * * *

■ 8. Section 180.368 is revised to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

(a) *General*. (1) Tolerances are established for the combined residues (free and bound) of the herbicide metolachlor, 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide, and its metabolites, determined as the derivatives, 2- [(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in the following raw agricultural commodities:

Commodity	Parts per million
Almond, hulls	0.30
Animal feed, nongrass, group 18	1.0
Cattle, fat	0.04
Cattle, kidney	0.20
Cattle, liver	0.10
Cattle, meat	0.04
Cattle, meat byproducts, except kidney and liver	0.04
Corn, field, forage	6.0
Corn, field, grain	0.10
Corn, field, stover	6.0
Corn, sweet, forage	6.0
Corn, sweet, kernel plus cob with husks removed	0.10
Corn, sweet, stover	6.0
Cotton, gin byproducts	4.0
Cotton, undelinted seed	0.10
Egg	0.04
Goat, fat	0.04
Goat, kidney	0.20
Goat, liver	0.10
Goat, meat	0.04
Goat, meat byproducts, except kidney and liver	0.04
Horse, fat	0.04
Horse, kidney	0.20
Horse, liver	0.10
Horse, meat	0.04
Horse, meat byproducts, except kidney and liver	0.04
Milk	0.02
Nut, tree, group 14	0.10
Pea and bean, dried shelled, subgroup 6C, except soybean	0.10
Pea and bean, succulent shelled, subgroup 6B	0.30
Peanut	0.20
Peanut, hay	20
Peanut, meal	0.40
Potato	0.20
Poultry, fat	0.04
Poultry, meat	0.04
Poultry, meat byproducts	0.04
Safflower, seed	0.10
Sheep, fat	0.04
Sheep, kidney	0.20
Sheep, liver	0.10
Sheep, meat	0.04
Sheep, meat byproducts, except kidney and liver	0.04
Sorghum, grain, forage	1.0
Sorghum, grain, grain	0.30
Sorghum, grain, stover	4.0
Soybean, forage	5.0
Soybean, hay	8.0
Soybean, seed	0.20
Vegetable, foliage of legume, subgroup 7A, except soybean	15.0
Vegetable, legume, edible podded, subgroup 6A	0.50

(2) Tolerances are established for the combined residues (free and bound) of the herbicide S-metolachlor, S-2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide, its R-enantiomer, and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the following raw agricultural commodities:

Commodity	Parts per million
Asparagus	0.10
Beet, sugar, molasses	2.0
Beet, sugar, roots	0.5
Beet, sugar, tops	15.0
Brassica, head and stem, subgroup 5A	0.60
Cattle, fat	0.04
Cattle, kidney	0.20
Cattle, liver	0.10
Cattle, meat	0.04
Cattle, meat byproducts, except kidney and liver	0.04
Corn, field, grain	0.10
Corn, field, forage	6.0
Corn, field, stover	6.0
Corn, pop, grain	0.10
Corn, pop, stover	6.0
Corn, sweet, forage	6.0
Corn, sweet, kernel plus cob with husks removed	0.10
Corn, sweet, stover	6.0
Cotton, gin byproducts	4.0
Cotton, undelinted seed	0.10
Egg	0.04
Garlic, bulb	0.10
Goat, fat	0.04
Goat, kidney	0.20
Goat, liver	0.10
Goat, meat	0.04
Goat, meat byproducts, except kidney and liver	0.04
Grass, forage	10.0
Grass, hay	0.20
Horse, fat	0.04
Horse, kidney	0.20
Horse, liver	0.10
Horse, meat	0.04
Horse, meat byproducts, except kidney and liver	0.04
Milk	0.02
Onion, bulb	0.10
Onion, green	2.0
Peanut	0.20
Peanut, hay	20.0
Peanut, meal	0.40
Poultry, fat	0.04
Poultry, meat	0.04
Poultry, meat byproducts	0.04
Pumpkin	0.10
Safflower, seed	0.10
Shallot, bulb	0.10
Sheep, fat	0.04
Sheep, kidney	0.20
Sheep, liver	0.10
Sheep, meat	0.04
Sheep, meat byproducts, except kidney and liver	0.04
Sorghum, grain, forage	1.0
Sorghum, grain, grain	0.3
Sorghum, grain, stover	4.0
Soybean, forage	5.0
Soybean, hay	8.0
Soybean, seed	0.20
Spinach	0.50
Squash, winter	0.10
Sunflower, seed	0.50
Sunflower, meal	1.0
Tomato, paste	0.30
Vegetable, foliage of legume, subgroup 7A, except soybean	15.0

Commodity	Parts per million
Vegetable, fruiting, group 8, except nonbell pepper	0.10
Vegetable, leaf petioles, subgroup 4B	0.10
Vegetable, legume, edible podded, subgroup 6A	0.50
Vegetable, legume, pea and bean, dried shelled, subgroup 6C, except soybean	0.10
Vegetable, root, subgroup 1B, except sugar beet	0.30
Vegetable, tuberous and corm, subgroup 1C	0.20

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* (1) Tolerances with regional registration as defined in § 180.1(m) are established for the combined residues (free and bound) of the herbicide metolachlor, 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide, and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the following raw agricultural commodities:

Commodity	Parts per million
Pepper, nonbell	0.50

(2) Tolerances with regional registration as defined in 180.1(m) are established for the combined residues (free and bound) of the herbicide S-metolachlor, S-2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide, its R-enantiomer, and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the following raw agricultural commodities:

Commodity	Parts per million
Pepper, nonbell	0.50

(d) *Indirect or inadvertent residues.* (1) Tolerances are established for the indirect or inadvertent combined residues (free and bound) of the herbicide metolachlor, 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide, and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in the following raw agricultural commodities:

Commodity	Parts per million
Animal feed, nongrass, group 18	1.0
Barley, grain	0.10
Barley, straw	0.50
Buckwheat, grain	0.10
Millet, forage	0.50
Millet, grain	0.10
Millet, straw	0.50
Oat, forage	0.50
Oat, grain	0.10
Oat, straw	0.50
Rice, grain	0.10
Rice, straw	0.50
Rye, forage	0.50
Rye, grain	0.10
Rye, straw	0.50
Wheat, forage	0.50
Wheat, grain	0.10
Wheat, straw	0.50

(2) Tolerances are established for the indirect or inadvertent combined residues (free and bound) of the herbicide S-metolachlor, S-2-chloro-N-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide, its R-enantiomer, and its metabolites determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on the following food commodities:

Commodity	Parts per million
Animal feed, nongrass, group 18	1.0
Barley, grain	0.10
Barley, hay	1.0
Barley, straw	0.50
Buckwheat, grain	0.10
Oat, forage	0.50
Oat, grain	0.10
Oat, hay	1.0
Oat, straw	0.50
Rice, grain	0.10
Rice, straw	0.50
Rye, forage	0.50
Rye, grain	0.10
Rye, straw	0.50
Wheat, forage	0.50
Wheat, grain	0.10
Wheat, hay	1.0
Wheat, straw	0.50

[FR Doc. E7–15336 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–B–7728 and FEMA–D–7812]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

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

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

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

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

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

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

proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

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

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

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

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

List of Subjects in 44 CFR Part 67

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

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

PART 67—[AMENDED]

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

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

§ 67.4 [Amended]

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

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Crawford County, Arkansas, and Incorporated Areas				
Louemma Creek	At the intersection of Northhills Blvd	+460	+459	City of Van Buren.
	At the intersection with Rena Road	+486	+487	
Town Branch	Intersection with 20th St.	+421	+420	City of Van Buren.
	Intersection with Alma	+441	+445	

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

ADDRESSES

City of Van Buren

Maps are available for inspection at 1003 Broadway, Van Buren, AR 72956.
Send comments to The Honorable Bob Freeman, Mayor, 1003 Broadway, Van Buren, AR 72956.

Davie County, North Carolina and Incorporated Areas				
Baxter Creek	At the confluence with Bear Creek	None	+680	Unincorporated Areas of Davie County.
	Approximately 1.1 miles upstream of the confluence with Bear Creek.	None	+692	
Bear Creek	At the confluence with South Yadkin River	None	+671	Unincorporated Areas of Davie County, Town of Mocksville.
	Approximately 310 feet downstream of Duke Whittaker Road (State Road 1316).	None	+811	
Tributary 1	At the confluence with Bear Creek	None	+688	Unincorporated Areas of Davie County.
	Approximately 580 feet upstream of Railroad	None	+698	
Tributary 2	At the confluence with Bear Creek	None	+700	Unincorporated Areas of Davie County, Town of Mocksville.
	Approximately 740 feet upstream of South Davie Drive.	None	+769	
Tributary 3	At the confluence with Bear Creek	None	+708	Unincorporated Areas of Davie County, Town of Mocksville.
	Approximately 860 feet upstream of Valley Road	None	+763	
Tributary 3A	At the confluence with Bear Creek Tributary 3	None	+715	Unincorporated Areas of Davie County, Town of Mocksville.
	Approximately 0.5 mile upstream of the confluence of Bear Creek Tributary 3.	None	+743	
Tributary 4	At the confluence with Bear Creek	None	+711	Unincorporated Areas of Davie County, Town of Mocksville.

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 240 feet upstream of U.S. 64 Highway W.	None	+735	
Tributary 5	At the confluence with Bear Creek	None	+767	Unincorporated Areas of Davie County.
	Approximately 410 feet upstream of Ralph Ratledge Road (State Road 1312).	None	+776	
Beaver Creek	At the confluence with Hunting Creek	None	+702	Unincorporated Areas of Davie County.
	Approximately 90 feet downstream of Castle Lane	None	+731	
Tributary 1	At the confluence with Beaver Creek	None	+703	Unincorporated Areas of Davie County.
	Approximately 0.6 mile upstream of U.S. 64 Highway W.	None	+738	
Becks Spring Branch	At the confluence with Dutchman Creek	None	+699	Unincorporated Areas of Davie County.
	Approximately 0.6 mile upstream of Eatons Church Road (State Road 1415).	None	+726	
Bryant Branch	At the confluence with Dutchman Creek	None	+690	Unincorporated Areas of Davie County.
	Approximately 120 feet upstream of Lutz Lane	None	+715	
Buffalo Creek	At the confluence with Dutchman Creek	None	+669	Unincorporated Areas of Davie County.
	Approximately 1.2 miles upstream of Milling Road	None	+690	
Cain Mill Branch	At the confluence with Steelman Creek	None	+795	Unincorporated Areas of Davie County.
	At the Davie/Yadkin County boundary	None	+795	
Carter Creek	At the confluence with Yadkin River	+700	+692	Unincorporated Areas of Davie County.
	At NC 801	+700	+699	
Tributary	At the confluence with Carter Creek	+700	+692	Unincorporated Areas of Davie County.
	Approximately 0.7 mile upstream of the confluence with Carter Creek.	+700	+698	
Cedar Creek	At the confluence with Dutchman Creek	None	+673	Unincorporated Areas of Davie County.
	Approximately 2.4 miles upstream of Wyo Road (State Road 1430).	None	+784	
Chinquapin Creek	At the confluence with Dutchman Creek	None	+729	Unincorporated Areas of Davie County.
	At the Davie/Yadkin County boundary	None	+788	
Cody Creek	The confluence with the Yadkin River	None	+658	Unincorporated Areas of Davie County.
	Approximately 0.5 mile upstream of NC 801	None	+709	
Cub Creek	At the confluence with Cedar Creek	None	+674	Unincorporated Areas of Davie County.
	Approximately 1.0 mile upstream of the confluence with Cedar Creek.	None	+687	
Dry Branch	At the confluence with Dutchman Creek	None	+737	Unincorporated Areas of Davie County.
	Approximately 0.7 mile upstream of Chinquapin Road	None	+781	
Dutchman Creek	At the confluence with the Yadkin River	None	+661	Unincorporated Areas of Davie County.
	Approximately 0.4 mile upstream of Amber Hill Road (State Road 1325).	None	+811	
Tributary 2	At the confluence with Dutchman Creek	None	+661	Unincorporated Areas of Davie County.
	Approximately 0.6 mile upstream of NC 801	None	+681	
Tributary 3	At the confluence with Dutchman Creek	None	+661	Unincorporated Areas of Davie County.
	Approximately 1.2 miles upstream of Frank Short Road.	None	+705	
Tributary 4	At the confluence with Dutchman Creek	None	+683	Unincorporated Areas of Davie County.
	Approximately 640 feet upstream of Woodward Road (State Road 1407).	None	+695	
Tributary 5	At the confluence with Dutchman Creek	None	+776	Unincorporated Areas of Davie County.
	Approximately 1.0 mile upstream of Ben Anderson Road (State Road 1321).	None	+800	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Tributary 6	At the confluence with Dutchman Creek	None	+784	Unincorporated Areas of Davie County.
	Approximately 300 feet upstream of Davie/Iredell County boundary.	None	+822	
Elisha Creek	At the confluence with Dutchman Creek	None	+667	Unincorporated Areas of Davie County, Town of Mocksville.
	Approximately 1,560 feet upstream of the confluence of Elisha Creek Tributary.	None	+712	
Tributary	At the confluence with Elisha Creek	None	+706	Unincorporated Areas of Davie County, Town of Mocksville.
	Approximately 0.8 mile upstream of the confluence with Elisha Creek.	None	+719	
Elsworth Creek	At the confluence with Dutchman Creek	None	+664	Unincorporated Areas of Davie County.
	Approximately 1.2 miles upstream of Williams Road (State Road 1610).	None	+699	
Frost Mill Creek	At the confluence with Dutchman Creek	None	+688	Unincorporated Areas of Davie County.
	Approximately 0.4 mile upstream of Cana Road (State Road 1408).	None	+744	
Fulton Creek	At the confluence with the Yadkin River	None	+677	Unincorporated Areas of Davie County.
	Approximately 1,080 feet upstream of Markland Road (State Road 1618).	None	+714	
Greasy Creek	At the confluence with Dutchman Creek	None	+699	Unincorporated Areas of Davie County.
	Approximately 2.0 miles upstream of Eatons Church Road (State Road 1415).	None	+757	
Hauser Creek	Approximately 100 feet downstream of the Davie/Yadkin County boundary.	None	+711	Unincorporated Areas of Davie County.
	Approximately 0.7 mile upstream of Spillman Road (State Road 1458).	None	+725	
Howard Branch	At the confluence with Dutchman Creek	None	+730	Unincorporated Areas of Davie County.
	Approximately 1.3 miles upstream of Jack Booe Road (State Road 1330).	None	+772	
Humpy Creek	At the confluence with Dutchman Creek	None	+661	Unincorporated Areas of Davie County.
	Approximately 680 feet upstream of Riverview Road (State Road 1814).	None	+686	
Hunting Creek	At the confluence with South Yadkin River	None	+674	Unincorporated Areas of Davie County.
	At the Davie/Iredell County boundary	None	+724	
Tributary 1	At the confluence with Hunting Creek	None	+690	Unincorporated Areas of Davie County.
	Approximately 140 feet downstream of Godbey Road (State Road 1150).	None	+707	
Tributary 1A	At the confluence with Hunting Creek Tributary 1	None	+690	Unincorporated Areas of Davie County.
	Approximately 1,420 feet upstream of I–40 Highway W.	None	+701	
Tributary 2	At the confluence with Hunting Creek	None	+715	Unincorporated Areas of Davie County.
	Approximately 0.4 mile upstream of County Line Road (State Road 1338).	None	+752	
Tributary 3	At the confluence with Hunting Creek	None	+719	Unincorporated Areas of Davie County.
	Approximately 0.8 mile upstream of the confluence with Hunting Creek.	None	+731	
Leonard Creek	At the confluence with Dutchman Creek	None	+666	Unincorporated Areas of Davie County, Town of Mocksville.
	Approximately 1,610 feet upstream of the confluence of Leonard Creek Tributary 1.	None	+698	
Tributary 1	At the confluence with Leonard Creek	None	+689	Unincorporated Areas of Davie County, Town of Mocksville.

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 of the confluence of Leonard Creek Tributary 1B.	None	+739	
Tributary 1A	At the confluence with Leonard Creek Tributary 1	None	+701	Unincorporated Areas of Davie County, Town of Mocksville.
	Approximately 0.8 mile upstream of the confluence with Leonard Creek Tributary 1.	None	+725	
Little Bear Creek	At the confluence with Bear Creek	None	+739	Unincorporated Areas of Davie County.
	Approximately 700 feet downstream of Black Welder Road (State Road 1309).	None	+798	
Little Creek (North)	At the confluence with South Yadkin River	None	+682	Unincorporated Areas of Davie County.
	Approximately 100 feet upstream of the Davie/Iredell County boundary.	None	+799	
Little Creek Tributary 1	At the confluence with Little Creek (North)	None	+750	Unincorporated Areas of Davie County.
	Approximately 640 feet upstream of Crescent Drive (State Road 1157).	None	+760	
Nelson Creek	At the confluence with Elisha Creek	None	+693	Unincorporated Areas of Davie County, Town of Mocksville.
	Approximately 0.5 mile upstream of the confluence of Nelson Creek Tributary 1.	None	+740	
Tributary 1	At the confluence with Nelson Creek	None	+723	Town of Mocksville.
	Approximately 660 feet upstream of Park Avenue	None	+758	
Tributary 1A	At the confluence with Nelson Creek Tributary 1	None	+726	Town of Mocksville.
	Approximately 1,260 feet upstream of the confluence with Nelson Creek Tributary 1.	None	+752	
No Creek	At the confluence with Dutchman Creek	None	+661	Unincorporated Areas of Davie County.
	Approximately 0.5 mile upstream of U.S. Highway 64	None	+689	
Noland Creek	At the confluence with Dutchman Creek	None	+675	Unincorporated Areas of Davie County.
	Approximately 1,430 feet upstream of McClamrock Road (State Road 1640).	None	+687	
Tributary 1	At the confluence with Noland Creek	None	+676	Unincorporated Areas of Davie County.
	Approximately 0.4 mile upstream of McClamrock Road.	None	+695	
Peeler Creek	At the confluence with Cody Creek	None	+658	Unincorporated Areas of Davie County.
	Approximately 0.6 mile upstream of Will Boone Road (State Road 1802).	None	+696	
Peoples Creek	At the confluence with the Yadkin River	None	+684	Unincorporated Areas of Davie County.
	Approximately 1.5 miles upstream of Palomino Road	None	+770	
Reedy Creek	At the confluence with the Yadkin River	None	+653	Unincorporated Areas of Davie County.
	Approximately 400 feet downstream of Cherry Hill Road (State Road 1819).	None	+671	
Sheek Creek	At the confluence with the Yadkin River	None	+702	Unincorporated Areas of Davie County, Town of Bermuda Run.
	Approximately 1,640 feet upstream of Double A Trail	None	+722	
Smith Creek	Approximately 1,000 feet upstream of Kingsmill Drive	+701	+700	Unincorporated Areas of Davie County, Town of Bermuda Run.
	Approximately 1,510 feet upstream of I–40 Highway W.	None	+746	
South Yadkin River	At the confluence with Yadkin River	None	+648	Unincorporated Areas of Davie County, Town of Cooleemee.
	Approximately 400 feet upstream of the Rowan/Davie/Iredell County boundary.	None	+698	
Tributary 1	At the confluence with South Yadkin River	None	+656	Unincorporated Areas of Davie County.
	Approximately 0.7 mile upstream of the confluence with South Yadkin River.	None	+669	

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground		Communities affected
		Effective	Modified	
Tributary 2	At the confluence with South Yadkin River	None	+656	Unincorporated Areas of Davie County.
	Approximately 2,000 feet upstream of the confluence of South Yadkin River Tributary 2B.	None	+656	
Tributary 2A	At the confluence with South Yadkin River Tributary 2	None	+656	Unincorporated Areas of Davie County.
	Approximately 1,590 feet downstream of Pine Ridge Road (State Road 1103).	None	+656	
Tributary 2B	At the confluence with South Yadkin River Tributary 2	None	+656	Unincorporated Areas of Davie County.
	Approximately 0.4 mile upstream of the confluence with South Yadkin River Tributary 2.	None	+660	
Tributary 3	At the confluence with South Yadkin River	None	+690	Unincorporated Areas of Davie County.
	Approximately 0.6 mile upstream of the confluence with South Yadkin River.	None	+691	
Tributary 4	At the confluence with South Yadkin River	None	+693	Unincorporated Areas of Davie County.
	Approximately 0.5 mile upstream of the confluence with South Yadkin River.	None	+695	
Steelman Creek	At the confluence with Dutchman Creek	None	+740	Unincorporated Areas of Davie County.
	Approximately 0.4 mile upstream of the confluence of Cain Mill Branch.	None	+769	
Sugar Creek	At the confluence with Cedar Creek	None	+681	Unincorporated Areas of Davie County.
	Approximately 370 feet upstream of Bobbit Road (State Road 1444).	None	+742	
Tributary 1	At the confluence with Sugar Creek	None	+729	Unincorporated Areas of Davie County.
	Approximately 80 feet downstream of Rainbow Road (State Road 1441).	None	+737	
Yadkin River	Approximately 1,200 feet downstream of the confluence of South Yadkin River.	None	+648	Unincorporated Areas of Davie County, Town of Bermuda Run.
	Approximately 1,500 feet upstream of the Forsyth/Davie/Yadkin County boundary.	None	+711	
Tributary 1	At the confluence with the Yadkin River	None	+678	Unincorporated Areas of Davie County.
	Approximately 780 feet upstream of Todd Road (State Road 1645).	None	+678	
Tributary 3	At the confluence with Yadkin River	+704	+695	Town of Bermuda Run.
	Approximately 450 feet upstream of Bridge Street	None	+703	

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

ADDRESSES

Town of Bermuda Run

Maps are available for inspection at Bermuda Run Town Hall, 169 Yadkins Valley Road, Suite 100, Advance, North Carolina.
Send comments to The Honorable John Ferguson, Mayor of the Town of Bermuda Run, 169 Yadkins Valley Road, Suite 100, Advance, North Carolina 27006.

Town of Cooleemee

Maps are available for inspection at Davie County Courthouse, 140 South Main Street, Mocksville, North Carolina.
Send comments to The Honorable John Chandler, Mayor of the Town of Cooleemee, P.O. Box 1080, Cooleemee, North Carolina 27014.

Town of Mocksville

Maps are available for inspection at Mocksville Town Hall, 171 Clement Street, Mocksville, North Carolina.
Send comments to The Honorable Francis Slate, Mayor of the Town of Mocksville, 171 Clement Street, Mocksville, North Carolina 27028.

Unincorporated Areas of Davie County

Maps are available for inspection at Davie County Development Services, 172 Clement Street, Mocksville, North Carolina.
Send comments to Mr. Terry Bralley, Davie County Manager, 172 Clement Street, Mocksville, North Carolina 27028.

Orange County, North Carolina, and Incorporated Areas

Dry Branch	At the confluence with New Hope Creek Tributary 1	+285	+286	Town of Chapel Hill.
	Approximately 870 feet upstream of Silver Creek Trail	None	+397	

* National Geodetic Vertical Datum.

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

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

ADDRESSES

Town of Chapel Hill

Maps are available for inspection at Chapel Hill Town Hall, Stormwater Management Program Office, 209 North Columbia Street, Chapel Hill, North Carolina.

Send comments to The Honorable Kevin C. Foy, Mayor of the Town of Chapel Hill, 405 Martin Luther King Jr. Boulevard, Chapel Hill, North Carolina 27514.

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

Dated: July 26, 2007.

David I. Maurstad,

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

[FR Doc. E7–15427 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket Nos. 06–121, 02–277, 04–228; MM Docket Nos. 01–235, 01–317, 00–244; FCC 07–136]

47 CFR Part 73

2006 Quadrennial Regulatory Review

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comment on various proposals to promote minority and female ownership in the media industry. It also addresses a motion to withdraw, revise, and republish the Commission's Further Notice of Proposed Rulemaking in its media ownership review.

DATES: The agency must receive comments on or before October 1, 2007 and reply comments on or before October 16, 2007.

ADDRESSES: Comments may be filed electronically using the Internet by accessing the Electronic Comment Filing System, *http://www.fcc.gov/cgb/ecfs/,* or the Federal eRulemaking Portal, *http://www.regulations.gov*. The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: The Media Bureau contacts for this proceeding are Mania Baghdadi and Jamila Bess Johnson, both at (202) 418–7200. Press inquiries should be directed to Mary Diamond at (202) 418–2388.

SUPPLEMENTARY INFORMATION:

I. Introduction

1. The Commission has before it the ''Motion for Withdrawal of the Further Notice of Proposed Rulemaking and for the Issuance of a Revised Further Notice'' filed on August 23, 2006 (the ''Motion for Withdrawal'') by the Diversity and Competition Supporters (collectively, ''MMTC''). MMTC states that the Commission's Further Notice of Proposed Rule Making (FNPRM) in the media ownership proceeding, 71 FR 45511, August 9, 2006, is flawed and should be withdrawn, revised, and republished. The FNPRM invited comment on the several media ownership rules adopted by the Commission in its *2002 Biennial Review Order,* 68 FR 46286, August 5, 2003, and the pending petitions for reconsideration of the *2002 Biennial Review Order,* and initiates the statutorily mandated 2006 quadrennial review of the Commission's media ownership rules. Specifically, MMTC asserts that the FNPRM is deficient because it fails to: (1) Identify and describe MMTC's minority ownership proposals remanded by the court in *Prometheus Radio Project, et al.* v. *FCC,* 373 F.3d 372 (3d Cir. 2004); (2) refer to or seek comment on a definition of a socially and economically disadvantaged business (''SDB''); and (3) identify section 257 of the Telecommunications Act of 1996 as a central legal basis for minority ownership relief. MMTC requests that the Commission restart the ownership proceeding.

2. The FNPRM sought comment on MMTC's various proposals, as well as on the general issue of fostering minority and female ownership. We urged commenters to explain the effects, if any, that their rule proposals would have on ownership of broadcast outlets by minorities, women and small businesses. Given the impact of these issues on our comprehensive ownership review, we believe it would be beneficial to issue this Second FNPRM to set forth in greater detail the proposals MMTC identified in its Motion for Withdrawal and to clarify the record as requested by MMTC. Thus, in this Second FNPRM, we seek comment on the proposals MMTC submitted in the 2002 biennial review proceeding, as they are described in Appendix A, as well as on the proposals submitted to the Commission by the Advisory Committee on Diversity for Communications in the Digital Age (''Diversity Committee''), which are also described in Appendix A and are set forth more fully in the Committee's recommendations to the Commission. See *http://www.fcc.gov/DiversityFAC/* for a full listing of Diversity Committee meetings, recommendations and white papers. In order to consider fully the issues raised by MMTC, as discussed further below, we consolidate our ongoing section 257 proceeding with this proceeding.

3. We find it unnecessary to adopt the specific approach suggested by MMTC that we rescind and reissue the FNPRM in its entirety. The approach we take, in conjunction with the initial FNPRM, provides ample notice to the commenting public on the specific issues germane to our media ownership review, including those raised by MMTC relating to ownership diversity.

II. Background

4. In comments filed in the Commission's 2002 biennial review proceeding, MMTC proposed numerous measures to promote minority broadcast ownership. In the subsequent *2002*

Biennial Review Order, the Commission listed 13 of MMTC's proposals, in addition to describing proposals other commenters submitted. The Commission stated that, because a ''more thorough exploration'' of those comments was warranted, it would initiate a separate proceeding to address MMTC's 13 proposals and the other comments regarding minority and female broadcast ownership. Responding to MMTC's concern that minorities lack equal transactional opportunities, the Commission also stated that it would create a federal advisory committee to study minority and female ownership issues. In addition, the Commission adopted a transfer policy (the so-called ''small business cluster transfer policy'') intended to promote diversity of ownership, based largely on a proposal submitted by MMTC, which permits sales of grandfathered combinations that exceed the ownership limits to and by certain ''eligible entities.'' Entities may transfer control of or assign an existing grandfathered combination to ''eligible entities,'' defined as entities that would qualify as a small business consistent with Small Business Administration (''SBA'') standards for its industry grouping. In addition, eligible entities may sell existing grandfathered combinations without restriction.

5. In the *2002 Biennial Review Order,* the Commission repealed its failed station solicitation rule (''FSSR''), which is part of the Commission's waiver standard under the local television ownership rule. That waiver standard permits a television station purchaser to exceed local television ownership limits if the acquired station is failed, failing, or unbuilt. See 47 CFR 73.3555 Note 7. Under the FSSR, a waiver applicant was required to demonstrate that serious efforts had been made to secure an out-of-market buyer for the troubled station. A waiver was not granted unless the applicant could show that the in-market buyer was the ''only reasonably available entity willing and able to operate the station'' and that an out-of-market sale would result in an ''artificially depressed price.'' In the *2002 Biennial Review Order,* the Commission retained the waiver standard, but eliminated the FSSR requirement.

6. On review, the U.S. Court of Appeals for the Third Circuit remanded the Commission's decision to address MMTC's 13 proposals in a separate rulemaking and ordered the Commission to address those proposals at the same time that it addresses the other remanded issues. The court also remanded the Commission's decision to repeal the FSSR because the Commission did not address the potential impact of the repeal on minority television station ownership.

III. Discussion

A. Minority and Female Ownership Initiatives

1. Socially and Economically Disadvantaged Businesses (''SDBs'')

7. MMTC argues that the Commission erred in the FNPRM by failing to seek specific comment on how to define SDBs, adding that the concept of SDBs is central to most of the minority ownership initiatives proposed in the 2002 biennial review proceeding. MMTC states that the Prometheus opinion recognizes the importance of establishing a definition for SDBs because, in approving the small business cluster transfer policy, the court indicated that, by the next quadrennial review, the Commission would have the benefit of a stable definition of SDBs as well as implementation experience in order to reevaluate whether an SDB-based waiver policy would better promote the Commission's diversity objectives. MMTC maintains that, without a definition for SDBs, the Commission cannot effectively evaluate the existing small business cluster transfer policy or its other proposals, as remanded by the Prometheus court.

8. MMTC states that the issue of the SDB definition has already been fully briefed in the Commission's proceeding examining market entry barriers. In that proceeding, initiated in 2004, the public was invited to comment on constitutionally permissible ways to further the mandate of section 257 of the Telecommunications Act of 1996, which directs the Commission to identify and eliminate market entry barriers for small telecommunications businesses, and section 309(j) of the Communications Act of 1934, as amended (''the Act''), which requires the Commission to further opportunities in the allocation of spectrum-based services for small and rural businesses and businesses owned by women and minorities. See 69 FR 34672, June 22, 2004. The Media Bureau also asked commenters to provide specific recommendations for building on the series of market entry barrier studies that the Commission released in December 2000. The studies are available on the Commission's Web site at *http://www.fcc.gov/opportunity/meb_study/* and *http://www.fcc.gov/Bureaus/Mass_Media/Informal/ad=study/.*

9. We invite comment on MMTC's proposal that the Commission define SDBs for purposes of analyzing policy initiatives in support of media ownership diversity. We ask that commenters address whether use of a proposed definition raises any constitutional concerns, practical concerns, or other considerations unique to the Commission's policy objectives, and we invite comment on its impact on small entities. To ensure full consideration of this issue, we will consolidate the MB Docket No. 04–228 proceeding commenced in 2004 with our review of the media ownership rules.

2. MMTC Proposals

10. We seek comment on the various proposals for increasing minority and female broadcast ownership identified by MMTC. As MMTC suggests, we have attached its description of these proposals as Appendix A.[1] The proposals include: (1) those that MMTC submitted for consideration in the 2002 biennial review proceeding; (2) the MMTC proposals the Commission listed in the *2002 Biennial Review Order,* which the Third Circuit ordered the Commission to address on remand; and (3) media-related recommendations of the Diversity Committee.[2] In discussing these proposals, commenters should address the various questions and issues set forth below.

11. In addition, as MMTC requests, we also seek comment on the efficacy of the FSSR in promoting minority and female broadcast ownership. When out-of-market purchasers for a station are unavailable, the Commission permits ownership rule waivers for failed, failing and unbuilt stations because the in-market purchase of such stations is preferable to having frequencies go unused, even where the combination would violate the local television ownership rule. In the *2002 Biennial Review Order,* the Commission determined that applicants seeking a

[1] We have included the text of Appendix B to MMTC's Motion for Withdrawal as Appendix A hereto. Although we have modified the MMTC Appendix to eliminate a non-substantive footnote and to correct a few apparent minor typographical errors, we have not altered the descriptions, assessments, or legal analyses of the proposals, as submitted by MMTC. By incorporating these materials, we do not adopt any such descriptions, assessments, or analyses as official Commission policy; we are providing them only to specifically invite public comment on them.

[2] The descriptions of the Diversity Committee recommendations are provided by MMTC, which is a member of the Diversity Committee but which does not represent the Diversity Committee as a whole. Although the Diversity Committee recommendations are not subject to the Third Circuit's remand, we are seeking comment on them to ensure a more complete record.

waiver of the local television ownership rule no longer needed to comply with the FSSR requirement that they must first demonstrate the unwillingness of out-of-market buyers to offer a reasonable price for the failed, failing, or unbuilt station. In eliminating the FSSR requirement, the Commission found that the efficiencies associated with the operation of two same-market stations, absent unusual circumstances, will always result in the buyer being the owner of another station in the same market. In remanding the Commission's repeal of the FSSR, the Third Circuit stated that the purpose of the FSSR was to ensure that minority broadcasters received notification of these station sales. The Third Circuit found that the Commission's decision was arbitrary and capricious because it failed to discuss the effect of the repeal on minority ownership.

12. We invite comment on the extent to which the FSSR or another construction of the rule could promote minority and female ownership. We ask commenters to provide concrete evidence rather than generalized assertions.

B. Constitutional Issues

13. Any measures to facilitate minority and female broadcast entry that are based on racial or gender classifications must satisfy the heightened constitutional standards that apply to governmental preferences for minorities and women under the Equal Protection Clause. The Supreme Court's ruling in *Adarand Constructors, Inc.* v. *Peña,* 515 U.S. 200 (1995), requires that governmental classifications based on race must be analyzed under strict scrutiny, and are constitutional only if such classifications are narrowly tailored measures that further a compelling governmental interest. Gender classifications are subject to intermediate scrutiny, under which the government's action must be substantially related to the achievement of an important objective. In discussing a proposal targeted or designed to promote minority and female broadcast ownership, commenters should describe, consistent with relevant case law, how the proposal would satisfy constitutional standards. In particular, proponents of initiatives that rely on a definition of SDBs should explain in detail whether and how the definition would satisfy constitutional standards.

C. Statutory Authority

14. We also seek further comment on the Commission's statutory authority to address issues of minority and female ownership. Section 257 of the Act requires the Commission to identify and eliminate ''market entry barriers for entrepreneurs and other small businesses in the provision and ownership of telecommunications services and information services.'' Despite the apparent limitation of 47 U.S.C. 257(a) to telecommunications and information services, the congressional directive to promote ''the policies and purposes of this Act favoring diversity of media voices'' in implementing section 257(a) arguably brings broadcasting within the scope of section 257. We invite comment on this interpretation of the statute. The statutory provision also specifically directs the Commission to ''promote the policies and purposes of this Act favoring diversity of media voices'' in carrying out its section 257 responsibilities. In addition, in 1996, Congress amended section 1 of the Act to make it clear that the Commission's mandate is to regulate interstate and foreign communications services so that they are ''available, so far as possible, to all people of the United States, without discrimination on the basis of race, color, religion, national origin or sex * * *'' We ask commenters to address whether and how these statutory provisions support the Commission's efforts to promote media ownership diversity.

15. Further, section 309(j) of the Act requires the Commission to promote the dissemination of licenses to a wide variety of applicants, including members of minority groups and women. Section 309(j) directs the Commission to ''ensure that * * * businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services.'' In addition, section 309(j)(3)(B) requires the Commission, in establishing eligibility criteria and bidding methodologies, to promote ''economic opportunity and competition * * * by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.''

16. We invite comment on the Commission's statutory authority to facilitate the licensing of spectrum-based services to a diversity of entities, including businesses owned by minority groups and women. Commenters should also address the limitations of these statutory provisions in light of recent court decisions regarding equal protection. We also solicit comment on any further statutory provisions that would enable the Commission to address ownership diversity, particularly in terms of fostering diversity of ownership among minorities and women.

IV. Procedural Matters

A. Comment Information

17. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated above. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal; or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121, May 1, 1998.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236

Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service First-Class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format) send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

B. Regulatory Flexibility Act

18. As required by the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission prepared an Initial Regulatory Flexibility Analysis (''IRFA'') in the initial Notice of Proposed Rulemaking in the media ownership proceeding and a Supplemental Initial Regulatory Flexibility Analysis Act (''Supplemental IRFA'') in the initial Further Notice of Proposed Rulemaking in the media ownership proceeding. We have now prepared a Second Supplemental IRFA, which is set forth in Appendix B. Written public comments are requested on the Second Supplemental IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the Second FNPRM, and should have a separate and distinct heading designating them as responses to the Second Supplemental IRFA.

C. Paperwork Reduction Act

19. This document does not contain proposed information collections subject to the Paperwork Reduction Act of 1995 (''PRA''), Pub. L. No. 104–13, 109 Stat. 163 (1995). Therefore, it does not contain any proposed new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. No. 107–198, 116 Stat. 729 (2002). However, depending on the rules adopted as a result of this Second FNPRM, the report and order ultimately adopted in this proceeding may contain information collections. The Commission will provide a period for public comment on any PRA burdens contained in the report and order and will submit such burdens to the Office of Management and Budget for approval when the report and order is adopted and released.

D. Ex Parte Information

20. This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.

21. *Contact Information.* The Media Bureau contacts for this proceeding are Mania Baghdadi and Jamila Bess Johnson, both at (202) 418–7200. Press inquiries should be directed to Mary Diamond at (202) 418–2388.

V. Ordering Clauses

22. Accordingly, *it is ordered,* that pursuant to the authority contained in sections 1, 2(a), 4(i), 257, 303, 307, 309, 310, and 613 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 257, 303, 307, 309, 310, and 533, and section 202(h) of the Telecommunications Act of 1996, this Second Further Notice of Proposed Rulemaking *is adopted.*

23. *It is further ordered* that, pursuant to the authority contained in sections 1, 2(a), 4(i), 257, 303, 307, 309, 310, and 613 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 257, 303, 307, 309, 310, and 533, and section 202(h) of the Telecommunications Act of 1996, *notice is hereby given* of the proposals described in this Second Further Notice of Proposed Rulemaking.

24. *It is further ordered* that MB Docket No. 04–228 *shall be* consolidated with MB Docket No. 06–121 *et al.*

25. *It is further ordered* that MMTC's Motion for Withdrawal of the Further Notice of Proposed Rulemaking and for the Issuance of a Revised Further Notice is granted to the extent described herein, and in all other respects, denied.

26. *It is further ordered* that MMTC's Request for Ruling on its Motion for Withdrawal of the Further Notice of Proposed Rulemaking and for the Issuance of a Revised Further Notice is granted to the extent described herein, and in all other respects, denied.

27. *It is further ordered* that comments and reply comments with regard to those matters raised in this Second Further Notice of Proposed Rulemaking will be due October 1, 2007 and October 16, 2007, respectively.

28. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Second Further Notice of Proposed Rulemaking, including the Second Supplemental Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Appendix A—Minority Ownership Proposals and Suggestions [3]

Section I (items 1–14) contains the 14 proposals of the Diversity and Competition Supporters (''MMTC'') in MM Docket No. 02–277. The FCC's Advisory Committee on Diversity for Communications in the Digital Age (''Diversity Committee'') also proposed eight of these items, as noted therein.

Section II (items 15–26) contains 12 informal suggestions made by the Minority Media and Telecommunications Council at a November 6, 2002 meeting of stakeholders at the Commerce Department. *These were not the Diversity and Competition Supporters' proposals in the media ownership proceeding; rather, they were the Minority Media and Telecommunications Council's informal suggestions to stakeholders.* The Diversity Committee also proposed one of these items, as noted therein.

Section III (items 27–34) contains recommendations issued by the Diversity Committee that do not track the proposals or suggestions in items 1–26. Among these, items 27–30 are nonregulatory recommendations, and items 31–34 are regulatory recommendations. The Diversity Committee has propounded 17 recommendations germane to media ownership: Eight tracking items in Section I, one tracking an item in Section II, and the eight items in Section III.

Section I: MMTC Proposals in MM Docket 02–277

1. Equal transactional opportunity policy—barring discrimination on the basis of race or gender in broadcast transactions.

Location(s) in Record: Initial Comments of Diversity and Competition Supporters, MB Docket No. 02–277 (filed January 2, 2003) (''MMTC 2003 Comments''), pp. 115–120; MMTC Letter to Hon. Michael Powell, MM Docket No. 02–277 (April 28, 2003) (''MMTC April 28, 2003 *Ex Parte*''), pp. 11–19.

Nature of Item: Formal rulemaking proposal.

Summary of Item: Race and gender discrimination in the sale of broadcast stations would be banned, consistent with 47 U.S.C. 151. The seller would certify compliance by checking a box on a Form 314 or Form 315 application.

Year First Proposed: 1994.

Parallel Recommendation of Diversity Committee: Transactional Transparency Recommendations, May 14, 2004, p. 4; White

[3] This Appendix is a verbatim copy of Appendix B to MMTC's Motion for Withdrawal, except that this Appendix reflects minor typographical corrections and the omission of a non-substantive footnote.

Paper on Equal Transactional Opportunity, April 29, 2004.

Relevance of SDB Definition: No.

2. Transfer Restriction of Grandfathered Clusters to SDBs.

Location(s) in Record: MMTC 2003 Comments, pp. 107–109.

Nature of Item: Formal rulemaking proposal.

Summary of Item: The seller of a grandfathered cluster would not have to break it up if it were sold to an SDB. In the 2002 Biennial Review, the Commission adopted a provision for the transfer intact of a grandfathered cluster, but decided that small businesses, rather than SDBs, would constitute the class of eligible buyers. MMTC seeks to develop a definition of ''socially and economically disadvantaged business'' (SDB) that would be appropriate for broadcasting and be constitutionally sound. SDBs are a subset of small businesses. Like other small businesses, they are economically disadvantaged; but unlike other small businesses, they are also socially disadvantaged. Their social disadvantage stems from individualized factors or from their membership in a class (such as a racial group in a particular industry) for which discrimination has inhibited entry and financing. An SDB definition is desirable because it would be less dilute in its impact on minorities by omitting, for example, the children of millionaires who, as new entrants, can qualify as small businesses although they have never been disadvantaged.

Year First Proposed: 2003.

Parallel Recommendation of Diversity Committee: none.

Relevance of SDB Definition: Yes.

3. Structural rule waiver for selling a station to an SDB, where the sale to the SDB is ancillary to a transaction that otherwise would be barred by an ownership rule.

Location(s) in Record: MMTC 2003 Comments, p. 103.

Nature of Item: Formal rulemaking proposal.

Summary of Item: A company contemplating a transaction that would otherwise be barred by an ownership rule (perhaps one that would qualify in the future, *e.g.*, if the Commission adopted a staged implementation of deregulation program; *see* item 13 *infra*) would be permitted to complete the transaction if it sells stations to SDBs.

Year First Proposed: 1995 (concept originally advanced by NTIA in 1977).

Parallel Recommendation of Diversity Committee: Financial Issues Recommendations, June 14, 2004, pp. 17–18; White Paper on Incentive-Based Regulations, May 23, 2004, pp. 5–6.

Relevance of SDB Definition: Yes.

4. Tolling buildout deadlines for selling expiring construction permits to SDBs.

Location(s) in Record: MMTC 2003 Comments, pp. 112–115 (originally a petition for rulemaking filed by Entravision Holdings LLC, RM–9567 (filed March 10, 1998)).

Nature of Item: Formal rulemaking proposal.

Summary of Item: In 1998, Entravision submitted a petition for rulemaking which sought to revise the construction permit expiration standard established pursuant to 47 U.S.C. 319(a)–(b) and implemented in 47 CFR 73.3598. Entravision proposed that the Commission allow holders of expiring construction permits to sell them to entities in which minorities own at least 20% of the equity, or to entities which commit to serve the programming needs of minority or foreign language groups for at least 80% of their operating time. MMTC proposed a modification of Entravision's concept to make it applicable to all SDBs.

Year First Proposed: 1998.

Parallel Recommendation of Diversity Committee: Financial Issues. Recommendations, June 14, 2004, pp. 17–18; White Paper on Incentive-Based Regulations, May 23, 2004, pp. 9–10.

Relevance of SDB Definition: Yes.

5. Structural rule waivers for creating incubator programs.

Location(s) in Record: MMTC 2003 Comments, pp. 104–105.

Nature of Item: Formal rulemaking proposal.

Summary of Item: The Commission would act on still-pending incubator plans developed in 1992 by Chairman Sikes and by NABOB. With constitutionally required modifications, these plans would allow a company to acquire more than the otherwise-allowable number of stations in a market if the company establishes a program that substantially promotes ownership by disadvantaged businesses. The incubator programs could encompass management or technical assistance, loan guarantees, direct financial assistance through loans or equity investment, training and business planning assistance.

Year First Proposed: 1992.

Parallel Recommendation of Diversity Committee: Financial Issues Recommendations, June 14, 2004, pp. 17–18; White Paper on Incentive-Based Regulations, May 23, 2004, pp. 6–7.

Relevance of SDB Definition: Yes.

6. Bifurcation of channels for share-times with SDBs.

Location(s) in Record: Comments of the Minority Media and Telecommunications Council in MB Docket 01–317 (Radio Ownership) (filed March 19, 2002) (''MMTC 2002 Comments''), pp. 111–173; Reply Comments of the Minority Media and Telecommunications Council in MB Docket 01–317 (Radio Ownership) (filed May 8, 2002) (''MMTC 2002 Reply Comments''), pp. 6–10; MMTC 2003 Comments, pp. 106–107.

Nature of Item: Formal rulemaking proposal.

Summary of Item: The Commission would create a new class of ''Free Speech Stations.'' They would be independently owned by SDBs, have at least 20 non-nighttime hours per week of airtime, and be primarily devoted to non-entertainment programming. A Free Speech Station would share time on the same channel with a largely deregulated ''Entertainment Station.'' A cluster owner that bifurcates a channel to accommodate a Free Speech Station and an Entertainment Station could buy another fulltime station in the market by taking advantage of section 202(b)(2) of the Telecommunications Act, which allows for an exception to the local radio ownership rule when a new station is created. That additional fulltime station would also be bifurcated into a Free Speech and an Entertainment Station. In this way, a cluster could grow steadily up to the limits allowed by antitrust law.

Year First Proposed: 2002.

Parallel Recommendation of Diversity Committee: Financial Issues Recommendations, June 14, 2004, pp. 17–18; White Paper on Incentive-Based Regulations, May 23, 2004, pp. 7–8.

Relevance of SDB Definition: Yes.

7. Structural rule waivers for financing construction of an SDB's unbuilt station.

Location(s) in Record: MMTC 2003 Comments, pp. 109–110.

Nature of Item: Formal rulemaking proposal.

Summary of Item: When a broadcaster provides an SDB with an equity/debt plus interest (''EDP Interest'') that enables the SDB to build out an unbuilt permit, (1) the EDP Interest should be deemed nonattributable, and (2) the entity providing the EDP Interest should be reserved a place in line to subsequently duopolize or crossown another same-market station. This reserved place in the queue, in markets where only a limited number of new combinations can be created under the local ownership rules, would provide an incentive to broadcasters to assist SDBs to build out their unbuilt permits.

Year First Proposed: 1999.

Parallel Recommendation of Diversity Committee: none.

Relevance of SDB Definition: Yes.

8. Grandfathering of nonattribution of EDP (equity debt-plus) interests in SDBs.

Location(s) in Record: MMTC 2003 Comments, pp. 110–112.

Nature of Item: Formal rulemaking proposal.

Summary of Item: The nonattributable nature of EDP Interests in SDBs would be grandfathered, irrespective of whether the entity providing the EDP Interest (the ''EDP Provider'') subsequently acquires other properties which otherwise would cause the EDP Interest to be attributable to the EDP Provider. These arrangements would be permissible where (1) the EDP Provider merges with, acquires, or is acquired by a company unrelated to the company holding a nonattributable EDP Interest in an SDB (an ''Unrelated Transaction''); (2) the Unrelated Transaction occurs at least a year after the EDP relationship was formed; (3) the Unrelated Transaction would otherwise cause the EDP Provider's EDP Interest in the SDB to become attributable; and (4) the EDP Provider and the SDB make an affirmative showing that the EDP Provider does not exercise undue influence over the SDB.

Year First Proposed: 1999.

Parallel Recommendation of Diversity Committee: Financial Issues Recommendations, June 14, 2004, pp. 17–18; White Paper on Incentive-Based Regulations, May 23, 2004, pp. 8–9.

Relevance of SDB Definition: Yes.

9. Mathematical touchstones: Tipping points for the nonviability of independently owned radio stations in a consolidating market, and quantifying source diversity.

Location(s) in Record: MMTC 2002 Reply Comments, pp. 22–27; MMTC Reply Comments, pp. 17–24; MMTC April 28, 2003 *Ex Parte,* pp. 6–7.

Nature of Item: Formal rulemaking proposal.

Summary of Item: MMTC offered two formulas suitable for crafting and implementing rules to promote diversity: (1) The ''Tipping Point Formula'' established how the Commission could ensure that local radio markets could preserve independent owners. This formula was based on the premise that independent owners each need determinable and quantifiable revenue streams in order to stay afloat and provide service to the public. The formula acknowledges the existence of a tipping point in the distribution of radio revenue in a market between cluster owners and independents. When the combined revenues of a market's cluster owners exceed this tipping point, the independents can no longer survive. By identifying this tipping point, the formula provides a rational basis for determining whether a transaction would limit diversity. (2) The ''Source Diversity Formula'' expresses consumers' utility derived from marginal increases in source diversity. The Source Diversity Formula is based on the premise that increases in consumer utility flow from their access to additional sources, with diminishing returns to scale. This formula would require field-testing before it could be applied in practice to measure source diversity.

Year First Proposed: 2002.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: Yes.

10. Zero tolerance for ownership rule abuse.

Location(s) in Record: MMTC 2003 Comments, pp. 123–127.

Nature of Item: Formal rulemaking proposal.

Summary of Item: Structural abuse is endemic due to limited enforcement resources, the ease of concealing abuse, and the high financial rewards for rule breaking. Structural rule relaxation would be easier to accept if the Commission holds the line on abuse through a Zero Tolerance Policy focused on clear standards, pro-active investigations, evidentiary hearings, and strict penalties for rule violations.

Year First Proposed: 2003.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

11. Use of Joint Operating Agreements (JOAs) as an alternative to Local Marketing Agreements (LMAs) and Joint Sales Agreements (JSAs).

Location(s) in Record: Comments of the Communications Workers of America (CWA) in MB Docket 02–277 (filed January 2, 2003), pp. 4–5 and 48; MMTC Reply Comments, pp. 15–16.

Nature of Item: Formal rulemaking proposal.

Summary of Item: The Commission requires ownership attribution of most JSAs and LMAs. While this step promotes diversity, it also reduces the options available to financially troubled facilities seeking to survive. CWA proposed that JOAs, such as those used in the newspaper industry, could be used to help companies survive and to promote diversity at the same time. A JOA adapted to broadcasting would leave each station's program creation, program organization and distribution, and sales strategy and implementation in the hands of each station's licensees. At the same time, a genuine JOA allows both stations to take advantage of operational synergies for non-program, non-sales related functions, such as accounting, engineering, and physical plant management. A JOA would not be attributable.

Year First Proposed: 2003.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

12. Opening FM spectrum for new entrants.

Location(s) in Record: MMTC 2003 Comments, pp. 128–141; MMTC April 28, 2003.

Ex Parte, pp. 10–11.

Nature of Item: Formal rulemaking proposal.

Summary of Item: The Commission has systematically broadened spectrum availability as a means of balancing consolidation with new entry. MMTC proposed three methods by which the FCC could open the FM radio spectrum to new entrants: (1) create two new classes of FM stations suitable for serving small communities; (2) perform a comprehensive engineering search of the FM spectrum to identify the most-needed new drop-in opportunities; and (3) replace FM station classes with pure interference-based criteria.

Year First Proposed: 2003.

Parallel Recommendation of Diversity Committee: Recommendation on Diversifying Ownership in the Commercial FM Radio Band, October 4, 2004, as amplified by the Recommendations of the Subcommittee on New Technologies, June 11, 2004, containing eight relevant subparts: (1) Create medium power FM stations; (2) replace the FM Table with interference-based allotment criteria; (3) allow Class A stations to use low towers and higher-than-standard power while retaining appropriate ERP levels; (4) conduct a comprehensive channel search for new FM allotments; (5) harmonize regional interference protection standards; (6) repeal the third-adjacent FM contour rules; (7) relax the community of license and transmitter site rules; and (8) authorize interference agreements.

Relevance of SDB Definition: No.

13. Staged implementation of deregulation, coupled with a negotiated rulemaking.

Location(s) in Record: MMTC 2003 Comments, pp. 84–101 and 145–147; Comments of Paxson Communications Corporation, MB Docket 02–277 (filed January 3, 2003), pp. 6–14; MMTC Reply Comments, pp. 25–32.

Nature of Item: Formal rulemaking proposal.

Summary of Item: By implementing deregulation in stages, the Commission could measure the impact of deregulation while it is underway, and implement mid-course corrections when needed to protect diversity, competition, localism and minority ownership. MMTC proposed that the Commission would implement its new ownership rules over a ten-year period in five two-year stages. In even-numbered years, the Commission would use quantitative tests to measure diversity, competition, localism and minority ownership. If these tests showed ill health on any of these four factors, the Commission would take corrective steps in the odd-numbered years. If a subsequent even-year measurement showed continued ill health, the Commission could apply the brakes until market conditions change. Paxson Communications offered a similar proposal. The coefficients of a staged implementation plan could be worked out in a negotiated rulemaking involving representatives of all of the stakeholders in the proceeding.

Year First Proposed: 2003.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: Yes.

14. Market-based, tradable diversity credits as an alternative to voice tests.

Location(s) in Record: MMTC Reply Comments, pp. 34–38; MMTC April 28, 2003. *Ex Parte*, pp. 8–10.

Nature of Item: Formal rulemaking proposal.

Summary of Item: A system of market-based diversity credits would be created as an alternative to voice tests. A quantity of diversity credits would be given to SDBs, commensurate with the extent of their social and economic disadvantages. Diversity credits would also be given to the seller at the closing of a transaction that would result in greater structural diversity. If a transaction would add to concentration, the buyer would return a number of diversity credits to the Commission when the transaction closes. Finally, companies could buy or sell diversity credits to one another, thereby providing a market-based source of access to capital for SDBs. A similar paradigm used by the EPA has replaced much command-and-control environmental regulation. Diversity credits would (1) incentivize diversity, (2) disincentivize consolidation, (3) place on the beneficiaries of consolidation the responsibility of paying for the remediation of some of consolidation's ill effects, (4) serve as a mechanism to provide access to capital to SDBs, (5) capture the measure of diversity more precisely than an inherently approximate voice test, and (6) allow for easier administration than a system of voice tests and waivers.

Year First Proposed: 2003.

Parallel Recommendation of Diversity Committee: Transactional Transparency Recommendations, May 14, 2004, p. 3; White Paper on Diversity Credits, May 22, 2004.

Relevance of SDB Definition: Yes.

Section II: MMTC's Informal Suggestions to Stakeholders

15. Equity for specific and contemplated future acquisitions.

Location(s) in Record: MMTC, Background Materials: Omnibus Media Ownership Proceeding Stakeholders Meeting, U.S. Department of Commerce, November 6, 2002, Tab 10 (''Twelve Minority Ownership Solutions'').

Nature of Item: Private industry initiative; *but see* item 29 *infra,* proposing collaborative role for FCC in creating a fund or funds).

Summary of Item: Broadcast companies would collaborate with one another and with institutional investors to create new targeted funds specializing in providing equity for broadcast new entrants.

Year First Proposed: 1977.

Parallel Recommendation of the Diversity Committee: None (*but see* item 29 *infra*).

Relevance of SDB Definition: No.

16. Debt on favorable terms—enhanced outreach and access to debt financing by major financial institutions.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Private industry initiative (*but see* items 28 and 29 *infra,* proposing collaborative role for FCC).

Summary of Item: Broadcast companies would solicit commitments from large institutional lenders to work with new entrants in providing debt financing for acquisitions, with or without the participation of the SBA as a guarantor.

Year First Proposed: 1977.

Parallel Recommendation of Diversity Committee: None (*but see* items 28 and 29 *infra*).

Relevance of SDB Definition: No.

17. Investments in institutions specializing in minority and small business financing.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Private industry initiative.

Summary of Item: Broadcast companies would invest in existing funds with proven track records of success as participants in the financing of new entrants. The Quetzal/J.P. Morgan Fund, the Telecommunications Development Fund (TDF), the Broadcast Capital Fund and other Small Business Investment Corporations (SBICs) are examples of these funds.

Year First Proposed: 1976.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

18. Assistance—cash and in-kind—to institutions that train future minority media owners.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Private industry initiative.

Summary of Item: Media institutions would provide assistance to colleges and other programs that provide minorities the skill sets needed to transition from management to ownership. Examples of these institutions are Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs) and other programs, particularly the National Association of Broadcasters Education Fund's (NABEF's) Broadcast Leadership Training (BLT) Program.

Year First Proposed: 1992.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

19. Creation of business planning centers.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Private industry initiative.

Summary of Item: Business planning centers, typically affiliated with universities, would work one-on-one with minority entrepreneurs as they develop business plans and strategies, seek financing and pursue acquisitions.

Year First Proposed: 1992.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

20. Executive loans, and engineers on loan to minority owned companies and applicants.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Private industry initiative.

Summary of Item: The broadcasting industry would create an executive loan program, following the examples of similar programs in other industries. Loaned executives or engineers would work on the staffs of minority broadcasters fulltime for six months to two years.

Year First Proposed: 1992.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

21. Enhanced access to broadcast transactions.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Private industry initiative.

Summary of Item: Sellers would give minority new entrants a first look at their properties, allowing them a headstart for due diligence and financing.

Year First Proposed: 2002.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

22. Nondiscrimination provisions in advertising sales contracts, designed to expressly avoid such practices as ''no urban/no Spanish'' dictates.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Contemplates FCC or FTC policy statement or rule.

Summary of Item: Rep firms, ad agencies, broadcasters and advertisers would agree to use a standard provision in advertising sales contracts that would confirm that the parties to these contracts will not participate in a scheme to restrict advertising because of the membership in a minority group of the targets of the foregone advertising. The FTC or FCC would obtain certifications that this contract provision is always used in ad sales contracts.

Year First Proposed: 1984.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

23. In-house incubation and mentoring programs for future minority owners.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Private industry initiative.

Summary of Item: Established media companies would develop their own in-house programs to incubate and mentor future minority owners, including their own executives who might wish to transition into ownership. These initiatives would have no regulatory tie-ins.

Year First Proposed: 1976.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

24. Enactment of tax deferral legislation designed, to the extent possible, to foster minority ownership.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Legislation; FCC has recommended it to Congress several times.

Summary of Item: The Commission would continue to recommend to Congress the adoption of a tax deferral program to replace the former Tax Certificate Policy, under which a seller was able to defer capital gains taxes on the sale of a media property to a minority controlled firm. The new program would be focused on SDBs rather than only on minorities, and it would be extended to telecommunications. In recent years, Senator John McCain, Congressman Charles Rangel and Congressman Bobby Rush have each introduced legislation along these lines.

Year First Proposed: 1977; in effect from 1978–1995 as the Tax Certificate Policy (*see* 68 FCC2d 979 (1978)); repealed by Congress in 1995; restoration often proposed since 1995.

Parallel Recommendation of Diversity Committee: Financial Issues Recommendations, June 14, 2004, pp. 14–15; Transactional Transparency Recommendations, May 14, 2004, pp. 2–3.

Relevance of SDB Definition: Yes (included in bills sponsored by Senator John McCain and by Congressman Bobby Rush).

25. Examination of how to promote minority ownership as an integral part of all FCC general media rulemaking proceedings.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: Contemplates FCC policy statement or procedural rule.

Summary of Item: All general mass media rulemaking proceedings (except individual FM or TV allotment proceedings) would include a request for comment on how the proposed rules affected minority entrepreneurship or could be tailored to have a positive impact on minority entrepreneurship.

Year First Proposed: 1973.

Parallel Recommendation of Diversity Committee: None.

Relevance of SDB Definition: No.

26. Ongoing longitudinal research on minority and female ownership trends.

Location(s) in Record: Twelve Minority Ownership Solutions.

Nature of Item: FCC or NTIA research initiative.

Summary of Item: The FCC or NTIA would conduct an annual, authoritative survey of minority and female ownership trends. As a longitudinal instrument, it could track this data over time, enabling scholars to examine the impact of rule changes on minority and female ownership.

Year First Proposed: 1995.

Parallel Recommendation of Diversity Committee: none.

Relevance of SDB Definition: Yes.

Section III: Proposals Sponsored by the Diversity Committee

27. Clearinghouse through which licensees could announce availability of stations for sale.

Location(s) in Record: Diversity Committee, Financial Issues. Recommendations, June 14, 2004, pp. 13–14.

Nature of Item: Private industry initiative.

Summary of Item: The National Association of Broadcasters and/or the National Association of Media Brokers could create a website or other clearinghouse through which licensees with stations for sale could seek minority buyers.

Year First Proposed: 2004.

Relevance of SDB Definition: No.

28. Extension of the Community Reinvestment Act (CRA) to encourage financial institutions to provide debt financing to broadcasters.

Location(s) in Record: Diversity Committee, Financial Issues Recommendations, June 14, 2004, p. 15.

Nature of Item: Recommendation for FCC to propose rule revisions to the Treasury Department.

Summary of Item: The FCC would work with the Treasury Department to expand the application of the CRA credit to encourage financial institutions to place capital in private equity funds led by minority and female entrepreneurs, or in funds that invest in communities of color. A similar incentive mechanism could be explored with the appropriate regulatory agencies to encourage pension funds, insurance companies and other financial institutions to place monies with such equity funds.

Year First Proposed: 2004.

Relevance of SDB Definition: No.

29. Encourage more local and regional banks to participate in SBA guaranteed loan programs for broadcast and telecom ventures.

Location(s) in Record: Diversity Committee, Financial Issues Recommendations, June 14, 2004, p. 16.

Nature of Item: Recommendation for FCC and SBA to expand outreach to banks.

Summary of Item: The FCC would work closely with the SBA to educate and encourage more local and regional banks (which have not been heavily involved in broadcast or telecom lending) to make loans through the SBA's 7(a) or 504 programs.

Year First Proposed: 2004.

Relevance of SDB Definition: No.

30. Establishment of a fund of funds.

Location(s) in Record: Diversity Committee, Financial Issues Recommendations, June 14, 2004, pp. 16–17.

Nature of Item: Private industry initiative.

Summary of Item: The FCC would initiate discussions with the major pension funds to encourage the establishment of a fund of funds that would place capital with minority focused private equity funds such as those belonging to the National Association of Investment Companies (NAIC), which are led by minority management and which invest in opportunities led by women and minority entrepreneurs and/or in opportunities in underserved markets.

Year First Proposed: 2004.

Relevance of SDB Definition: No.

31. Revision of the Distress Sale Policy to institute case-by-case review of purchasers' qualifications.

Location(s) in Record: Diversity Committee, Recommendation on the Distress Sale Policy, June 1, 2004; Financial Issues Recommendations, June 14, 2004, pp. 18–19.

Nature of Item: Rulemaking recommendation.

Summary of Item: The Distress Sale Policy, in existence since 1978 but seldom used recently, would be revised to ensure that it satisfies the narrow tailoring prong of strict scrutiny. In particular, a potential buyer, of any race, would demonstrate that its proposed service to the community would address needs unmet by existing media. Service to minority audiences could be an unmet need.

Year First Proposed: 2004.

Relevance of SDB Definition: No.

32. Reservation, for a company that finances or incubates an SDB, of first place in the queue to form a duopoly in a market for which only a limited number of duopolies are permissible.

Location(s) in Record: Diversity Committee, Financial Issues Recommendations, June 14, 2004, pp. 17–18; White Paper on Incentive-Based Regulations, May 23, 2004, p. 9.

Nature of Item: Rulemaking recommendation.

Summary of Item: When the local market voice test limits how many LMAs may be created, a company wishing to have its application to create an LMA considered first could reserve a place in the application queue by financing or incubating an SDB.

Year First Proposed: 1999.

Relevance of SDB Definition: Yes.

33. Relaxation of foreign ownership restrictions (*see* 47 U.S.C. 310(b)(4)).

Location(s) in Record: Diversity Committee, Adoption of a Declaratory Ruling on Section 310(b) (4) Waivers, December 10, 2004.

Nature of Item: Recommendation for rulemaking or policy statement.

Summary of Item: The Commission would consider whether a noncontrolling investment from foreigners (*e.g.* up to 49%) could be permitted where the investment would help eliminate a barrier to access to capital for domestic minority owned broadcasters as contemplated by 47 U.S.C. 257.

Year First Proposed: 2004.

Relevance of SDB Definition: Yes.

34. Extension of divestiture deadlines in mergers where applicants have actively solicited bids for spin-off properties from SDBs.

Location(s) in Record: Diversity Committee, Recommendation on Merger Review, October 15, 2004.

Nature of Item: Recommendation for rulemaking or policy statement.

Summary of Item: The Commission has recognized that minorities, especially new entrants, often need additional time to line up financing. Therefore, the Commission would announce a policy of generally affording more time for divestitures where the applicants solicit bids from SDBs for spinoff properties.

Year First Proposed: 1999.

Relevance of SDB Definition: Yes.

Appendix B—Second Supplemental Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act, as amended (''RFA'') [4] the Commission has prepared this Second Supplemental Initial Regulatory Flexibility Analysis (''Second Supplemental IRFA'') of the possible significant economic impact on a substantial number of small entities of the policies and rules considered in the Second Further Notice of Proposed Rule Making (''Second FNPRM''). Written public comments are requested on this Second Supplemental IRFA. Comments must be identified as responses to the Second Supplemental IRFA and must be filed by the deadlines for comments on the Second FNPRM. The Commission will send a copy of the Second FNPRM, including this Second Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA'').[5] In addition, the Second FNPRM and the Second Supplemental IRFA (or summaries thereof) will be published in the **Federal Register**.[6]

A. Need for, and Objectives of, the Proposed Rules

2. The Further Notice of Proposed Rule Making in MB Docket Nos. 06–121, *et al.*,[7] invites comment on how to address the issues raised by the opinion of the U.S. Court of Appeals for the Third Circuit in *Prometheus Radio Project* v. *FCC*,[8] and, pursuant to section 202(h) of the Telecommunications Act of 1996, on whether the media ownership rules are ''necessary in the public interest as the result of competition.'' [9] In *Prometheus*, the court affirmed some Commission decisions and

[4] See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601–612, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104–121, 110 Stat. 847 (1996) (''CWAAA''). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA'').

[5] See 5 U.S.C. 603(a).

[6] See id.

[7] *2006 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Further Notice of Proposed Rule Making, 71 FR 45511, August 9, 2006 (''FNPRM'').

[8] *Prometheus Radio Project, et al.* v. *F.C.C.*, 373 F.3d 372 (2004) (''*Prometheus*''), *stay modified on rehearing*, No. 03–3388 (3d Cir. Sept. 3, 2004) (''*Prometheus Rehearing Order*''), *cert. denied*, 73 U.S.L.W. 3466 (U.S. June 13, 2005) (Nos. 04–1020, 04–1033, 04–1036, 04–1045, 04–1168 and 04–1177); *see also 2002 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, 68 FR 46286, August 5, 2003 (''*2002 Biennial Review Order*'').

[9] See Telecommunications Act of 1996, Pub. L. No. 104–104, 110 Stat. 56, sec. 202(h) (1996) (''1996 Act''); Consolidated Appropriations Act, 2004, Pub. L. No. 108–199, sec. 629, 118 Stat. 3 (2004) (''Appropriations Act'') (amending sections 202(c) and 202(h) of the 1996 Act). Section 202(h) requires the Commission to periodically review its media ownership rules to determine ''whether any of such rules are necessary in the public interest as the result of competition'' and to ''repeal or modify any regulation it determines to be no longer in the public interest.''

remanded others for further Commission justification or modification.[10] In the Second FNPRM, we seek additional comment on specific proposals advocated by the Diversity and Competition Supporters (collectively, ''MMTC'') to foster minority and female ownership. In addition, the Commission will consolidate into the broadcast ownership proceeding the record established in MB Docket No. 04–228, in which the Commission solicited public comment on constitutionally permissible ways to further the mandates of Section 257 of the Telecommunications Act of 1996,[11] which directs the Commission to identify and eliminate market entry barriers for small telecommunications businesses, and Section 309(j) of the Communications Act of 1934, as amended (the ''Act''),[12] which requires the Commission to further opportunities in the allocation of spectrum-based services for small businesses and businesses owned by women and minorities. The Commission previously published a Supplemental IRFA in connection with the FNPRM. We issue this Second Supplemental IRFA in order to invite comment on the effects on small entities, including minorities and women, of the proposals identified in this Second FNPRM. We particularly solicit comment from all small business entities, including minority-owned and women-owned small businesses.

B. Legal Basis

3. The Second FNPRM is adopted pursuant to sections 1, 2(a), 4(i), 257, 303, 307, 309, 310 and 613 of the Act, as amended, 47 U.S.C. 151, 152(a), 154(i), 257, 303, 307, 309, 310, and 533, and Section 202(h) of the Telecommunications Act of 1996.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[13] The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental entity'' under Section 3 of the Small Business Act.[14] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[15] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[16]

5. Television Broadcasting. In this context, the application of the statutory definition to television stations is of concern. The Small Business Administration defines a television broadcasting station that has no more than $13 million in annual receipts as a small business. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.''[17] According to Commission staff review of the BIA Financial Network, Inc. Media Access Pro Television Database as of July 10, 2007, about 880 (68 percent) of the 1,300 commercial television stations in the United States have revenues of $13 million or less. However, in assessing whether a business entity qualifies as small under the above definition, business control affiliations[18] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by any changes to the ownership rules, because the revenue figures on which this estimate is based do not include or aggregate revenues from affiliated companies.

6. An element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time and in this context to define or quantify the criteria that would establish whether a specific television station is dominant in its market of operation. Accordingly, the foregoing estimate of small businesses to which the rules may apply does not exclude any television stations from the definition of a small business on this basis and is therefore over-inclusive to that extent. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. It is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

7. Radio Broadcasting. The Small Business Administration defines a radio broadcasting entity that has $6.5 million or less in annual receipts as a small business.[19] Business concerns included in this industry are those ''primarily engaged in broadcasting aural programs by radio to the public.''[20] According to Commission staff review of the BIA Financial Network, Inc. Media Access Radio Analyzer Database as of July 10, 2007, about 10,520 (95 percent) of 11,055 commercial radio stations in the United States have revenues of $6.5 million or less. We note, however, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations[21] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by any changes to the ownership rules, because the revenue figures on which this estimate is based do not include or aggregate revenues from affiliated companies.

8. In this context, the application of the statutory definition to radio stations is of concern. An element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time and in this context to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the foregoing estimate of small businesses to which the rules may apply does not exclude any radio station from the definition of a small business on this basis and is therefore over-inclusive to that extent. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

9. Daily Newspapers. The SBA has developed a small business size standard for the census category of Newspaper Publishers; that size standard is 500 or fewer employees.[22] Census Bureau data for 2002 show that there were 5,159 firms in this category that operated for the entire year.[23] Of this total, 5,065 firms had employment of 499 or fewer employees, and an additional 42 firms had employment of 500 to 999 employees. Therefore, we estimate that the majority of Newspaper Publishers are small entities that might be affected by our action.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

10. Depending on the rules adopted as a result of this Second FNPRM, the Report and Order (R&O) ultimately adopted in this proceeding may contain new or modified information collections. We anticipate that none of the changes would result in an increase to the reporting and recordkeeping requirements of broadcast stations,

[10] See *Prometheus Rehearing Order*. Accordingly, except for revisions to the local radio ownership rule, the rule changes made in the *2002 Biennial Review Order* remain stayed, and the preexisting ownership rules remain in effect.

[11] 47 U.S.C. 257.

[12] 47 U.S.C. 309(j).

[13] 5 U.S.C. 603(b)(3).

[14] Id. sec. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies, ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[15] Id.

[16] 15 U.S.C. 632.

[17] OMB, North American Industry Classification System: United States, 1997, at 508–09 (1997) (NAICS Code 513120, which was changed to 515120 in October 2002). This category description continues, ''These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources.'' Separate census categories pertain to businesses primarily engaged in produced programming. *See id.* at 502–505, NAICS Code 512110, Motion Picture and Video Production; Code 512120, Motion Picture and Video Distribution; Code 512191, Teleproduction and Other Post-Production Services; and Code 512199, Other Motion Picture and Video Industries.

[18] ''[Business concerns] are affiliates of each other when one [business concern] controls or has the power to control the other, or a third party or parties controls or has the power to control both.'' 13 CFR 121.103(a)(1).

[19] 13 CFR 121.201.

[20] See NAICS Code 515112.

[21] ''[Business concerns] are affiliates of each other when one [business concern] controls or has the power to control the other, or a third party or parties controls or has the power to control both.'' 13 CFR 121.103(a)(1).

[22] 13 CFR 121.201; NAICS Code 511110.

[23] U.S. Census Bureau, 2002 Economic Census, Subject Series: Information, ''Establishment and Firm Size (Including Legal Form of Organization),'' Table 5, NAICS Code 511110 (issued Nov. 2005).

newspapers, or applicants for licenses. As noted above, we invite small business entities to comment in response to the Second FNPRM.

E. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

11. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[24]

12. We are directed under law to describe any alternatives we consider, including alternatives not explicitly listed above.[25] The Second FNPRM describes and seeks comment on the minority ownership proposals made by MMTC in comments in the 2002 biennial ownership proceeding, as well as the recommendations of the Diversity Committee, and consolidates the record developed in MB Docket No. 04–228 with the record in MB Docket Nos. 06–121, *et al.* The proposals are intended to promote minority and female ownership, and we seek comment on the extent to which they would benefit small businesses, including those owned by minorities and women. We especially encourage small entities to comment on the proposals under consideration in this consolidated proceeding. We do not propose specific rules in the Second FNRPM but rather seek comment on a number of different proposals that could have an impact on small entities. Accordingly, we will describe the steps taken to minimize the significant impact on small entities and the significant alternatives that we consider in the Final Regulatory Flexibility Analysis.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

[FR Doc. E7–15456 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

[24] 5 U.S.C. 603(c).

[25] 5 U.S.C. 603(b).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 2007–28746]

RIN 2105–AD71

Standard Time Zone Boundary in Southwest Indiana

AGENCY: Department of Transportation (DOT), Office of the Secretary (OST).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: DOT is providing notice of a petition from the Board of Commissioners in Perry County, IN, to change the time zone boundary for the County from the Central Time Zone to the Eastern Time Zone, and DOT's request for additional information from Perry County to aid in its determination of whether this change would serve the convenience of commerce, the statutory standard for a time zone change. Other persons supporting or opposing the change to Perry County's time zone boundary are also requested to provide comment. The final rule will be based on all of the information received during the entire rulemaking proceeding and whether the statutory standard has been met.

DATES: Comments should be received by August 31, 2007, to be assured of consideration. Comments received after that date will be considered to the extent practicable. If the time zone boundary is changed as a result of this rulemaking, the effective date would be November 4, 2007.

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

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590–001.
- *Hand Delivery:* Room W12–140 on the plaza level of the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

General Instructions: All submissions must include the agency name and docket number (OST Docket Number 2007–28746) or Regulatory Identification Number (RIN 2105–AD71) for this rulemaking. Note that all comments received will be posted without change (including any personal information provided) to *http://dms.dot.gov.* Please refer to the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room W12–140 on the plaza level of the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Judith S. Kaleta, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, *indianatime@dot.gov,* (202) 493–0992.

SUPPLEMENTARY INFORMATION: Knox, Daviess, Martin, Pike, and Dubois Counties (the Petitioning Counties) and Perry County were six of eight counties that moved from the Eastern Time Zone to the Central Time Zone under DOT's January 2006 final rule to establish a standard time zone boundary in Indiana (71 FR 3228). On July 19, 2007, DOT published a notice of proposed rulemaking in the **Federal Register** (72 FR 39593) finding that, based on a Joint Petition filed by the Petitioning Counties and three Supplemental Responses, the Petitioning Counties provided enough information to justify proposing to change their boundary from the Central Time Zone to the Eastern Time Zone.

Under our normal procedures, we do not take action unless a county makes a clear showing that the proposed change of time zone would meet the statutory standard. However, as we noted in our previous rulemaking on time zone boundary changes in Indiana, this has been an unusual case because of the number of counties involved, their relationship to each other and to other neighboring counties, and the circumstances leading up to the petitions. Perry County is located in southwest Indiana, is contiguous to the Petitioning Counties, and had its time zone changed at the same time as the Petitioning Counties. Therefore, DOT asked for comments with regard to Perry County in the Notice of Proposed Rulemaking concerning standard time zone boundary in Southwest Indiana published in the **Federal Register** on July 19, 2007. DOT stated, ''We also understand that this proposal may have an impact on surrounding Counties, particularly Perry County which

changed time zone boundaries at the same time as the Petitioning Counties * * *. Our decision in the final rule will be made on the basis of information and comments developed during the entire rulemaking proceeding.'' DOT specifically requested comment on whether the proposed change would serve the convenience of commerce, the statutory standard for a time zone change, and whether the time zone boundary should be changed for other contiguous counties in southwestern Indiana.

At the time of the NPRM, DOT was unaware that, on June 1, 2007, Perry County submitted a Petition (2007 Perry County Petition) (OST 2007–28746–654) for a time zone boundary change back to the Eastern Time Zone. DOT has now reviewed the 2007 Perry County Petition and the exhibits attached to it. As set forth below, the 2007 Perry County Petition addresses all of the factors that we consider in these proceedings. However, on July 31, 2007, DOT wrote to Perry County requesting additional information to justify that changing back Perry County to the Eastern Time Zone would serve the convenience of commerce. DOT has summarized below the petition Perry County filed in support of its request to change to the Central Time Zone (the 2005 Perry County Petition), the 2007 Perry County Petition, and DOT's questions on the information submitted by Perry County. DOT seeks comments on the justification provided by Perry County and responsive information to its questions.

2005 and 2007 Perry County Petitions and DOT's Questions

Community Imports and Exports

The 2005 Perry County Petition to move from the Eastern Time Zone to the Central Time Zone stated that the primary employers in the county supply products to customers located throughout North America although most of the customer base is located in the Midwest or the South. In addition, it noted that Perry County's newer employers are considered ''just-in-time'' suppliers to the automotive industry which require a location less than a day's distance from their respective customers.

In lieu of answering the question on community imports and exports with an overview or analysis of the matter, the 2007 Perry County Petition summarizes and attaches 16 letters from businesses, schools, a hospital, and individuals. According to the 2007 Perry County Petition, the letters express ''a desire to change to the Eastern Time Zone'' because business conducted on Eastern time and difference in time zones ''causes operating challenges on a daily basis.'' The 2007 Perry County Petition notes that ''businesses in Perry County have in effect lost four hours of each day that they can deal with customers and suppliers from the Eastern Time Zone: One hour in the morning, two hours at lunch, and one hour at the end of the day.'' In further support of the Eastern Time Zone request, the 2007 Perry County Petition specifically references three diverse businesses: The Southern Indiana Rural Electric Cooperatives, which would be the only Hoosier Energy Power Network out of 17 that would be in the Central Time Zone and claims metering and billing problems; Kleeman Masonary, Inc, which usually travels east in its construction business; and Perry County Memorial Hospital, which has difficulties dealing with insurance companies in the Eastern Time Zone.

While the 2007 Perry County Petition claims the 16 letters attached to it are from businesses and schools, DOT notes that two of the letters were written on business letterhead but merely provide a preference for a time zone without any justification. Another letter states that it is ''more cumbersome'' to be on a different time zone, but provides no explanation. Similarly, the 2007 Perry County Petition states that the Perry County Chamber of Commerce has informed the Perry County Commissioners that ''there are 386 total employers located in Perry County'' and that 41% of businesses have expressed a preference for the Central Time Zone. The 2007 Perry County Petition does not provide the reasons for the ''preference.''

In order to assess the impact of a time zone change on businesses, DOT requests comments on the time zone impact on businesses in the County and the reasons for the time zone preferences expressed by Perry County businesses.

Television and Radio Broadcasts

With regard to television broadcasts, the 2005 Perry County Petition stated that the County was ''located within the Area of Dominant Influence for the Evansville, Indiana television market.'' The 2005 Perry County Petition also stated that Perry County ''receives cable and over-the-air broadcasts from the Louisville, Kentucky market as well.'' The 2007 Perry County Petition makes the same statements concerning television broadcasts.

With regard to radio broadcasts, the 2005 Perry County Petition stated that the ''majority of the stations serving Perry County are located either in the Central Daylight Saving or Eastern Standard time zones.'' The 2007 Perry County Petition elaborates on its earlier submission by providing a list of AM and FM radio signals for five cities within the County based on information from radio-locator.com. As the 2007 Perry County Petition notes, residents in the northern part of the County receive radio signals from the Eastern Time Zone while residents in the southern part of the County receive radio signals from the Central Time Zone. While the Perry County Petition provides radio signal information for five cities, it does not provide any information about the population of those cities.

In order to assess the impact of a time zone change on television and radio broadcasts, DOT seeks comments on this issue generally and particularly requests population data for Bristow, Cannelton, Leopold, St. Croix, and Tell City, in Perry County.

Newspapers

The 2005 Perry County Petition stated, ''The primary daily newspaper that serves Perry County is the *Evansville Courier & Press*'' in the Central Time Zone and that the local county newspaper, which publishes editions twice per week, also operates a printing plant that prints weekly newspapers for two Central Time Zone communities. On the other hand, the 2005 Perry County Petition also noted that the *Louisville Courier & Journal,* from the Eastern Time Zone, maintains drop boxes for the Sunday edition at several area convenience stores. Daily service, however, is unavailable.

The 2007 Perry County Petition provides more detailed information on newspaper use within the County. First, the 2007 Perry County Petition now asserts that Perry County residents ''primarily'' receive their news from the local newspaper, The *Perry County News,* which is published twice a week. Second, it includes circulation numbers for the *Evansville Courier & Press.* According to the 2007 Perry County Petition, there are 1,901 weekday subscriptions and 2,271 Sunday subscriptions. While this is consistent with Perry County's original request for the Central Time Zone, the 2007 Perry County Petition claims that the subscriptions support the Eastern Time Zone because the population base is in excess of 18,000. Third, it notes that the *Indianapolis Star* has a very small circulation in the County.

With regard to newspaper publishing, DOT seeks comment on this issue generally and is also interested in the number of subscriptions of *The Perry*

County News and the *Indianapolis Star;* the total number of households in Perry County; whether the residents of Perry County receive any newspapers from Daviess, Dubois, Knox, Martin, or Pike Counties and; if residents do receive newspaper from these counties, the circulation numbers of those newspapers within Perry County.

Bus and Passenger Rail Service

The 2005 Perry County Petition states that there are no bus or passenger rail services in the community. The 2007 Perry County Petition explains bus service in more detail, contrasting bus service provided in Evansville and Louisville, and freight rail services. The 2007 Perry County Petition notes that Evansville is approximately 50 miles away and offers services to western and southern routes. In contrast, Louisville is approximately 75 miles away and offers service to the north, northeast, and south. As for rail service, although DOT requested information on passenger rail service, the 2007 Perry County Petition refers only to freight rail service that carries goods through several southern Indiana counties.

DOT seeks comment on the bus information submitted by Perry County, but has no specific request for additional data on this issue.

Airports/Airline Services

The 2005 Perry County Petition states that the nearest airport is in Evansville, located in the Central Time Zone, approximately 55 miles from Perry County. The 2005 Perry County Petition also notes that that there is an airport in Louisville, in the Eastern Time Zone, 75 miles from Perry County. The 2007 Perry County Petition reiterates the same information with regard to airport location and supplements it by referring to the number of departures and destinations and the impact of early morning flights on travelers. According to the 2007 Perry County Petition, Evansville Regional Airport has approximately only 35 daily departures in contrast to Louisville International Airport which offers daily departures to ''around 140 domestic destinations plus 53 international destinations.'' The 2007 Perry County Petition also notes that because Louisville International Airport is in the Eastern Time Zone, it is ''extremely difficult'' to take early morning flights unless travelers spend the night at or near the airport.

DOT seeks comment on the airport/airline services information submitted by Perry County, but has no specific request for additional data on this issue.

Worker Commuting Patterns

The 2005 Perry County Petition states that 3,267 persons, or 26% of its total workforce, reside in Perry County but work outside of the County. Of the top five areas to which Perry County residents commute for work, four were in the Central Time Zone and, the fifth, Dubois County, was at that time requesting to be located in the Central Time Zone. (Dubois County is now requesting to be moved back to the Eastern Time Zone.) A STATS Indiana Annual Commuting Trends Profile based on Indiana IT–40 Returns for Tax Year 2003 was attached to the Petition.

The 2007 Perry County Petition also refers to the Perry County workforce. The actual numbers provided differ from the earlier submission and are now based on STATS Indiana Annual Commuting Trends Profile based on Indiana IT–40 Returns for Tax Year 2005. Nevertheless, the percentage of the workforce that leaves the County did not change; it remains 26%.

DOT seeks comment on the worker commuting patterns information submitted by Perry County, but has no specific request for additional data on this issue.

The Community's Economy/Economic Development

The 2005 Perry County Petition discussed the major elements of the community's economy, the improvement in the County's economy, and efforts to ensure that the local economy continues to improve. The Perry County Petition noted ''a dramatic shift from traditional woodworking industries to a significant transportation cluster.'' It stated that the ''primary employers manufacture products for the automotive, heavy truck, and aerospace industries.'' The 2005 Perry County Petition also noted the planning and infrastructure the County has put in place to support future economic growth and its partnerships to enhance growth.

The 2007 Perry County Petition answer to the question on the community's economy is nearly the same as the 2005 Perry County Petition. There is only one change. The 2007 Perry County Petition eliminates, in this response, reference to ''a regional rural hospital which serves counties in Southern Indiana and Western Kentucky, located in the Central time zone.'' However, it includes that reference to the hospital in response to the question concerning health care.

In order to assess the impact of a time zone change on the community's economy, DOT requests comment on the community's economy and information on whether Perry County has entered into economic partnerships with Daviess, Dubois, Knox, Martin, or Pike Counties or other Counties in southern Indiana and, if yes, the nature of these partnerships and how a time zone change would affect these partnerships.

Schools, Recreation, Health Care, or Religious Worship

With regard to schools, the 2005 Perry County Petition emphasized post-secondary education. While the 2005 Perry County Petition recognized that Perry County residents attend post-secondary schools in the Eastern and Central Time Zones, it noted that more Perry County residents go to the University of Southern Indiana in the Central Time Zone than any other school.

The 2007 Perry County Petition shifts the focus from post-secondary education to the high school level. It notes that there are no school districts in Perry County that are in more than one time zone, but indicates that the schools cross time zones to participate in sporting events. Exhibits 10 through 14 to the 2007 Perry County Petition provide information on the athletic conferences in southern Indiana, and the schedules for basketball, volleyball, football, cross country, baseball, and softball. The 2007 Perry County Petition asserts that playing games in different time zones ''causes extreme complications with scheduling and arrival and departure times for the schools.''

DOT seeks comment on the information submitted by Perry County with regard to schooling, but has no specific request for additional data.

The 2005 Perry County Petition did not address recreation or whether County residents left the County to pursue recreational interests. The 2007 Perry County Petition, however, states ''Perry County prides itself on its outdoor recreational activities including the vast amounts of Hoosier National Forest and ready access to the Ohio River for recreation such as boating, fishing and hunting.'' The 2007 Perry County Petition also refers to recreational softball, baseball, and soccer leagues that could play later into the evening if the County were located in the Eastern Time Zone.

In order to assess the impact of a time zone change on recreation, DOT requests information on whether residents leave Perry County for recreation and the standard of time observed in the places where they go for this purpose.

With regard to health care, the 2005 Perry County Petition noted that Perry County is ''home to a regional rural hospital.'' It also noted that residents also ''primarily travel to Evansville and Jasper, Indiana'' to purchase health services. The 2007 Perry County Petition also notes the regional hospital and refers to a letter from Perry County Memorial Hospital that is ''in favor of the Eastern Time Zone for the reasons set forth in the letter.'' The letter states that the hospital conducts ''a lot of business with our State Capitol in Indianapolis'' and that ''the large insurance companies'' that it does business with are also located there. While the letter provides business reasons for an Eastern Time Zone preference, it does not address the impact of the current time zone on Perry County residents and whether they are referred to health care providers in other time zones.

In order to assess the impact of a time zone change on health care, DOT requests comments on this issue and information on the number of patients referred from Perry County to health care providers in Evansville, Jasper, Indianapolis, and Louisville.

Neither the 2005 Perry County Petition nor the 2007 Perry County Petition addressed religious worship and DOT has no additional questions concerning this issue.

Regional Connections

In the original rulemaking proceeding to change time zone boundaries from the Eastern Time Zone to the Central Time Zone, petitioning counties and commenters advocated for a move by referring to their ties to other Indiana counties currently in the Central Time Zone. DOT carefully reviewed this data and utilized it in reaching its decision. DOT recognizes the importance of regional connections and the benefits of similar time zones and regional ties among counties. As described in DOT's January 2006 Final Rule's summary of the hearings and comments to the docket, the Southwestern Counties have strong regional ties to each other and Central Time Zone Counties. DOT stated, ''While Daviess, Dubois, Knox, Martin, and Perry border other Indiana counties in the Eastern Time Zone, their ties to those counties are not as strong as they are to each other and to other counties to their south, which are currently in the Central Time Zone. Along with Pike, these counties are located in the same workforce, commerce, transportation, and education regions designated by Indiana. Remaining in the same time zone and maintaining their regional ties better position counties to realize advantages in economic, cultural, social, and civic activities, thereby serving the convenience of commerce.''

The 2007 Perry County Petition addresses regional connections by noting that at DOT's hearing on time zones in November 2005, ''Perry County representatives stated that one of the reasons for the requested change was the fact that Dubois County was also petitioning to be placed in the Central Time Zone.'' It also notes that five other counties in the area petitioned for a time zone change.

DOT seeks comment on the regional connectivity of Perry County with other counties in southern Indiana, including those that have and have not petitioned for a time zone change and how a time zone change would affect regional connections.

Request for Comments

To aid us in our consideration of whether a time zone change would be for the convenience of commerce, we ask for comments on the impact on commerce of a change in the time zone and whether a new time zone would improve the convenience of commerce. The comments should address the impact on such things as economic, cultural, social, and civic activities and how time zone changes affect businesses, communication, transportation, and education. The comments should be as detailed as possible, providing the basis of the information including factual data or surveys.

Comment Period

It is important to resolve this rulemaking expeditiously so that we can provide ample notice if a change to the Petitioning Counties' and Perry County's time zone boundaries is adopted. Nevertheless, we are extending the time for public comments to August 31, 2007. We expect that the comment period is adequate time to submit the necessary data, which is based on currently available information.

Issued in Washington, DC on August 3, 2007.

D.J. Gribbin,

General Counsel.

[FR Doc. 07–3864 Filed 8–3–07; 2:56 pm]

BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 070703215–7215–01]

RIN 0648–AU08

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Vessel Monitoring System; Open Access Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to require all vessels fishing pursuant to the harvest guidelines, quotas, and other management measures governing the open access groundfish fishery, and all trawl vessels to provide declaration reports and to activate and use a vessel monitoring system (VMS) transceiver while fishing off the coasts of Washington, Oregon and California. NMFS has implemented a series of large-scale geographically-defined closed areas intended to: Minimize the bycatch of overfished groundfish species, minimize the bycatch of protected salmon species, and protect Essential Fish Habitat (EFH) from harm through contact with fishing gear. This action is intended to improve the monitoring of compliance with those closed areas through regular VMS transmissions of vessel locations for those vessel subject to groundfish closed area restrictions.

DATES: Comments must be received by September 7, 2007.

ADDRESSES: You may submit comments, identified by RIN 0648–AU08 by any of the following methods:

E-mail: VMSOpenAccess.nwr@noaa.gov: Include RIN 0648–AU08 in the subject line of the message.

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

Fax: 206–526–6736, Attn: Becky Renko.

Mail: D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE., Seattle, WA 98115–0070, Attn: Becky Renko.

Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from the Pacific

Fishery Management Council (Council) by writing to the Council at 7700, NE., Ambassador Place, Portland, OR 97220, phone: 503–820–2280, or may be obtained from the Sustainable Fisheries Division, Northwest Region, NMFS, 7600 Sand Point Way, NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0070.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS Northest Region and by e-mail to *David_Rostker@omb.eop.gov* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Becky Renko, phone: 206–526–6110; fax: 206–526–6736; or e-mail: *becky.renko@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is accessible via the Internet at the Office of the Federal Register's Web site at *http://www.access.gpo.gov/su_docs/aces/aces140.html.* Background information and documents are available at the NMFS Northwest Region Web site at *http://www.nwr.noaa.gov* and at the Council's Web site at *http://www.pcouncil.org.*

Background

The Federal groundfish fishery off the Washington, Oregon, and California coasts is managed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Pacific Coast Groundfish FMP. The FMP was developed by the Council. Regulations implementing the FMP appear at 50 CFR part 660 subpart G.

A VMS transceiver is an electronic device that is installed on a vessel to monitor the vessel's position in relation to geographically defined areas. VMS transceivers use Global Positioning System (GPS) satellites to determine the vessel's position and then transmit that position to a communications satellite. From the communications satellite, the vessel's position is transmitted to a land-earth station operated by a communications service company. From the land-earth station, the position is transmitted to the NMFS Office for Law Enforcement (OLE) processing center where the information is validated and analyzed before being disseminated for surveillance, enforcement, and fisheries management purposes.

The VMS transceiver documents a vessel's position at a specific point in time. The frequency with which position reports are transmitted depends on the defined need of the monitoring program. Position transmissions can be made on a predetermined schedule, such as hourly, or upon request from the OLE processing center. Position reports on at least an hourly basis are currently required in the Pacific Coast groundfish fishery. A vessel operator is unable to alter the VMS transmission signal or the time of transmission. In most cases, the vessel operator is unaware of exactly when the VMS unit is transmitting. VMS transceivers are designed to be tamper resistant.

To assure compatibility with the OLE national monitoring center, NMFS requires that VMS systems meet defined standards (58 FR 49285, September 23, 1993; 59 FR 151180, March 31, 1994; 70 FR 61941, October 27, 2005) while recognizing the need to promulgate regulations and approve systems on a fishery-by-fishery basis. VMS transceiver units approved by NMFS are referred to as type-approved models. All type-approved models must have basic features identified and endorsed by NMFS; however, additional features may be added to better meet the needs of a particular fishery or a particular vessel owner. On November 17, 2003 (68 FR 64860), NMFS published a notice identifying VMS transceiver units and communication service providers that are type-approved for the Pacific Coast groundfish fishery. In the future, new transceiver units and communication service providers may be added to the type-approved list. Similarly, outdated units may be removed. Any such changes to the list of type-approved transceiver units and communication service providers will be announced in the **Federal Register** and made available to the public on the NMFS Northwest Region's groundfish Web page for VMS (*http://www.nwr.noaa.gov*).

Information collected under a VMS program is subject to the confidentiality provisions of Section 402 of the Magnuson-Stevens Act, 16 U.S.C. 1881a(b), and implementing regulations at 50 CFR part 600, subpart E. These authorities specify who may access and use the information and for what purposes.

Depth-based Management

Large-scale depth-based management areas, referred to as groundfish conservation areas (GCAs), are used to prohibit or restrict commercial and recreational groundfish fishing. The Rockfish Conservation Areas (RCAs) are a sub-group of the GCAs that were specifically designed to reduce the catch of overfished rockfish species at times and depths where they are most abundant. The boundaries used to define the RCAs are complex. The boundaries of RCAs are straight lines connecting hundreds of points of latitude and longitude that approximate fathom curves for depth ranges relating to where overfished rockfish species are commonly found. Each RCA is gear specific, so that groundfish fishing (either directed or incidental) with gears that tend to catch particular species is restricted or prohibited in areas where the overfished species are most vulnerable. The RCAs are vast, cover much of the continental shelf, and extend along the entire West Coast from Canada to Mexico.

Deep-water fisheries on the continental slope and nearshore fisheries have been permitted in areas seaward or shoreward of the RCAs. Vessels intending to fish in the deep-water slope fisheries seaward of the westernmost boundary of an RCA are allowed to transit through the RCAs. Target fisheries with measurably low catch rates of overfished species, such as midwater trawling for pelagic species, and shrimp trawling with finfish excluders, have been allowed to occur within the RCAs. Various state-managed fisheries where groundfish are incidentally taken also occur in the RCAs.

Traditional enforcement methods (aerial surveillance, boarding at sea via patrol boats, landing inspections and documentary investigation) are not as effective as VMS when the closed areas are large-scale and the lines defining the areas are irregular. Furthermore, when management measures allow some gear types and target fishing in all or a portion of the conservation area, while other fishing activities are prohibited, it is difficult and costly to effectively enforce closures using traditional methods alone. Scarce state and Federal resources also limit the use of traditional enforcement methods.

At its November 2002 meeting, the Council recommended that NMFS implement a VMS pilot program for monitoring compliance with GCA and RCA restrictions and to ensure the integrity of the depth-based management measures. NMFS prepared proposed and final rules that required all vessels registered to Pacific Coast groundfish fishery limited entry permits to carry and use a basic VMS transceiver unit (capable of one-way communications) while fishing off the coasts of Washington, Oregon and California (68 FR 27972, May 22,2003; 68 FR 62374, November 4, 2003). The VMS rule also required all limited entry vessels and any other commercial or tribal vessel using trawl gear, (including exempted gear used to take pink shrimp,

spot and ridgeback prawns, California halibut, and sea cucumber) to send declaration reports to identify their intent to fish within a conservation area with trawl gear when trawl gear would otherwise be prohibited. The pilot VMS program was implemented on January 1, 2004.

Expansion of the VMS Program

The Council's Ad Hoc VMS Committee, which is comprised of state, Federal and industry representatives, held a public meeting in October 2003 to consider expansion of the VMS program beyond the limited entry fisheries. The committee determined that commercial vessels that fish in the EEZ and that land groundfish should be considered for the next phase of the VMS program. The committee identified criteria for prioritizing expansion of the VMS program. Although the charter and private sectors of the recreational fishery were considered, the committee determined that an area-by-area evaluation of the groundfish impacts by the recreational participants was necessary before a final committee recommendation could be made. The Council considered the Ad Hoc VMS Committee's recommendations for expanding the VMS program at its November 2003 meeting, but determined that further information on the progress of the VMS pilot program was first needed. Reports on the VMS pilot program were provided by OLE at subsequent Council meetings.

At the Council's September 2004 meeting, NMFS presented a draft EA that analyzed five VMS coverage alternatives for the open access fishery. These alternatives were based on the Ad Hoc VMS Committee's October 2003 recommendations to the Council. The Council reviewed the alternatives, considered input from its advisory bodies, and listened to public testimony, before recommending a revised range of eight alternatives for further analysis. The Council also recommended an October 1, 2005 implementation date for the expanded VMS program. To allow time for the affected public to review the alternatives, the Council chose to delay its decision on expanding the VMS program until its April 2005 Council meeting.

In October 2004, the Ad Hoc VMS Committee held a public meeting to review the EA and the eight alternatives recommended for analysis by the Council. At the request of the Ad Hoc VMS Committee, an additional alternative was added to the analysis.

Between January 10, 2005, and March 5, 2005, NMFS held public meetings in eight fishing communities where open access groundfish landings have been relatively high from year to year. The purpose of the public meetings was to provide the interested public with information on the type-approved VMS systems and the alternatives that were being considered for expansion of the VMS program into the open access groundfish fisheries.

At the Council's April 2005 meeting, NMFS presented a revised draft EA that analyzed nine VMS coverage alternatives for the open access fishery. The Council reviewed the alternatives, considered input from its advisory bodies, and listened to public testimony, before recommending that further analysis be conducted. The Council specifically asked that NMFS examine thresholds for identifying vessels that land insignificant amounts of groundfish and low impact fisheries that could be considered as exceptions to the VMS requirement.

At the Council's June 2005 meeting, a preferred alternative for the ''Essential Fish Habitat Designation and Minimization of Adverse Impacts Draft Environmental Impact Statement (EIS)'' was recommended by the Council. The Council's preferred alternative for the EFH action included a recommendation that the VMS analysis be expanded to include an alternative that would require the use of VMS on all bottom trawl vessels.

In September 2005, the Ad Hoc VMS Committee held a public meeting where the proposed alternatives for expanding VMS coverage were reviewed. At the Council's November 2005 meeting, NMFS presented a revised draft EA that analyzed all thirteen VMS coverage alternatives. The Council reviewed the alternatives, considered input from its advisory bodies, and listened to public testimony, before recommending that VMS transceiver units and declaration reports be required for all open access vessels: that are used to take and retain groundfish in the EEZ, that possess groundfish while operating in the EEZ (including transiting) or that land groundfish taken in the EEZ. To help enforce the proposed EFH protection measures, the Council also recommended that VMS transceiver units be required on all vessels using trawl gear in the EEZ including non-groundfish trawl gear, whether or not groundfish is retained. The Council recommended a January 1, 2007 effective date for the expanded VMS program.

Essential Fish Habitat Conservation Areas

The Magnuson-Stevens Act mandates that the FMP contain measures to minimize, to the extent practicable, adverse effects from fishing on EFH. The EFH guidelines establish that Councils must act to minimize adverse effects to the extent practicable from fishing when such effects are more than minimal and not temporary in nature (50 CFR 600.815). Adverse effect means any impact that reduces the quality and/or quantity of EFH; and may include direct or indirect physical, chemical, or biological alterations of the waters or substrate and loss of, or injury to, benthic organisms, prey species and their habitat, and other ecosystem components.

NMFS prepared an EIS for Amendment 19 to the FMP that examined if and where adverse effects to EFH have occurred or are occurring. NMFS use of precautionary action as the basis for the management measures has a solid basis in the best available information. It is based on the concept of acting to conserve the resource in the face of a lack of specific information. NMFS has information showing adverse impacts from fishing on habitat, but does not have information to allow specific determinations regarding the effect on groundfish EFH. The available information does give NMFS reason to conclude that there may be adverse impacts on EFH, and the management measures are necessary and appropriate to minimize these potential adverse impacts. The measures are practicable because they do not cause a significant burden on the fishing industry since they close areas not currently fished and other measures would limit gear usage in certain areas, displacing less then 10% of the fleet. On May 11, 2006, NMFS issued management measures, including EFH conservation areas where specific fishing activity is prohibited or restricted, to protect EFH from potential adverse effects of fishing (71 FR 27408).

In the EFH EIS, NMFS and the Council considered fishing gear restrictions and area closures as the primary tools for minimizing adverse effects to EFH. These measures directly control where impacts may occur and the type of impact, based on gear type, that would be allowed. Gear types were ranked for their potential to have adverse effects in the following order: (1) Bottom-tending mobile gear types (e.g. trawl and dredge gear); and (2) other gears that contact the bottom.

The Council has identified discrete areas that are closed to fishing with specified gear types. These ecologically

important closed areas are intended to minimize, to the extent practicable, the adverse effects of fishing on groundfish EFH. There are two types of closures, areas where bottom trawling is prohibited, and areas where the use of bottom-contacting gears is prohibited. The boundaries of the EFH conservation areas are straight lines connecting latitude and longitude coordinates. Unlike RCAs, EFH conservation areas do not vary seasonally.

This proposed rule would implement revisions to fishery-specific regulations at § 660.381 (limited entry trawl fishery), § 660.382 (limited entry fixed gear fishery), and § 660.383 (open access fishery) that list the EFH closed areas that apply to participants in each fishery. Listing EFH closed areas in these sections does not alter the EFH closed area regulations or application to these fisheries. Rather, it ensures that each of these sections of the regulations contain all of the closed area management measures for the fishery specified. EFH closed areas are currently listed only in the prohibitions section at § 660.306. These changes are primarily intended to make the Federal groundfish regulations more clear for the fishing public.

Declaration Reports

VMS is used to determine a vessel's position, while declaration reports are used to identify the fisher's intent to use the vessel to participate in a particular fishery with a specific gear. Because GCA and EFH area restrictions are specific to the gear type and target fisheries, declaration reports are needed to adequately assess the vessel's activity in relation to the area restrictions.

Declaration reports are submitted to NMFS OLE by telephone and are valid until revised by the vessel operator. Vessel operators making declaration reports receive a confirmation number that verifies that NMFS received the report. After a vessel has made a declaration report to NMFS and has been confirmed for a specific gear category, it cannot fish with any gear other than a gear type that has been declared for the vessel. If a vessel operator intends to use the vessel to fish in a different fishing category, a new declaration report must be submitted to revise the old declaration before the vessel leaves port.

Target fisheries with low catch rates of overfished species, such as midwater trawling for whiting and shrimp trawling with finfish excluders, have been allowed to occur in the RCAs, as have various state-managed fisheries where groundfish are taken incidentally and landed in the open access fishery. Current declaration reporting requirements require a report to be sent prior to a trip in which a vessel is used to legally fish in an RCA or Cowcod Conservation Area (CCA) and include provisions to cancel a declaration report when the vessel discontinues fishing within the RCA. The existing declaration requirements for limited entry (trawl and fixed gear), tribal, and open access trawl vessels are being revised and expanded by this action.

The proposed action would require all vessels with VMS to have a valid declaration report on file with NMFS at all times regardless of where the vessel is fishing. Declaration reports must be sent to NMFS prior to leaving port on the first trip of the fishing year and the declaration must be revised before each subsequent trip in which a different gear type is used. Vessels using non-trawl gear may declare more than one gear category. However, a non-trawl vessel may not fish within a groundfish conservation area if the use of any of the declared gears is prohibited or restricted within that conservation area. For example: a vessel that declares open access Dungeness crab trap or pot gear and fishes in the non-trawl RCA may not also declare open access longline gear for groundfish for the same trip. Vessels using groundfish trawl (the three trawl declaration categories are limited entry bottom trawl, not including demersal trawl, limited entry midwater trawl, and demersal trawl) or non-groundfish trawl gear may only declare one gear category and may not declare trawl and non-trawl gears for the same trip. The declaration reporting requirements for tribal vessels are unchanged.

The change to declaration reporting requirements is needed to provide adequate monitoring of fishing activity in relation to newly defined EFH areas. This change is expected to standardize and simplify the reporting requirements for all sectors.

The Vessel Monitoring System

The proposed action is to require all open access vessels to have a type-approved VMS transceiver unit that is properly activated and used from the time a vessel leaves port on a trip in which: groundfish is taken and retained in the EEZ; groundfish is possessed while operating in the EEZ (including transiting); or groundfish taken in the EEZ is landed. In addition, the proposed action requires any vessel fishing in the EEZ with non-groundfish trawl gear to have a type-approved VMS transceiver unit properly installed and activated prior to leaving port. Once the VMS unit is activated, it must remain on throughout the remainder of the fishing year, unless such vessel is granted an exemption to the requirements for continuous operation.

Under the proposed action, more than 1,600 vessels could be required to operate a type-approved VMS transceiver unit while fishing off the states of Washington, Oregon and California. The estimated per vessel annual costs of VMS ranges from $1,315–$3,433 ($4,733 if a personal computer is purchased to support expanded functions) in year one, and $502–$1,515 in subsequent years. These values include costs associated with the purchase of a transceiver unit, installation, transmission fees, declaration reports, and future replacement of the unit (the cost of the unit divided by the expected service life).

The purchase and installation of the VMS transceiver unit will be the responsibility of the vessel owners. The unit cost, physical size, available features, transmission fees, and service packages vary between the different type-approved VMS transceiver units. Vessel owners may choose the type-approved unit that best fits their needs. Self installations are expected to take less than 4 hours. However, some vessel owners may choose professional installations, which cost approximately $200 or may be included in the unit cost. Prior to fishing, the vessel owner will be required to fax an activation report to NMFS OLE to verify that the unit was installed correctly and has been activated.

The VMS unit is required to be operating continuously until the end of the fishing year, regardless of the fishery or fisheries in which the vessel participates. Exemption reports are available to allow flexibility to the industry participants while providing NMFS OLE with the information needed to determine why a position report is not being received from the vessel. During the development of the expanded VMS program additional exemptions were considered for: vessels that transfer the limited entry permit from the vessel and do not engage in any fishing off the West Coast for the remainder of the year, vessels that depart the open access fishery for an extended period after the end of the fishing year, and for vessels that have had an emergency situation that resulted in vessel damage such as fire, flooding or other extensive physical damage that would require the VMS or power source to be disconnected.

To effectively merge the new open access VMS program with the existing limited entry VMS program, NMFS

proposes to modify the existing limited entry vessel requirements. At this time, vessels registered to limited entry permits are required to carry and use VMS units. Under the existing regulations, when a permit is transferred from the vessel and placed into unidentified status the vessel is not required to have and use VMS, even if it continues to fish in state or Federal waters. Under the proposed action, when a limited entry permit is transferred from a vessel, including permits placed into ''unidentified'' status, the vessel may discontinue VMS reporting provided it is not used to fish in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore) for the remainder of the fishing year. However, if the vessel is used to fish at any time during the remaining portion of the fishing year without being registered to a limited entry permit, the vessel is still required to have and use VMS so that the new open access VMS program can be effectively merged with the existing limited entry VMS program.

The Council recommended that NMFS fully fund the VMS monitoring program. However, the availability of Federal funding for purchasing, installing, or maintaining VMS transceiver units, or for funding data transmission is not known at this time. Due to the critical need to monitor the integrity of EFH conservation areas, and RCAs and CCAs that reduce the catch of overfished stocks, NMFS believes it is necessary to proceed with this proposed rulemaking. It is necessary, therefore to require fishery participants to bear the cost of purchasing, installing, and maintaining VMS transceiver units, hourly VMS data transmissions, and reporting costs associated with installation and declaration requirements. Federal funds have been identified for VMS reimbursements in 2007. The availability of these funds for reimbursement for the cost of purchasing a VMS unit for open access vessels is not guaranteed, but are anticipated to be available on a first-come first-served basis.

Transiting and Gear Stowage Provisions

RCAs, CCAs and EFH conservation areas are specific to the type of fishing gear used on the vessel. Groundfish fishing (either directed or incidental) with trawl gear is restricted or prohibited within the trawl RCA boundaries, while groundfish fishing with non-trawl gear is restricted or prohibited within the non-trawl RCA boundaries. There are two types of EFH conservation areas: areas where bottom trawling is prohibited, and areas where bottom-contacting gears are prohibited.

Vessels that are required to have VMS will continue to be allowed to transit through the RCAs, CCAs and EFH conservation areas; however, fishing gear must be stowed during transit unless otherwise specified. With the exception of vessels using trawl gear to fish for pink shrimp, limited entry trawl and non-groundfish trawl vessels are currently required to have their gear properly stowed while transiting RCAs. Transiting corridors with gear stowage requirements are currently defined for the CCAs. This action proposes gear stowage requirements for non-trawl vessels transiting RCAs, CCAs, and EFH conservation areas.

Under existing regulations, limited entry trawl and non-trawl vessels with VMS requirements are prohibited from any activity other than continuous transit within the RCAs or CCAs for their gear. The only allowance for these vessels to operate within the RCAs or CCAs is when they have declared a gear type that is permitted to be used within the RCAs or CCAs and all fishing on that trip is consistent with the RCA or CCA requirements. With the expansion of VMS, open access vessels that are required to have VMS will also be prohibited from any activity other than continuous transit within the RCAs for their declared gear. However, if a vessel has a valid declaration for a gear that is allowed to be used in a fishery within the RCA and all fishing on the trip is consistent with the RCA or CCA restrictions, the vessels may legally operate within the RCAs or CCAs. For example, if a vessel declared and used open access line gear for groundfish at the beginning of the year then revised the declaration to open access salmon troll gear, it could operate within the RCAs as a salmon troll vessel providing all activities on that trip were consistent with the RCA restrictions.

Additional Changes

This proposed rule would make the following modifications to Federal regulations: § 660.306(i) would be revised to correct current references in paragraphs (7) and (8) so that observer program regulations are correctly referenced as being in § 660.314, not § 660.612; the definition of the term ''Closure'' would be revised to also include the word ''Closed;'' a new definition for the term ''Conservation area'' would be added and would be defined as including both GCAs and EFH closed areas, without changing the definitions for those areas; and the definition for ''Trawl gear'' would be revised so that it includes the definition language from § 600.10, plus makes a distinction between groundfish trawl gear and non-groundfish trawl gear. These proposed changes are non-substantive re-arrangements of currently effective regulatory text. EFH closed areas are currently listed only in the prohibitions section at § 660.306. The addition of EFH language to sections § 660.381–383 does not change the effects of EFH closed area regulations and make no substantive changes to the regulations at 50 CFR 660; however, adding this language to the lists of closed areas that apply to each gear type in § 660.381–383 does make the Federal groundfish regulations more clear for the fishing public. These changes are primarily intended to make the Federal groundfish regulations more clear for the fishing public.

Classification

NMFS has determined that this proposed rule is consistent with the FMP and has preliminarily determined that the rule is consistent with the Magnuson-Stevens Act and other applicable laws, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. A copy of this analysis is available from the Council or NMFS (see **ADDRESSES**).

The proposed rule would require all commercial fishing vessels not registered to a limited entry groundfish permit that take and retain or possess groundfish in the EEZ (including transiting), or that land groundfish taken in the EEZ and all vessels using non-groundfish trawl gear to fish in the EEZ to have and use VMS. The proposed action is projected to affect approximately 1,610 vessels, including: 322 vessels using longline gear (282 directed groundfish, 38 Pacific halibut, and 2 CA halibut); 193 vessels using pot gear (145 directed groundfish, 6 prawn, 21 Dungeness crab and 21 CA sheephead); 131 vessels using non-groundfish trawl gear (23 ridgeback prawn, 14 sea cucumber, and 40 CA halibut, and 54 pink shrimp vessels); 892 vessels using line gear (590

groundfish directed, 58 CA halibut, 10 HMS vessels, and 234 salmon troll vessels); and 72 vessels using net gear (25 HMS and 47 CA halibut). All of the affected entities are considered to be small businesses.

The VMS units that have been type-approved for this fishery range in cost and service features. This range allows the vessel owner flexibility in choosing the model that best fits the needs of their vessel. Vessels that have already purchased VMS transceiver units for other fisheries or for personal purposes have been given consideration. Vessels will be allowed to retain existing VMS transceivers provided they are on the list of type-approved models and have been upgraded to the level required for the fishery. Per vessel costs for a transceiver unit with installation are $1,200–$2,700 ($3,800 with a computer that meets the minimum specifications) in Year 1, and $250–$625 in subsequent years. Annual operating cost to harvesters include: maintenance $60–$160, and transmission fees $192–$730. Estimated purchase cost of VMS services to the fishing industry if all vessels remain in the fishery is $2,241,120–$7,293,300 in year 1, and $309,120–$1,175,300 in subsequent years. The added cost of VMS may result in vessels, likely those vessels with the lowest ex-vessel revenue from groundfish, choosing to not retain groundfish to avoid VMS requirements. The analysis assumes that vessels will pay for VMS. However, Federal funds have been identified for VMS reimbursements in 2007. The availability of these funds for reimbursement for the cost of purchasing a VMS unit for open access vessels is not guaranteed, but are anticipated to be available on a first-come first-served basis.

The benefits of VMS to the fishery participants include the potential for future increases in groundfish catch because the likelihood of RCA integrity being maintained is increased. This would result in greater stability in the fishery and be of greatest benefit to fishers with a high degree of dependency on groundfish. VMS would allow for greater flexibility in the use of management rules, because accurate pot, longline, non-groundfish trawl, line and net gear fishing location data will be readily available for modeling total catch and making groundfish management decisions. VMS data could be used along with declaration reports, observer data, survey information, and fish ticket data to better refine estimates of total fishing mortality and reduce the uncertainty in managing the fishery inseason to stay within the harvest guidelines and OYs. For vessels that participate in the incidental open access fisheries, accurate VMS fishing location data may be beneficial to the non-groundfish target fisheries management. Because pink shrimp vessels are currently permitted to fish in the RCAs, there is no increased benefit to the pink shrimp fishery over status quo, but there is benefit to the groundfish fishers from the increased protection that this provision will provide to groundfish EFH.

Vessels required to carry VMS transceiver units will provide installation/activation reports, hourly position reports, exemption reports, and declaration reports. The installation and activation reports include contact information from open access vessels because there are no Federal permit requirements for open access fishery participants. Having contact information is necessary in the event that there are transmission problems, where NMFS will need to have ready access to contact information and installation information. The submission of declaration reports was initially proposed as per trip reports. Following consultation with fishery participants, it was determined that the needs of NMFS OLE and the United States Coast Guard (USCG) could be met with less frequently made declaration reports. Therefore, it was determined that a declaration report identifying the type of gear being used by a vessel would remain valid until revised by the vessel operator or an exemption report was sent. This results in a significant reduction in the number of reports.

Following consultation with fishery participants prior to implementation of the pilot VMS program in the limited entry fisheries, it was determined that some vessels may prefer to reduce the costs of reporting when leaving the EEZ off the coasts of Washington, Oregon, and California. Because a substantial number of permitted vessels also fish in waters off Alaska and in areas outside the EEZ, and because vessels are commonly pulled out of the water for extended periods, a VMS hourly report exemption option was added, which included an exemption report.

During the development of the expanded VMS program additional exemptions were considered and proposed for: vessels that transfer the limited entry permit from the vessel and do not engage in any fishing off the West Coast for the remainder of the year, vessels that depart the open access fishery for an extended period after the end of the fishing year, and for vessels that have had an emergency situation that resulted in vessel damage such as fire, flooding or other extensive physical damage that would require the VMS or power source to be disconnected. The exemption reports allow flexibility to the industry participants while providing NMFS OLE with the information needed to determine why a position report is not being received from the vessel.

Declaration reports have been required since January 1, 2004, for non-groundfish trawl vessels that are used to fish in any trawl RCA or the CCA. Requiring declaration reports for all fishing, not just fishing in any trawl RCA or the CCA, will be an additional burden for these vessels. Non-groundfish trawl gear includes vessels fishing for pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber.

At the Council's June 2005 meeting, measures to protect groundfish EFH were considered, as mandated by the Magnuson-Stevens Act. Though the habitat protection measures have been developed as a separate action from the VMS program, monitoring measures such as VMS were considered as a tool for monitoring incursions into the many new habitat protection areas. As part of the habitat protection measures, the Council requested that VMS requirements for pink shrimp trawlers operating in the open access sector (those pink shrimp trawl vessels that are registered to limited entry permits are already required to have VMS) be included in the open access VMS analysis. Therefore, 4B was added, with the difference being the inclusion of all pink shrimp trawl vessels.

A range of 13 alternatives, discussed in sections 2.0 and 4.0 of the EA for this action, was considered. The alternatives ranged from Alternative 1, status quo which required declaration reports from open access non-groundfish trawl vessels that fish within a trawl RCA to Alternative 11, the preferred alternative which is described in this proposed rule. The coverage levels identified as Alternatives 2–4A and 5A were based on different combinations of the open access gear groups. In order of coverage priority, the open access sectors initially identified as needing VMS coverage were: longline, groundfish pot, trawl (excluding shrimp), and line (excluding salmon). Alternative 2 requires all vessels using longline gear to have and use a VMS transceiver. Each of the Alternatives 3, 4 and 5A built on the previous alternative by adding the next open access gear group in order of priority.

At its September 2004 meeting, the Council recommended that NMFS expand the range to eight alternatives

(Alternatives 1–4A, 5A, 5B, 6A and 7) and conduct further analysis. Alternative 5B was added and is based on the Enforcement Consultants recommendations to the Council. This alternative excludes vessels in fisheries where incidental catch of overfished species was considered to be very low, however, it includes salmon troll vessels. Alternative 6A, though modified by the Council, was based on the Groundfish Advisory Panel's (GAP) majority view. Under Alternative 6A, VMS would be required on any commercial fishing vessel for which an RCA restriction applied. This alternative was viewed by the GAP as a simple and straightforward way to maintain the integrity of the RCAs. Alternative 7 is the GAP minority alternative, and is basically the same as Alternative 6A, except that vessels under 12 feet (ft) (3.7 meters) in length are excluded. Alternative 6B was recommended by the Ad Hoc VMS Committee. Alternative 6B is the same as Alternative 6A, except that only salmon troll vessels north of 40°10 N. lat. that fish pursuant to the harvest guidelines, quotas, and other management measures governing the open access fishery for groundfish species other than yellowtail rockfish would be required to carry and use a VMS transceiver and provide declaration reports.

At the Council's April 2005 meeting, the Council specifically asked that NMFS examine new alternatives with thresholds for identifying vessels that land insignificant amounts of groundfish and low impact fisheries that could be considered as exceptions to the VMS requirement. In addition, concerns were expressed by the Council about of the cost of a VMS system to maintain the integrity of the RCA management regime for the open access fisheries being borne by industry. As a result of Council discussion, NMFS developed three new alternatives, identified as Alternatives 8–10.

Alternative 8 was intended to exclude low impact OA fisheries from the VMS requirements. These low impact target fisheries and gear included: Dungeness crab pot, spot prawn pot, sea cucumber trawl, ridgeback prawn trawl, HMS line, and California sheephead pot. Alternative 9 was intended to identify vessels that directly targeted open access species. Vessels that land more than 500 lb of groundfish in a fishing year would have been included in the VMS and declaration requirements. Under Alternative 10 RCA management areas defined at 660.383(c) would be discontinued and trip limits and seasons adjusted accordingly. No Federal rules have been identified that duplicate, overlap, or conflict with this action.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0478. Public reporting burden for this collection of information is estimated to average as follows: 4 minutes per response for each declaration report at an estimated time burden on the public of 2,848 hours annually for all 2,034 respondents; At 4 hours per response for installation (installation occurs one time every four year because VMS units have a 4 year service life) of the VMS transceiver unit and 5 minutes per response to send the installation/activation report with an estimated time burden to the public from all 2,034 respondents of 2,034 hours for installation of the VMS transceiver units and 41 hours annually for sending the installation/activation report; At 5 seconds per response for each hourly position report that is sent automatically by the VMS transceiver unit, the expected time burden on the public from all 2,034 respondents would be 24,747 hours annually; and at 4 minutes per response for each exemption report the expected time burden on the public from 500 respondents would be 64 hours annually. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and by e-mail to *David_Rostker@omb.eop.gov* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS reinitiated a formal ESA section 7 consultation in 2005 for both the Pacific whiting midwater trawl fishery and the groundfish bottom trawl fishery. The December 19, 1999, Biological Opinion had defined an 11,000 Chinook incidental take threshold for the Pacific whiting fishery. During the 2005 Pacific whiting season, the 11,000 fish Chinook incidental take threshold was exceeded, triggering reinitiation. Also in 2005, new West Coast Groundfish Observer Program data became available, allowing NMFS to complete an analysis of salmon take in the bottom trawl fishery.

NMFS prepared a Supplemental Biological Opinion dated March 11, 2006, which addressed salmon take in both the Pacific whiting midwater trawl and groundfish bottom trawl fisheries. In its 2006 Supplemental Biological Opinion, NMFS concluded that catch rates of salmon in the 2005 whiting fishery were consistent with expectations considered during prior consultations. Chinook bycatch has averaged about 7,300 over the last 15 years and has only occasionally exceeded the reinitiation trigger of 11,000. Since 1999, annual Chinook bycatch has averaged about 8,450. The Chinook Evolutionarily Significant Units (ESUs) most likely affected by the whiting fishery have generally improved in status since the 1999 ESA section 7 consultation. Although these species remain at risk, as indicated by their ESA listing, NMFS concluded that the higher observed bycatch in 2005 does not require a reconsideration of its prior ''no jeopardy'' conclusion with respect to the fishery. For the groundfish bottom trawl fishery, NMFS concluded that incidental take in the groundfish fisheries is within the overall limits articulated in the Incidental Take Statement of the 1999 Biological Opinion. The groundfish bottom trawl limit from that opinion was 9,000 fish annually. NMFS will continue to monitor and collect data to analyze take

levels. NMFS also reaffirmed its prior determination that implementation of the Groundfish FMP is not likely to jeopardize the continued existence of any of the affected ESUs.

Lower Columbia River coho (70 FR 37160, June 28, 2005) and the Southern Distinct Population Segment of green sturgeon (71 FR 17757, April 7, 2006) were recently listed as threatened under the ESA. As a consequence, NMFS has reinitiated its Section 7 consultation on the Council's Groundfish FMP. After reviewing the available information, NMFS concluded that, in keeping with section 7(a)(2) of the ESA, allowing the fishery to continue under this action would not result in any irreversible or irretrievable commitment of resources that would have the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures.

Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. Pursuant to Executive Order 13175, this action was developed through the Council process with meaningful collaboration with tribal officials from the area covered by the FMP. The tribal representative on the Council did not make a motion on this action for tribal fisheries because this action does not apply to tribal fishers.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: August 1, 2007.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 660.302, the definitions for ''Closure'', ''Exempted gear'' and ''Groundfish Conservation Area or GCA'' are removed, the definitions for ''Fishing gear'' paragraph (11) introductory text, ''Open access fishery'' and ''Open access gear'' are revised, and the definitions for ''Closure or closed'', ''Conservation area(s)'' and ''Continuous transiting or transit through'' are added to read as follows:

§ 660.302 Definitions.

* * * * *

Closure or closed means, when referring to closure of a fishery or a closed fishery, that taking and retaining, possessing, or landing the particular species or species group covered by the fishing closure is prohibited. Unless otherwise announced in the **Federal Register** or authorized in this subpart, offloading must begin before the closure time.

* * * * *

Conservation area(s) means either a Groundfish Conservation Area (GCA), an Essential Fish Habitat Conservation Area (EFHCA), or both.

(1) *Groundfish Conservation Area or GCA* means a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited. GCAs are created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species. Regulations at § 660.390 define coordinates for these polygonal GCAs: Yelloweye Rockfish Conservation Areas, Cowcod Conservation Areas, waters encircling the Farallon Islands, and waters encircling the Cordell Banks. GCAs also include Rockfish Conservation Areas or RCAs, which are areas closed to fishing by particular gear types, bounded by lines approximating particular depth contours. RCA boundaries may and do change seasonally according to the different conservation needs of the different overfished species. Regulations at §§ 660.390 through 660.394 define RCA boundary lines with latitude/longitude coordinates; regulations at Tables 3–5 of Part 660 set RCA seasonal boundaries. Fishing prohibitions associated with GCAs are in addition to those associated with EFH Conservation Areas.

(2) *Essential Fish Habitat Conservation Area or EFHCA* means a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited. EFHCAs are created and enforced for the purpose of contributing to the protection of West Coast groundfish essential fish habitat. Regulations at §§ 660.396–.399 define EFHCA boundary lines with latitude/longitude coordinates. Fishing prohibitions associated with EFHCAs, which are found at § 660.306, are in addition to those associated with GCAs.

Continuous transiting or transit through means that a fishing vessel crosses a groundfish conservation area or EFH conservation area on a constant heading, along a continuous straight line course, while making way by means of a source of power at all times, other than drifting by means of the prevailing water current or weather conditions.

* * * * *

Fishing gear * * *

(11) *Trawl gear* means a cone or funnel-shaped net that is towed through the water, and can include a pair trawl that is towed simultaneously by two boats. Groundfish trawl is trawl gear that is used under the authority of a valid limited entry permit issued under this subpart endorsed for trawl gear. It does not include any type of trawl gear listed as non-groundfish trawl gear. Non-groundfish trawl gear is any trawl gear other than the Pacific Coast groundfish trawl gear that is authorized for use with a valid groundfish limited entry permit. Non-groundfish trawl gear includes pink shrimp, ridgeback prawn, California halibut south of Pt. Arena, and sea cucumbers south of Pt. Arena.

* * * * *

Open access fishery means the fishery composed of commercial vessels using open access gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the harvest of open access allocations (detailed in § 660.320 and Tables 1–2 of this subpart) or governing the fishing activities of open access vessels (detailed in § 660.383 and Table 5 of this subpart.) Any commercial vessel that is not registered to a limited entry permit and which takes and retains, possesses or lands groundfish is a participant in the open access groundfish fishery.

Open access gear means all types of fishing gear except:

(1) Longline or trap (or pot) gear fished by a vessel that has a limited entry permit affixed with a gear endorsement for that gear.

(2) Groundfish trawl.

* * * * *

3. In § 660.303, paragraph (d) is revised to read as follows:

§ 660.303 Reporting and recordkeeping.

* * * * *

(d) *Declaration Reporting requirements*—(1) *Declaration reports for vessels registered to limited entry permits.* The operator of any vessel registered to a limited entry permit must provide NMFS OLE with a declaration report, as specified at paragraph(d)(5)(iv) of this section, before the vessel leaves port on a trip in which the vessel is used to fish in U.S. ocean waters between 0 and 200 nm offshore of Washington, Oregon, or California.

(2) *Declaration reports for all vessels using non-groundfish trawl gear.* The operator of any vessel that is not registered to a limited entry permit and which uses non-groundfish trawl gear to fish in the EEZ (3–200 nm offshore), must provide NMFS OLE with a declaration report, as specified at paragraph(d)(5)(iv) of this section, before the vessel leaves port to fish in the EEZ.

(3) *Declaration reports for open access vessels using non-trawl gear (all types of open access gear other than non-groundfish trawl gear).* The operator of any vessel that is not registered to a limited entry permit, must provide NMFS with a declaration report, as specified at paragraph(d)(5)(iv) of this section, before the vessel leaves port on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ.

(4) *Declaration reports for tribal vessels using trawl gear.* The operator of any tribal vessel using trawl gear must provide NMFS with a declaration report, as specified at paragraph (d)(5)(iv) of this section, before the vessel leaves port on a trip in which fishing occurs within the trawl RCA.

(5) D*eclaration reports.* (i) The operator of a vessel specified in paragraphs (d)(1), (d)(2), and (d)(3) of this section must provide a declaration report to NMFS OLE prior to leaving port on the first trip in which the vessel meets the requirement specified at § 660.312 (b) to have a VMS.

(ii) The vessel operator must send a new declaration report before leaving port on a trip in which a gear type that is different from the gear type most recently declared for the vessel will be used. A declaration report will be valid until another declaration report revising the existing gear declaration is received by NMFS OLE.

(iii) During the period of time that a vessel has a valid declaration report on file with NMFS OLE, it cannot fish with a gear other than a gear type declared by the vessel.

(iv) Declaration reports will include: the vessel name and/or identification number, and gear type (as defined in paragraph(d)(5)(iv)(A) of this section). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt to confirm that a valid declaration report was received for the vessel. Retention of the confirmation code or receipt to verify that a valid declaration report was filed and the declaration requirement was met is the responsibility of the vessel owner or operator. Vessels using non-trawl gear may declare more than one gear type, however, vessels using trawl gear may only declare one of the trawl gear types listed in paragraph (d)(5)(iv)(A) of this section on any trip and may not declare non-trawl gear on the same trip in which trawl gear is declared.

(A) One of the following gear types must be declared:

(*1*) Limited entry fixed gear,

(*2*) [Reserved]

(*3*) Limited entry midwater trawl,

(*4*) Limited entry bottom trawl, not including demersal trawl,

(*5*) Limited entry demersal trawl,

(*6*) Non-groundfish trawl gear for pink shrimp,

(*7*) Non-groundfish trawl gear for ridgeback prawn,

(*8*) Non-groundfish trawl gear for California halibut,

(*9*) Non-groundfish trawl gear for sea cucumber,

(*10*) Open access longline gear for groundfish,

(*11*) Open access Pacific halibut longline gear,

(*12*) Open access groundfish trap or pot gear,

(*13*) Open access Dungeness crab trap or pot gear,

(*14*) Open access prawn trap or pot gear,

(*15*) Open access sheephead trap or pot gear,

(*16*) Open access line gear for groundfish,

(*17*) Open access HMS line gear,

(*18*) Open access salmon troll gear,

(*19*) Open access California Halibut line gear,

(*20*) Open access net gear,

(*21*) Other gear, and

(*22*) Tribal trawl.

(B) [Reserved]

* * * * *

4. In § 660.306, paragraphs (h)(4) through (h)(10) are redesignated as (h)(5) through (h)(11), paragraphs (h)(1) through (h)(3) are revised, and a new paragraph (h)(4) is added, paragraphs (i)(7), (i)(8), (j)(1), and (j)(6) are revised, and (j)(7) and (j)(8) are added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(h) * * *

(1) Operate any vessel registered to a limited entry permit with a trawl endorsement and trawl gear on board in an applicable GCA (as defined at § 660.381(d)), except for purposes of continuous transiting, with all groundfish trawl gear stowed in accordance with § 660.381(d), or except as authorized in the groundfish management measures published at § 660.381.

(2) Operate any vessel registered to a limited entry permit with a longline or trap (pot) endorsement and longline and/or trap gear onboard in an applicable GCA (as defined at § 660.382(c)), except for purposes of continuous transiting, with all groundfish longline and/or trap gear stowed in accordance with § 660.382(c) or except as authorized in the groundfish management measures at § 660.382.

(3) Operate any vessel with non-groundfish trawl gear onboard in any applicable GCA (as defined at § 660.383(c)) except for purposes of continuous transiting, with all trawl gear stowed in accordance with § 660.383(c), or except as authorized in the groundfish management measures published at § 660.383.

(4) Operate any vessel in an applicable GCA (as defined at § 660.383(c)) that has non-trawl gear onboard and is not registered to a limited entry permit on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ, possess or land groundfish taken in the EEZ, except for purposes of continuous transiting, with all groundfish non-trawl gear stowed in accordance with § 660.383(c), or except as authorized in the groundfish management measures published at § 660.383.

* * * * *

(i) * * *

(7) Fail to provide departure or cease fishing reports specified at § 660.314(c)(2).

(8) Fail to meet the vessel responsibilities specified at § 660.314(d).

(j) * * *

(1) Use any vessel required to operate a VMS unit under § 660.312(b) unless that vessel carries a NMFS OLE type-approved mobile transceiver unit and complies with all the requirements described at § 660.312.

* * * * *

(6) Register the same VMS transceiver unit to more than one vessel at the same time.

(7) Falsify any VMS activation report or VMS exemption report that is authorized or required, as specified at § 660.312.

(8) Falsify any declaration report that is required, as specified at § 660.303.

5. In § 660.312, paragraphs (b), (d)(1), (d)(2) introductory text, (d)(2)(ii), (d)(3), (d)(4) introductory text, and (d)(4)(iii) and (iv) are revised, and paragraphs (d)(4)(v) through (vii) are added to read as follows:

§ 660.312 Vessel Monitoring System (VMS) requirements.

* * * * *

(b) *Who is required to have VMS?* The following vessels are required to install a NMFS OLE type-approved mobile transceiver unit and to arrange for a NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE prior to fishing:

(1) Any vessel registered for use with a limited entry permit that fishes in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore).

(2) Any vessel that uses non-groundfish trawl gear to fish in the EEZ.

(3) Any vessel that uses open access gear to take and retain, or possess groundfish in the EEZ or land groundfish taken in the EEZ.

* * * * *

(d) * * *

(1) Obtain a NMFS OLE type-approved mobile transceiver unit and have it installed on board your vessel in accordance with the instructions provided by NMFS OLE. You may obtain a copy of the VMS installation and operation instructions from the NMFS OLE Northwest, VMS Program Manager upon request at 7600 Sand Point Way, NE., Seattle, WA 98115–6349, phone: (206) 526–6133.

(2) Activate the mobile transceiver unit, submit an activation report at least 72 hours prior to leaving port on a trip in which VMS is required, and receive confirmation from NMFS OLE that the VMS transmissions are being received before participating in a fishery requiring the VMS. Instructions for submitting an activation report may be obtained from the NMFS, Northwest OLE VMS Program Manager upon request at 7600 Sand Point Way, NE., Seattle, WA 98115–6349, phone: (206) 526–6133. An activation report must again be submitted to NMFS OLE following reinstallation of a mobile transceiver unit or change in service provider before the vessel may participate in a fishery requiring the VMS.

* * * * *

(ii) *Transferring ownership of VMS unit.* Ownership of the VMS transceiver unit may be transferred from one vessel owner to another vessel owner if all of the following documents are provided to NMFS OLE: a new activation report, which identifies that the transceiver unit was previously registered to another vessel; a notarized bill of sale showing proof of ownership of the VMS transceiver unit; documentation from the communications service provider showing proof that the service agreement for the previous vessel was terminated and that a service agreement was established for the new vessel.

(3) *Transceiver unit operation.* Operate and maintain in good working order the mobile transceiver unit continuously 24 hours a day throughout the fishing year, unless such vessel is exempted under paragraph (d)(4) of this section. The mobile transceiver unit must transmit a signal accurately indicating the vessel's position at least once every hour, 24 hours a day, throughout the year unless a valid exemption report, as described in paragraph (b)(4) of this section, has been received by NMFS OLE. Less frequent position reporting at least once every four hours is authorized when a vessel remains in port for an extended period of time, but the mobile transceiver unit must remain in continuous operation at all times unless the vessel is exempted under this section.

(4) *VMS exemptions.* A vessel that is required to operate the mobile transceiver unit continuously 24 hours a day throughout the fishing year may be exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(vii) of this section, is received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section and specified in the exemption report.

* * * * *

(iii) *Permit transfer exemption.* If the limited entry permit has been transferred from a vessel (for the purposes of this section, this includes permits placed into ''unidentified'' status) the vessel may be exempted from VMS requirements providing the vessel is not used to fish in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore) for the remainder of the fishing year. If the vessel is used to fish in this area for any species of fish at any time during the remaining portion of the fishing year without being registered to a limited entry permit, the vessel is required to have and use VMS.

(iv) *Long-term departure exemption.* A vessel participating in the open access fishery that is required to have VMS under § 660.312(b)(2) or 660.312(b)(3) may be exempted from VMS provisions after the end of the fishing year in which it participated in the open access fishery, providing the vessel submits a completed exemption report signed by the vessel owner that includes a statement signed by the vessel owner indicating that the vessel will not be used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ during the new fishing year.

(v) *Emergency exemption.* Vessels required to have VMS under 660.312(b) may be exempted from VMS provisions in emergency situations that are beyond the vessel owner's control, including but not limited to: fire, flooding, or extensive physical damage to critical areas of the vessel. A vessel owner may apply for an emergency exemption from the VMS requirements specified in § 660.312(b) for his/her vessel by sending a written request to NMFS OLE specifying the following information: The reasons for seeking an exemption, including any supporting documents (e.g., repair invoices, photographs showing damage to the vessel, insurance claim forms, etc.); the time period for which the exemption is requested; and the location of the vessel while the exemption is in effect. NMFS OLE will issue a written determination granting or denying the emergency exemption request. A vessel will not be covered by the emergency exemption until NMFS OLE issues a determination granting the exemption. If an exemption is granted, the duration of the exemption will be specified in the NMFS OLE determination.

(vi) *Submission of exemption reports.* Signed long-term departure exemption reports must be submitted by fax or by emailing an electronic copy of the actual report. In the event of an emergency in which an emergency exemption request will be submitted, initial contact with NMFS OLE must be made by telephone, fax or email within 24 hours from when the incident occurred. Emergency exemption requests must be requested in writing within 72 hours from when the incident occurred. Other exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the **Federal Register**. Submission methods for exemption requests, except long-term departures and emergency exemption requests, may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the vessel owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record for the vessel owner and is not received because the vessel owner's actual address has changed without notification to NMFS, as required at § 660.335(a)(2). Owners of vessels required to use VMS who do not receive

instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the exemption is required to obtain information needed to make exemption reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Time).

(vii) *Valid exemption reports.* For an exemption report to be valid, it must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at paragraph (d)(4)(i) through (iv) of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption; at least 2 hours before the vessel is placed back in the water following a haul out exemption; at least 2 hours before the vessel resumes fishing for any species of fish in state or Federal waters off the States of Washington, Oregon, or California after it has received a permit transfer exemption; or at least 2 hours before a vessel resumes fishing in the open access fishery after a long-term departure exemption. If a vessel is required to submit an activation report under § 660.312(d)(2)(i) before returning to fish, that report may substitute for the exemption and cancellation. Initial contact must be made with NMFS OLE not more than 24 hours after the time that an emergency situation occurred in which VMS transmissions were disrupted and followed by a written emergency exemption request within 72 hours from when the incident occurred. If the emergency situation upon which an emergency exemption is based is resolved before the exemption expires, an exemption cancellation must be received by NMFS at least 2 hours before the vessel resumes fishing.

6. In § 660.335, paragraph (f)(1) is revised to read as follows:

§ 660.335 Limited entry permits—renewal, combination, stacking, change of permit ownership or permit holdership, and transfer.

* * * * *

(f) * * *

(1) A permit owner may designate the vessel registration for a permit as ''unidentified,'' meaning that no vessel has been identified as registered for use with that permit. No vessel is authorized to use a permit with the vessel registration designated as ''unidentified.'' A vessel owner who removes a permit from his vessel and registers that permit as ''unidentified'' is not exempt from VMS requirements at § 660.312 unless specifically authorized by that section.

* * * * *

7. In § 660.381, paragraph (b)(4), (c)(4), (d) introductory text, (d)(4) and (d)(5) are revised to read as follows:

§ 660.381 Limited entry trawl fishery management measures.

* * * * *

(b) * * *

(4) *Large footrope trawl gear.* Large footrope gear is bottom trawl gear with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope). Fishing with bottom trawl gear with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins, or other material encircling or tied along the length of the footrope) is prohibited anywhere in EFH within the EEZ, as defined by latitude/longitude coordinates at § 660.395.

* * * * *

(c) * * *

(4) *More than one type of trawl gear on board.* The cumulative trip limits in Table 3 (North) or Table 3 (South) of this subpart must not be exceeded.

(i) The following restrictions apply to vessels operating north of 40°10′ N. lat.:

(A) A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may have more than one type of limited entry bottom trawl gear on board, either simultaneously or successively, during a cumulative limit period.

(B) If a vessel fishes exclusively with large or small footrope trawl gear during an entire cumulative limit period, the vessel is subject to the small or large footrope trawl gear cumulative limits and that vessel must fish seaward of the RCA during that limit period.

(C) If a vessel fishes exclusively with selective flatfish trawl gear during an entire cumulative limit period, then the vessel is subject to the selective flatfish trawl gear cumulative limits during that limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA.

(D) If more than one type of bottom trawl gear (selective flatfish, large footrope, or small footrope) is on board, either simultaneously or successively, at any time during a cumulative limit period, then the most restrictive cumulative limit associated with the bottom trawl gear on board during that cumulative limit period applies for the entire cumulative limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA.

(E) If a vessel fishes both north and south of 40°10′ N. lat. with any type of small footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear (See crossover provisions at § 660.370(h)(8).)

(F) Midwater trawl gear is allowed only for vessels participating in the primary whiting season.

(ii) The following restrictions apply to vessels operating south of 40°10′ N. lat.:

(A) A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may not have small footrope trawl gear and any other type of bottom trawl gear onboard simultaneously.

(B) For vessels using more than one type of trawl gear during a cumulative limit period, limits are additive up to the largest limit for the type of gear used during that period. (Example: If a vessel harvests 300 lb (136 kg) of chilipepper rockfish with small footrope gear, it may harvest up to 11,700 lb (5,209 kg) of chilipepper rockfish with large footrope gear during July and August 2007, because the largest cumulative limit for chilipepper rockfish during that period is 12,000 lb (5,443 kg) for large footrope gear.)

(C) If a vessel fishes both north and south of 40°10′ N. lat. with any type of small footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear (See crossover provisions at § 660.370(h)(8).)

(d) *Groundfish Conservation Areas (GCAs) applicable to trawl vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.390 through 660.394. A vessel that is fishing within a GCA listed in this paragraph (d) with trawl gear authorized for use within a GCA may not have any other type of trawl gear on board the vessel. The following GCAs apply to vessels participating in the limited entry trawl fishery.

* * * * *

(4) *Trawl rockfish conservation areas.* The trawl RCAs are closed areas,

defined by specific latitude and longitude coordinates which are specified at §§ 660.390 through 660.394. Boundaries for the trawl RCAs applicable to groundfish trawl vessels throughout the year are provided in the header to Table 3 (North) and Table 3 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate a vessel with trawl gear onboard within the trawl RCA, except for the purpose of continuous transiting, or when the use of trawl gear is authorized in this section. It is lawful to fish with groundfish trawl gear within the trawl RCA only under the following conditions: vessels fishing with mid-water trawl gear on Pacific whiting trips during the primary whiting season, provided a valid declaration report has been filed with NMFS OLE, as required at § 660.303(d); and vessels fishing with demersal seine gear between 38° N. lat. and 36° N. lat. shoreward of a boundary line approximating the 100 fm (183 m) depth contour as defined at § 660.393, provided a valid declaration report has been filed.

(ii) Trawl vessels may transit through an applicable GCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors. These restrictions do not apply to vessels fishing with midwater trawl gear for whiting during a primary season.

(iii) It is unlawful to take and retain, possess, or land groundfish taken with limited entry trawl gear within the trawl RCA, unless otherwise authorized in this section.

(iv) If a vessel fishes in the trawl RCA, it may not participate in any fishing on that trip that is prohibited within the trawl RCA. [For example, if a vessel participates in the pink shrimp fishery within the RCA, the vessel cannot on the same trip participate in the DTS fishery seaward of the RCA.] Nothing in these Federal regulations supercedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

(5) *Essential Fish Habitat Conservation Areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.395 through 660.399, where specified types of fishing are prohibited in accordance with § 660.306. EFHCAs apply to vessels using bottom trawl gear or to vessels using ''bottom contact gear,'' which is defined at § 660.302 to include bottom trawl gear, among other gear types.

(i) The following EFHCAs apply to vessels operating within the West Coast EEZ with bottom trawl gear:

(A) *Seaward of a boundary line approximating the 700–fm (1280–m) depth contour.* Fishing with bottom trawl gear is prohibited in waters of depths greater than 700 fm (1280 m) within the EFH, as defined by specific latitude and longitude coordinates at § 660.395 and § 660.396.

(B) *Shoreward of a boundary line approximating the 100–fm (183 m) depth contour.* Fishing with bottom trawl gear with a footrope diameter greater than 8 inches (20 cm) is prohibited in waters shoreward of a boundary line approximating the 100–fm (183–m) depth contour, as defined by specific latitude and longitude coordinates at § 660.393.

(C) *EFHCAs for all bottom trawl gear.* Fishing with bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.397 through 660.398: Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon.

(D) *EFHCAs for all bottom trawl gear, except demersal seine gear.* Fishing with bottom trawl gear except demersal seine gear (defined at § 660.302) is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 660.399: Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.

(ii) *EFHCAs for bottom contact gear, which includes bottom trawl gear.* Fishing with bottom contact gear, including bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.398 through 660.399: Thompson Seamount, President Jackson Seamount, Cordell Bank (50–fm (91–m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined with specific latitude and longitude coordinates at § 660.395.

8. In § 660.382, paragraph (c) introductory text, and paragraphs (c)(4)(i), (c)(4)(ii), (c)(5), and (c)(8) are revised to read as follows:

§ 660.382 Limited entry fixed gear fishery management measures.

* * * * *

(c) *Groundfish Conservation Areas applicable to limited entry fixed gear vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.390 through 660.394. A vessel that is authorized by this paragraph to fish within a GCA (e.g. fishing for ''other flatfish'' using no more than 12 hooks, ''Number 2'' or smaller), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels participating in the limited entry fixed gear fishery.

* * * * *

(4) * * *

(i) Fishing for ''other flatfish'' is permitted within the CCAs under the following conditions: when using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1-lb (0.45-kg) weights per line; and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 20 fm (37 m) depth contour within the CCAs when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(5) *Non-trawl Rockfish Conservation Areas (RCA).* The non-trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.390 through 660.394) designed to approximate specific depth contours, where fishing for groundfish with non-trawl gear is prohibited. Boundaries for the non-trawl RCA throughout the year are provided in the header to Table 4

(North) and Table 4 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate a vessel with limited entry non-trawl gear in the non-trawl RCA, except for the purpose of continuous transit, or when the use of limited entry non-trawl gear is authorized in Part 660. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the non-trawl RCA, unless otherwise authorized in Part 660.

(ii) Limited entry non-trawl vessels may transit through the non-trawl RCA, with or without groundfish on board, provided all groundfish non-trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

(iii) The non-trawl RCA restrictions in this section apply to vessels registered to fixed gear limited entry permits fishing for species other than groundfish with non-trawl gear on trips where groundfish species are retained. Unless otherwise authorized by Part 660, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-trawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the non-trawl RCA. [For example, if a vessel participates in the salmon troll fishery within the RCA, the vessel cannot on the same trip participate in the sablefish fishery outside of the RCA.]

(iv) It is lawful to fish within the non-trawl RCA with limited entry fixed gear only under the following conditions: when fishing for ''other flatfish'' off California (between 42° N. lat. south to the U.S./Mexico border) using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1-lb (0.91 kg) weights per line when trip limits authorize such fishing, provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

* * * * *

(8) *Essential Fish Habitat Conservation Areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.396 through 660.399, where specified types of fishing are prohibited in accordance with § 660.306. EFHCAs apply to vessels using ''bottom contact gear,'' which is defined at § 660.302 to include limited entry fixed gear (longline and pot/trap,) among other gear types. Fishing with all bottom contact gear, including longline and pot/trap gear, is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 660.398—.399: Thompson Seamount, President Jackson Seamount, Cordell Bank (50–fm (91–m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined by specific latitude and longitude coordinates at § 660.395.

9. In § 660.383, paragraphs (b)(1), (c) introductory text, (c)(5)(i), (c)(5)(ii), (c)(6), (c)(7), and (c)(10) are revised to read as follows:

§ 660.383 Open access fishery management measures.

* * * * *

(b) * * *

(1) *Non-groundfish trawl gear.* Non-groundfish trawl gear is any trawl gear other than limited entry groundfish trawl gear as described at § 660.381(b) and as defined at § 660.302 for trawl vessels with limited entry groundfish permits. Non-groundfish trawl gear is generally trawl gear used to target pink shrimp, ridgeback prawn, California halibut and sea cucumber. Non-groundfish trawl gear is exempt from the limited entry trawl gear restrictions at § 660.381(b). Fishing with bottom trawl gear with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins, or other material encircling ro tied along the length of the footrope) is prohibited anywhere in EFH within the EEZ, as defined by latitude/longitude coordinates at § 660.395.

* * * * *

(c) *Groundfish Conservation Areas Affecting Open Access Vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. A vessel that is authorized by this paragraph to fish within a GCA (e.g. fishing for ''other flatfish'' using no more than 12 hooks, ''Number 2'' or smaller), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels participating in the open access groundfish fishery.

* * * * *

(5) * * *

(i) Fishing for ''other flatfish'' is permitted within the CCAs under the following conditions: when using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1-lb (0.45-kg) weights per line; and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 20 fm (37 m) depth contour within the CCAs when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(6) *Non-trawl Rockfish Conservation Areas for the open access fisheries.* The non-trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.390 through 660.394) designed to approximate specific depth contours, where fishing for groundfish with non-trawl gear is prohibited. Boundaries for the non-trawl RCA throughout the year are provided in the open access trip limit tables, Table 5 (North) and Table 5(South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate a vessel in the non-trawl RCA that has non-trawl gear onboard and is not registered to a limited entry permit on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ, or land groundfish taken in the EEZ, except for the purpose of continuous transiting, or when the use of non-trawl gear is authorized in part 660.

(ii) On any trip on which a groundfish species is taken with non-trawl open access gear and retained, the open access non-trawl vessel may transit through the non-trawl RCA only if all groundfish non-trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

(iii) The non-trawl RCA restrictions in this section apply to vessels taking and retaining or possessing groundfish in the EEZ, or landing groundfish taken in the EEZ. Unless otherwise authorized by Part 660, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-trawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the non-trawl RCA. [For example, if a vessel participates in the salmon troll fishery within the RCA, the vessel cannot on

the same trip participate in the sablefish fishery outside of the RCA.]

(iv) Fishing for ''other flatfish'' off California (between 42° N. lat. south to the U.S./Mexico border) is permitted within the non-trawl RCA with fixed gear only under the following conditions: when using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1-lb (0.91 kg) weights per line when trip limits authorize such fishing; and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(7) *Non-groundfish Trawl Rockfish Conservation Areas for the open access non-groundfish trawl fisheries.* The non-groundfish trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.390 through 660.394) designed to approximate specific depth contours, where fishing for groundfish with non-trawl gear is prohibited. Boundaries for the non-trawl RCA throughout the year are provided in the open access trip limit tables, Table 5 (North) and Table 5 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate in the non-groundfish trawl RCA with non-groundfish trawl gear onboard, except for the purpose of continuous transiting, or when the use of trawl gear is authorized in part 660. It is unlawful to take and retain, possess, or land groundfish taken with non-groundfish trawl gear within the non-trawl RCA, unless otherwise authorized in part 660.

(ii) Non-groundfish trawl vessels may transit through the non-groundfish trawl RCA, with or without groundfish on board, provided all non-groundfish trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors.

(iii) The non-groundfish trawl RCA restrictions in this section apply to vessels taking and retaining or possessing groundfish in the EEZ, or landing groundfish taken in the EEZ. Unless otherwise authorized by Part 660, it is unlawful for a vessel to retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-groundfish trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-groundfish trawl RCA, it may not participate in any fishing on that trip that is prohibited within the non-groundfish trawl RCA. [For example, if a vessel participates in the pink shrimp fishery within the RCA, the vessel cannot on the same trip participate in the DTS fishery seaward of the RCA.] Nothing in these Federal regulations supercedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

(iv) It is lawful to fish with non-groundfish trawl gear within the non-groundfish trawl RCA only under the following conditions:

(A) Pink shrimp trawling is permitted in the non-groundfish trawl RCA when a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE. Groundfish caught with pink shrimp trawl gear may be retained anywhere in the EEZ and are subject to the limits in Table 5 (North) and Table 5 (South) of this subpart.

(B) When the shoreward line of the trawl RCA is shallower than 100 fm (183 m), vessels using ridgeback prawn trawl gear south of 34°27.00′ N. lat. may operate out to the 100 fm (183 m) boundary line specified at § 660.393 when a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE. Groundfish caught with ridgeback prawn trawl gear are subject to the limits in Table 5 (North) and Table 5 (South) of this subpart.

* * * * *

(10) *Essential Fish Habitat Conservation Areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.396 through 660.399, where specified types of fishing are prohibited in accordance with § 660.306. EFHCAs apply to vessels using bottom trawl gear and or vessels using ''bottom contact gear,'' which is defined at § 660.302 and includes, but is not limited to: beam trawl, bottom trawl, dredge, fixed gear, set net, demersal seine, dinglebar gear, and other gear (including experimental gear) designed or modified to make contact with the bottom.

(i) The following EFHCAs apply to vessels operating within the West Coast EEZ with bottom trawl gear:

(A) *Seaward of a boundary line approximating the 700-fm (1280-m) depth contour.* Fishing with bottom trawl gear is prohibited in waters of depths greater than 700 fm (1280 m) within the EFH, as defined by specific latitude and longitude coordinates at § 660.395 and § 660.396.

(B) *Shoreward of a boundary line approximating the 100-fm (183 m) depth contour.* Fishing with bottom trawl gear with a footrope diameter greater than 8 inches (20 cm) is prohibited in waters shoreward of a boundary line approximating the 100-fm (183-m) depth contour, as defined by specific latitude and longitude coordinates at § 660.393.

(C) *EFHCAs for all bottom trawl gear.* Fishing with all bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.397 through 660.398: Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon.

(iv) *EFHCAs for all bottom trawl gear, except demersal seine gear.* Fishing with all bottom trawl gear except demersal seine gear (defined at § 660.302) is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 660.399: Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.

(v) *EFHCAs for bottom contact gear, which includes bottom trawl gear.* Fishing with bottom contact gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.398–.399: Thompson Seamount, President Jackson Seamount, Cordell Bank (50-fm (91-m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined by specific latitude and longitude coordinates at § 660.395.

* * * * *

[FR Doc. E7–15339 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 72, No. 152

Wednesday, August 8, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0090]

Notice of Request for Extension of Approval of an Information Collection; Brucellosis in Sheep, Goats, and Horses; Payment of Indemnity

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 payment of indemnity for sheep, goats, and horses destroyed because of brucellosis.

DATES: We will consider all comments that we receive on or before October 9, 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–2007–0090 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–2007–0090, 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–2007–0090.

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 regulations for the payment of indemnity for sheep, goats, and horses destroyed because of brucellosis, contact Dr. Debra Donch, Brucellosis Program Manager, Ruminant Health Programs, NCAHP, VS, APHIS, 4700 River Road, Unit 43, Riverdale, MD 20737; (301) 734–5952. 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: Brucellosis in Sheep, Goats, and Horses; Payment of Indemnity.

OMB Number: 0579–0185.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture 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.

Brucellosis is a contagious disease caused by bacteria of the genus *Brucella.* It affects both animals and humans. In its principal animal hosts, it causes loss of young through spontaneous abortion or birth of weak offspring, reduced milk production, and infertility. There is no economically feasible treatment for brucellosis in livestock. Brucellosis is mainly a disease of cattle, bison, and swine. *Brucella abortus* affects mainly bovines; *B. suis* affects mainly swine. Goats, sheep, and horses are also susceptible to *B. abortus.* In horses, the disease is known as fistulous withers. A third strain of *Brucella, B. melitensis*, affects mainly goats and sheep.

The regulations in 9 CFR part 51 include an indemnity program for sheep, goats, and horses that must be destroyed because of brucellosis. This indemnity program, which is similar to our indemnity program for cattle and bison, is voluntary and was designed to give producers an incentive to cooperate and assist our ongoing program to eradicate brucellosis in the United States.

The indemnity program for the voluntary depopulation of herds of goats, flocks of sheep, and mixed herds of goats and sheep affected with brucellosis, and individual horses infected with brucellosis requires the use of a number of information collection activities, including the completion of indemnity claims, test records, and permits; the use of official seals and animal identification; and the submission of proof of destruction and requests for the extension of certain program-related deadlines.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities 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 per response.

Respondents: Sheep, goat, and horse owners who may be eligible to participate in a brucellosis indemnity program; and State and accredited veterinarians.

Estimated annual number of respondents: 3.

Estimated annual number of responses per respondent: 2.666666666.

Estimated annual number of responses: 8.

Estimated total annual burden on respondents: 2 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 2nd day of August 2007.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–15415 Filed 8–7–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0078]

Notice of Request for Extension of Approval of an Information Collection; Update of Nursery Stock Regulations

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 our regulations that govern the importation of nursery stock (plants and plant parts and products for propagation) into the United States.

DATES: We will consider all comments that we receive on or before October 9, 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–2007–0078 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–2007–0078, 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–2007–0078.

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 the nursery stock regulations, contact Ms. Vanessa P. Schreier, Assistant Director of Preclearance Programs, Quarantine Policy, Analysis and Support, PPQ, APHIS, 4700 River Road, Unit 60, Riverdale, MD 20737; (301) 734–8259. 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: Update of Nursery Stock Regulations.

OMB Number: 0579–0190.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. Regulations authorized by the PPA concerning the importation of nursery stock, plants, roots, bulbs, seeds and other plant products are contained in ''Subpart-Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products'' (7 CFR 319.37 through 319.37–14).

Under the regulations, individuals who are involved in growing, exporting, and importing nursery stock must provide information to the Animal and Plant Health Inspection Service about the commodities they wish to bring into the United States. This information serves as the supporting documentation needed to issue required forms and documents, and is vital to help ensure that plant pests are not introduced into the United States.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities 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 hour per response.

Respondents: Importers of nursery stock; foreign government officials.

Estimated annual number of respondents: 30.

Estimated annual number of responses per respondent: 5.

Estimated annual number of responses: 150.

Estimated total annual burden on respondents: 75 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 2nd day of August 2007.

W. Ron DeHaven,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–15418 Filed 8–7–07; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 2007–0025]

Codex Alimentarius Commission: Seventh Session of the Codex ad hoc Intergovernmental Task Force on Foods Derived from Biotechnology

AGENCY: Office of the Under Secretary for Food Safety, Food Safety and Inspection Service, Department of Agriculture.

ACTION: Notice of public meeting.

SUMMARY: The Office of the Under Secretary for Food Safety, United States Department of Agriculture (USDA), and the Food and Drug Administration (FDA) are sponsoring a public meeting on September 6, 2007, to discuss the agenda items coming before the Seventh Session of the Codex *ad hoc* Intergovernmental Task Force on Foods Derived from Biotechnology (FBT) and to present draft U.S. positions on the agenda items. The Seventh Session of the FBT will be held in Chiba, Japan, September 24–28, 2007. The Under Secretary and FDA recognize the importance of providing interested parties the opportunity to comment on the agenda items that will be discussed at this forthcoming session of the FBT.

DATES: The public meeting is scheduled for Thursday, September 6, 2007, from 2 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in Room 0161 South Agriculture Building (Basement), 1400 Independence Avenue, SW., Washington, DC (please enter at Wing One). Documents related to the Seventh Session of the FBT will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/current.asp.*

For Further Information About the Seventh Session of the FBT Contact: U.S. Delegate, Dr. Eric Flamm, Senior Advisor, Office of the Commissioner, Food and Drug Administration (HF–23), Parklawn Building, Rockville, MD 20857, Phone (301) 827–0591, Fax: (301) 827–4774, E-mail: *eric.flamm@fda.hhs.gov.*

For Further Information About the Public Meeting Contact: Edith Kennard, Staff Officer, U.S. Codex Office, Food Safety and Inspection Service (FSIS), Room 4861, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, Phone: (202) 720–5261, Fax: (202) 720–3157, E-mail: *edith.kennard@fsis.usda.gov.* A call-in number can be provided upon request.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius (Codex) was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The Codex *ad hoc* Intergovernmental Task Force on Foods Derived from Biotechnology was established by the 23rd Session of the Codex Alimentarius Commission in 1999 to elaborate standards, guidelines, or other principles related to foods derived from biotechnology. The Task Force completed its mandates within its four-year timeframe and was dissolved by the 26th Session of the Commission. The 27th Session re-established the Task Force for another four-year period. The Task Force is hosted by the government of Japan.

Issues To Be Discussed at the Public Meeting

The following items on the agenda for the Seventh Session of the FBT will be discussed during the public meeting:

- Matters Referred to the Committee from Other Codex Bodies.
- Review of the Work by International Intergovernmental Organizations Related to Foods Derived from Biotechnology.
- Summary of the Report of the FAO/WHO Expert. Consultation on the Safety Assessment of Foods Derived from Recombinant-DNA Animals.
- Proposed Draft Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Animals.
- Proposed Draft Annex to the Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants: Food Safety Assessment of Foods Derived from Recombinant-DNA plants Modified for Nutritional or Health Benefits.
- Proposed Draft Annex to the Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants with Low-level Presence of Recombinant-DNA Plant Material.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Japanese Secretariat to the Meeting. Members of the public may access copies of these documents at *http://www.codexalimentarius.net/current.asp.*

Public Meeting

At the September 6, 2007, public meeting, draft U.S. positions on these agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate of the FBT, Dr. Eric Flamm, at *eric.flamm@fda.hhs.gov.* Written comments should state that they relate to activities of the Seventh Session of the FBT.

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 notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2007_Notices_Index/.* 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, recalls and other types of information that could affect or would be of interest to constituents and stakeholders. The update is communicated via Listserv, a free electronic mail subscription service for industry, trade and farm groups, consumer interest groups, allied health professionals, and other individuals who have asked to be included. The update is available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and 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.

Done at Washington, DC on: August 2, 2007.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. E7–15396 Filed 8–7–07; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Wallowa-Whitman National Forest, Oregon; Wallowa-Whitman National Forest Travel Management Plan

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: On May 3, 2007, the USDA Forest Service, Wallowa-Whitman National Forest, published a Notice of Intent in **Federal Register** (72 FR 24558) to prepare an environmental impact statement (EIS) for the Forest Travel Management Plan. On June 1, 2007, a Revised Notice of Intent was published in **Federal Register** (72 FR 30540) extending the scoping period for receiving comments on the proposed action from June 30, 2007, to August 17, 2007. The Notice of Intent is being revised a second time to further extend the scoping period until November 16, 2007.

DATES: Written comments concerning the proposed action should be received by November 16, 2007.

FOR FURTHER INFORMATION CONTACT: Cindy Whitlock, Interdisciplinary Team Leader, Wallowa-Whitman National Forest, La Grande Ranger District, 3502 Highway 30, LaGrande, OR, 97850, Phone: (541) 962–8501.

Dated: August 2, 2007.

Steven A. Ellis,

Wallowa-Whitman National Forest Supervisor.

[FR Doc. 07–3858 Filed 8–7–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes and Ochoco National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes and Ochoco National Forests Resource Advisory Committee will meet in Redmond, Oregon. The purpose of the meeting is to review proposed projects and make recommendations under Title II of the Secure Rural Schools and Community Self-Determination Act of 2000.

DATES: The meeting will be held August 28, 2007 from 9 a.m. to 5 p.m. If the project selection process is not complete on August 28, the Committee will meet again on August 29, 2007, from 9 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the office of the Central Oregon Intergovernmental Council, 2363 SW. Glacier Place, Redmond, Oregon 97756. Send written comments to Jeff Walter, Designated Federal Official, for the Deschutes and Ochoco Resource Advisory Committee, c/o Forest Service, USDA, Ochoco National Forest, 3160 NE 3rd St., Prineville, OR 97754 or electronically to *jwalter@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Jeff Walter, Designated Federal Official, Ochoco National Forest, 541–416–6625.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Title II matters to the attention of the Committee may file written statements with the Committee staff before the meeting. A public input session will be provided and individuals who made written requests by June 29 will have the opportunity to address the committee at the session.

Dated: July 26, 2007.

Jeff Walter,

Forest Supervisor, Designated Federal Official.

[FR Doc. 07–3859 Filed 8–7–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Amendment to Certification of Colorado's Central Filing System

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: In response to a request from Colorado's Secretary of State we are approving amendments to the debtor identification and signature requirements of the certified central filing system for Colorado to permit the conversion of all debtor social security and taxpayer identification numbers into approved unique identifiers; and the filing of effective financing statements and amendments that are authorized or authenticated without signatures. The proposed specific procedure whereby Colorado will automatically convert social security numbers and taxpayer identification numbers into ten number unique identifiers has been reviewed and determined to permit the numerical searching of master lists while providing protection against identity theft.

DATES: *Effective Date:* August 8, 2007.

SUPPLEMENTARY INFORMATION: The Grain Inspection, Packers and Stockyards Administration (GIPSA) administers the Clear Title program for the Secretary of Agriculture. The Clear Title program is authorized by Section 1324 of the Food Security Act of 1985, which requires that States implementing central filing system for notification of liens on farm products must have such systems certified by the Secretary of Agriculture.

A listing of the states with certified central filing systems is available through the Internet on the GIPSA Web site (*http://www.usda.gov/gipsa/*). Farm products covered by a State's central filing system are also identified through the GIPSA Web site. The Colorado central filing system covers all farm products.

We originally certified the central filing system for Colorado on September 28, 1992. On March 30, 2007, Keith Whitelaw, Director, Business Division, Colorado Secretary of State's Office, requested the certification be amended to incorporate the use of an approved unique identifier other than a Social Security Number, in accordance with 2004 amendments to Section 1324 of the Food Security Act. On June 12, 2007, Mr. Whitelaw confirmed that Colorado's clear title forms, instructions and regulations had also been modified to indicate that signatures were optional when the filing of effective financing statements, and amendments thereto, is authorized or otherwise authenticated, in accordance with the 2002 amendments to Section 1324 of the Food Security Act.

This notice announces our approval of the amended certification for Colorado's central filing system. Details of the specific procedure by which Colorado will create approved unique identifiers are being provided by GIPSA to the Secretaries of State of other states with certified central filing systems. The statewide central filing system of Colorado is certified for all farm products produced in that state. Examples of farm products and possible entries for lien identification include: All field crops, all fruits, all livestock,

all vegetables, angora, apples, apricots, artichokes, asparagus;

Barley, beefalo, broccoli, buffalo, cabbage, cantaloupe, carrots, cattle and calves, cauliflower, celery, cherries, chickens, corn, cotton (field or row crop), cucumbers;

Dry beans, ducks, eggplant, eggs, elk, emu, fish (specify), flax seed, fur-bearing animals (specify), geese, grapes, green beans, green peas;

Hay, hogs, honey, honeydew melon, horses, legumes, lettuce, llamas, milk, millet, mules, muskmelon;

Nectarines, oats, okra, onions, ostrich, other field crops (specify), other fruits (specify), other livestock (specify), other vegetables (specify);

Peaches, pears, pecans, peppers, pheasant, plums, popcorn, potatoes, pumpkins, quail, radishes, raspberries, rye;

Safflower, seed crops (specify), semen, sheep and lamb, silage, snap beans, sorghum grain, soybeans, squash, strawberries, sugar beets, sunflower seeds, sweet corn;

Tomatoes, trees (specify), triticale, turkeys, turnips, vetch, walnuts, watermelon, wheat, and wool.

Authority: 7 U.S.C. 1631, 7 CFR 2.22(a)(3)(v) and 2.81(a)(5), and 9 CFR 205.101(e).

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E7–15420 Filed 8–7–07; 8:45 am]

BILLING CODE 3410–EN–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Hawaii State Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights and the regulations of the Federal Advisory Committee Act (FACA), that a meeting of the Hawaii Advisory Committee will convene at 1 p.m. and adjourn at 5 p.m. on Monday, August 20, 2007 in the auditorium of the Hawaii state capitol located at 415 S. Beretania St. in Honolulu, Hawaii. The purpose of the briefing is to hear from experts about the proposed Native Hawaiian Government Reorganization Act of 2007, Akaka bill, which seeks to establish a process for Native Hawaiians to gain federal recognition. There will be an open session for members of the public to make short statements to the Committee.

Members of the public are entitled to submit written comments; the comments must be received in the Western Regional Office by September 1, 2007. The address is 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. Persons wishing to e-mail their comments, or to present their comments verbally at the meeting, or who desire additional information should contact Barbara de La Viez, Civil Rights Analyst, Eastern Regional Office, U.S. Commission on Civil Rights at (202) 376–7533 [TDY] 202–376–8116], or by e-mail at *bdelaviez@usccr.gov.*

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Office at least ten (10) working days before the scheduled date of the planning meeting.

Records generated from this meeting may be inspected and reproduced at the Western Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated at Washington, DC, August 3, 2007.

Ivy L. Davis,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 07–3885 Filed 8–7–07; 8:45 am]

BILLING CODE 6335–01–M

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Thursday, August 16, 2007; 5 p.m.

PLACE: Via Teleconference; Public Call In Number: 1–800–597–7623.

Meeting Agenda

I. Approval of Agenda
II. Approval of Minutes of August 2, Meeting
III. Management and Operations
- 2009 Budget

IV. Program Planning
- Commissioner Responses to Briefing Reports

V. State Advisory Committee Issues
- New Jersey SAC
- South Carolina SAC
- Vermont SAC

VI. Future Agenda Items
VII. Adjourn

FOR FURTHER INFORMATION CONTACT: Manuel Alba, Press and Communications (202) 376–8582.

Dated: August 6, 2007.

Kenneth L. Marcus,

Staff Director.

[FR Doc. 07–3896 Filed 8–6–07; 3:42 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: West Coast Community Economic Data Collection.

Form Number(s): None.

OMB Approval Number: None.

Type of Request: Regular submission.

Burden Hours: 2,931.

Number of Respondents: 1,115.

Average Hours per Response: Business survey, 45 minutes; household survey, 30 minutes; visitor pre-questionnaire, 5 minutes; and visitor questionnaire, 15 minutes.

Needs and Uses: NOAA, National Marine Fisheries Service (NMFS) proposes to collect information pertaining to the economic utilization of marine resources by coastal communities on the West Coast that will improve fishery management; satisfy legal mandates under Executive Order 12866, Title 16 of the Magnuson Steven Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*); and quantify achievement of the performances measures in the NMFS Strategic Operating Plans. To this end, economic data from eight representative small-to medium-sized communities will be surveyed to determine the communities' economic structure and utilization of marine resources. Households, businesses, and visitors to the communities will be surveyed as to their regional economic impact in the community.

Affected Public: Individuals or households, business or other for profit organizations.

Frequency: One-time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by

calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*.)

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: August 2, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–15395 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2007 Business Expenses Supplement to the Annual Wholesale and Retail Trade Surveys.

Form Number(s): SA–42A(SUP), SA–42(ESUP), SA–44(ASUP), SA–44(ESUP), SA–45(ASUP), SA–45(ESUP), SA–721A(SUP), SA–721E(SUP), SA–722A(SUP), SA–722E(SUP).

Agency Approval Number: None.

Type of Request: New collection.

Burden Hours: 76,580.

Number of Respondents: 28,363.

Average Hours per Response: 2.7 hours.

Needs and Uses: The 2007 Business Expenses Supplement (BES) will supplement basic economic statistics produced by the 2007 Economic Census of Wholesale Trade, Retail Trade, and Accommodation and Food Services Industries with estimates of detailed operating expenses. Further, it will provide measures of value produced for wholesale trade and retail trade. Essential measurement of the Nation's economy requires compilation of comprehensive and reliable data on both economic outputs (e.g., sales) and inputs (e.g., utilities and advertising expenses). This supplement is the sole source of comprehensive expenses input data for covered industries. The Census Bureau will collect the information by means of a mail canvass with electronic reporting option directed to a sample of business units that represent one or more domestic establishments in covered industries. Results will be presented primarily in electronic reports containing statistical summaries by industry for the United States.

This information collection is part of the 2007 Economic Census, which is required by law under Title 13, United States Code (U.S.C.). Section 131 of this statute directs the taking of a census of businesses, including the distributive trades, service establishments, and transportation, at 5-year intervals. Section 224 makes reporting mandatory. Section 193 authorizes surveys that collect supplementary statistics related to the main topic of the censuses. Finally, Section 195 permits the use of statistical sampling methods.

Information on business operating expenses was compiled in the 2002 Business Expenses Survey covering wholesale distributors, retail trade, accommodation and food services, and selected service industries. Data on operating expenses for selected service industries are currently compiled by the Census Bureau's Service Annual Survey.

The economic census is a primary source of facts about the structure and functioning of the Nation's economy. It provides essential information for government, industry, business, and the general public. For the 2007 Business Expenses Supplement, the Federal government is the primary user of the resulting data. In particular, the Bureau of Economic Analysis (BEA), the Federal agency that produces gross domestic product (GDP) estimates and maintains the national economic accounts. The benchmark input-output (I–O) accounts at BEA use the BES data to produce national estimates of value added, gross output, and intermediate inputs. These national estimates serve as a benchmark for the annual industry accounts, which provide the control totals for the GDP-by-state accounts. Additionally, data from the benchmark I–O and annual I–O accounts are used by the GDP-by-state accounts to remove purchased services from Census Bureau source data on manufacturing, mining, and construction because BEA's concept of value added excludes such services. Previously, BEA's GDP-by-state accounts used only the national benchmark I–O table as a source for the purchased services. BEA recently made advances in its annual I–O accounts program, enhancing the reliability of those statistics. Thus, the GDP-by-state estimates now incorporate the purchased services as measured by both the annual and benchmark I–O accounts.

The U.S. Federal Reserve Board, in turn, uses the BEA's national accounts for analyzing productivity trends and industry-level price changes. The Bureau of Labor Statistics uses the data for measurement of industry productivity. The Economic Research Service of the U.S. Department of Agriculture uses the data for analysis of national food marketing systems. Industry, business, and academia use the data for evaluating value added and profit margins occurring within the business sector.

A specific objective of this supplement is to continue implementation of recommendations made in the Gross National Product Data Improvement Project (Creamer) Report (the Advisory Committee on Gross National Product Data Improvement, 1977), prepared under the auspices of the Office of Management and Budget; recommendations made in the Boskin Report on the Quality of Economic Statistics (President's Council of Economic Advisers, 1983); the (''Mid-Decade Strategic Review of BEA's Economic Accounts'' (Survey of Current Business, February 1995); and recommendations of BEA's advisory council.

Affected Public: Business or other for-profit organizations.

Frequency: One-time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 131, 193, 195, and 224.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer, either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: August 2, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–15399 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; Institutional Remittances to Foreign Countries

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to 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)).

DATES: Written comments must be submitted on or before 5 p.m. October 9, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230, or via e-mail at *dHynek@doc.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Mann, Chief, Current Account Services Branch, Balance of Payments Division (BE–58), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9573; fax: (202) 606–5314; or via e-mail at *michael.mann@bea.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Economic Analysis (BEA) is responsible for the compilation of the U.S. international transactions accounts (ITA's), which it publishes quarterly in news releases, on its Web site, and in its monthly journal, the Survey of Current Business. These accounts provide a statistical summary of all U.S. international transactions and, as such, are one of the major statistical products of BEA. They are used extensively by both government and private organizations for national and international economic policy formulation and for analytical purposes. The information collected in this survey is used to develop the ''private remittances'' portion of the ITA's. Without this information, an integral component of the ITA's would be omitted. No other Government agency collects comprehensive data on private institutional remittances of funds to foreign countries.

The survey requests information from U.S. religious, charitable, educational, scientific, and similar organizations on transfers to foreign residents and organizations and their expenditures in foreign countries. The information is collected on a quarterly basis from organizations remitting $1 million or more each year and annually for organizations remitting at least $100,000 but less than $1 million each year. Organizations with remittances of less than $100,000 in the year covered by the report are exempt from reporting. The survey is voluntary.

BEA proposes the following changes to the form and instructions: (1) Increase the reporting threshold from $25,000 to $100,000; (2) request that organizations only report by country if amounts remitted to a particular country exceed $10,000; and

(3) update the list of pre-printed countries on the form and add space for respondents to enter information on remittances to countries that do not appear on the pre-printed list. The overall respondent burden will not change.

II. Method of Collection

Survey forms are mailed to potential respondents in January of each year; respondents expected to file on a quarterly basis are sent multiple copies. Quarterly reports are due 30 days after the close of each calendar or fiscal quarter and annual reports are due 90 days after the close of the calendar or fiscal year. Potential respondents are U.S. religious, charitable, educational, scientific, and similar organizations that voluntarily agree to provide data regarding transfers to foreign residents and organizations and their expenditures in foreign countries.

III. Data

OMB Number: 0608–0002.
Form Number: BE–40.
Type of Review: Regular submission.
Affected Public: Not-for-profit institutions.
Estimated Number of Respondents: 790.
Estimated Time per Response: 1.5 hours annually for respondents filing annually; and 6 hours annually for respondents filing quarterly.
Estimated Total Annual Burden Hours: 2,100.
Estimated Total Annual Cost: $84,000.
Respondent's Obligation: Voluntary.
Legal Authority: Bretton Woods Agreement Act, Section 8, and E.O. 10033, as amended.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 2, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–15400 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Technical Data Letter of Explanation

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed 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)).

DATES: Written comments must be submitted on or before October 9, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230, (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Larry Hall, BIS ICB Liaison, Department of Commerce, Room 6622, 14th & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The technical data letters of explanation will assure BIS that U.S.-origin technical data will be exported only for authorized end-uses, users and destinations. The letters also places the foreign consignee on notice that the technical data is subject to U.S. export controls and may only be reexported in accordance with U.S. law.

II. Method of Collection

Submitted on paper or electronically.

III. Data

OMB Number: 0694–0047.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 5,050.

Estimated Time Per Response: 30 minutes to 2 hours, depending on the required document.

Estimated Total Annual Burden Hours: 8,807.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. In addition, the public is encouraged to provide suggestions on how to reduce and/or consolidate the current frequency of reporting.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: August 2, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–15398 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

Canned Pineapple Fruit from Thailand: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to timely requests, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on canned pineapple fruit (CPF) from Thailand for the period of review (POR) July 1, 2005 through June 30, 2006. The review covers two respondents, Vita Food Factory (1989) Ltd. (Vita) and Tropical Food Industries Co. Ltd. (Trofco). The domestic interested party for this proceeding is Maui Pineapple Company Ltd. (petitioner).

The Department preliminarily determines that Vita and Trofco made sales to the United States at less than normal value (NV). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of Vita's and Trofco's merchandise during the POR. The preliminary results are listed below in the section titled ''Preliminary Results of Review.''

EFFECTIVE DATE: August 8, 2007.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Douglas Kirby, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2371 or (202) 482–3782, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on CPF from Thailand on July 18, 1995. *See Notice of Antidumping Duty Order and Amended Final Determination: Canned Pineapple Fruit from Thailand*, 60 FR 36775 (July 18, 1995) (*Antidumping Duty Order*). On July 3, 2006, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on CPF from Thailand. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 37890 (July 3, 2006).

The Department received a request for review from Vita, by the July 31, 2006 deadline and therefore, on August 30, 2006, the Department published in the **Federal Register** the notice of initiation of the administrative review of the antidumping duty order on CPF from Thailand for Vita. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 71 FR 51573 (August 30, 2006).

Trofco also submitted a request for review, but Trofco's review request was not received by the Department until after the deadline for requesting an administrative review. However, the record of this proceeding shows that if not for an error by the express delivery service, Trofco's review request would have been received by the Department on or before the July 31, 2006 deadline. Therefore, on October 10, 2006 the Department initiated a review for Trofco. For further discussion on this issue, *see Initiation of Antidumping Duty Administrative Review: Canned Pineapple Fruit from Thailand*, 71 FR 59430 (October 10, 2006).

On August 14, 2006, the Department issued sections A through E of the questionnaire to Vita.[1] Vita submitted its section A response on September 12, 2006, and submitted its sections B through D response on September 27, 2006. The Department issued a sections A through D supplemental questionnaire on February 6, 2007, and Vita responded on February 20, 2007. On April 13, 2007, the Department issued a second sections A through D supplemental questionnaire to Vita; Vita responded on April 25, 2007. Finally, on May 18, 2007, the Department issued a third sections A through D supplemental questionnaire to Vita, and Vita responded on May 30, 2007.

On October 12, 2006, the Department issued sections A through E of the questionnaire to Trofco. Trofco submitted its section A questionnaire response on October 17, 2006, and submitted its responses to sections B and C on November 15, 2006. The Department issued a sections A through C supplemental questionnaire on

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

January 29, 2007, and Trofco responded on February 12, 2007. On May 18, 2007 the Department issued a second sections A through C supplemental questionnaire and Trofco responded on May 24, 2007.

On November 27, 2006 the petitioner filed an allegation of sales below the cost of production for Trofco. On December 14, 2006 the Department initiated a cost investigation. Trofco submitted its section D response on December 28, 2006. *See* ''Cost of Production Analysis'' *infra* for further discussion. On January 31, 2006, the Department issued a section D supplemental questionnaire to Trofco. Trofco responded on February 20, 2007. On March 26, 2007 the Department issued a second section D supplemental questionnaire, and Trofco responded on April 4, 2007. A third and fourth section D supplemental questionnaire were issued on May 2 and May 16, 2007, respectively, and Trofco submitted its responses on May 10 and May 22, 2007.

On November 15, 2006, the petitioner submitted deficiency comments on sections A through D of Vita's questionnaire responses. On November 21, 2006, the petitioner submitted deficiency comments on Trofco's section A questionnaire response. On January 18, 2007, and April 12, 2007, respectively, the petitioner submitted deficiency comments and a rebuttal to Trofco's section D questionnaire responses. *See* Cost of Production Analysis infra for further discussion.

On March 30, 2007, the Department, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(h)(2), extended the deadline for the preliminary results of this antidumping duty administrative review by 120 days from April 2, 2007 until no later than July 31, 2007. *See Canned Pineapple Fruit from Thailand: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 15101 (March 30, 2007).

Verification

On March 27, 2007, the petitioner submitted a timely letter requesting that the Department conduct verification of Vita's and Trofco's questionnaire responses pursuant to section 782(i)(3)(A) of the Act. The Department intends to conduct a sales and cost verification of Vita and a sales verification of Trofco following the preliminary results of this review. From June 20 through June 26, 2007, the Department conducted a cost verification of Trofco. For the results and analysis of Trofco's cost verification, *see Memorandum from Ernest Z. Gziryan, Senior Accountant to Neal M. Halper, Director, Office of Accounting, Verification of the Cost of Production and Constructed Value Data Submitted by Tropical Food Industries Co. Ltd. in the Antidumping Duty Administrative Review of Canned Pineapple Fruit from Thailand (Trofco Cost Verification Report)* (July 31, 2007) on file in room B–099, the Central Records Unit of the main Commerce building (CRU).

Period of Review

This review covers the period July 1, 2005 through June 30, 2006.

Scope of the Order

The product covered by this order is CPF, defined as pineapple processed and/or prepared into various product forms, including rings, pieces, chunks, tidbits, and crushed pineapple, that is packed and cooked in metal cans with either pineapple juice or sugar syrup added. CPF is currently classifiable under subheadings 2008.20.0010 and 2008.20.0090 of the Harmonized Tariff Schedule of the United States (''HTSUS''). HTSUS 2008.20.0010 covers CPF packed in a sugar–based syrup; HTSUS 2008.20.0090 covers CPF packed without added sugar (i.e., juice–packed). Although these HTSUS subheadings are provided for convenience and for customs purposes, the written description of the scope is dispositive. There have been no scope rulings for the subject order.

Less than Fair Value Analysis

To determine whether sales of subject merchandise to the United States were made at less than NV, we compared the export price (EP) to NV, as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice in accordance with section 777A(d)(2) of the Act.

Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by respondents that are covered by the description in the ''Scope of the Order'' section, above, and that were sold in the comparison market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with sections 771(16)(B) and (C) of the Act, where there were no sales of identical merchandise in the comparison market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaires.

Date of Sale

It is the Department's practice to use invoice date as the date of sale. However, 19 CFR 351.401(i) states that the Secretary may use a date other than the invoice date if the Secretary is satisfied that the material terms of the sale were established on some other date. *See Allied Tube and Conduit Corp. v. United States*, 127 F. Supp. 2d 207, 217–219 (CIT 2000). Both Vita and Trofco reported invoice date as the date of sale for all sales in both the comparison and U.S. markets. After analyzing the responses of both parties and the sample sales documents provided, we preliminarily determine that invoice date is the appropriate date of sale for all sales under review.

U.S. Price

In accordance with section 772(a) of the Act, we use EP when the subject merchandise was first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, and constructed export price (CEP) was not otherwise warranted by the facts on the record. As discussed below, we conclude that all of Vita's and Trofco's U.S. sales are EP sales.

Vita: Vita identified all of its U.S. sales as EP sales in its questionnaire responses. The Department based the price of each of Vita's U.S. sales of subject merchandise on EP, as defined in section 772(a) of the Act, because the merchandise was sold, prior to importation, to unaffiliated purchasers in the United States, or to unaffiliated purchasers for exportation to the United States and the use of CEP was not otherwise warranted based on the facts on the record. In accordance with section 772 (a) and (c) of the Act, we calculated EP using the prices Vita charged for packed subject merchandise shipped FOB. We made deductions for movement expenses, including, where applicable, charges for transportation, terminal handling, container stuffing, bill of lading preparation, customs clearance, and legal and port fees documentation. *See Analysis Memorandum for Vita Food Factory (1989) Co., Ltd., (Vita Preliminary Analysis Memorandum*) dated concurrently with this notice. Vita reported post–sale, post–POR price adjustments in its September 12, 2006, section A questionnaire response. In addition, Vita explained that the company did not revise its sales

contracts and other related sales documents for these reported post–sale billing adjustments. The Department asked in a supplemental questionnaire to Vita why no revisions to the sales documentation were made for the reported post–sale billing adjustments. Vita explained that it is its normal practice to make post–sale billing adjustments through discussions by telephone with its customers without revisions to sales documentation. *See* Vita 1st Supplemental Questionnaire at 9. Because Vita was unable to provide any documentation demonstrating that there were actual price adjustments, we did not make any adjustments to EP for these claimed post–sale price adjustments. *See Corus Engineering Steels Ltd. v. United States*, (Slip Op. 2003–110, 2003 CIT Lexis 110) (CIT August 27, 2003) at 11 (''The burden of proof is upon the claimant to prove entitlement.''). Moreover, Vita reported similar post–sale billing adjustments in the most recent review and the Department did not include these adjustments in the calculation of EP. *See Canned Pineapple Fruit from Thailand: Preliminary Results of Antidumping Duty Administrative Review (10th Review Preliminary Results)* 71 FR 44256, 44258 (August 4, 2006), unchanged in *Canned Pineapple Fruit from Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review, (10th Review Final Results)* 71 FR 70948 (December 7, 2006) and accompanying *Issues and Decision Memorandum* at *Comment 1*.

Trofco: Trofco identified all of its U.S. sales as EP sales in its questionnaire responses. The Department based the price of each of Trofco's U.S. sales of subject merchandise on EP, as defined in section 772(a) of the Act, because the merchandise was sold, prior to importation, to unaffiliated purchasers in the United States, or to unaffiliated purchasers for exportation to the United States and the use of CEP was not otherwise warranted based on the facts on the record. In accordance with sections 772 (a) and (c) of the Act, we calculated EP using the prices Trofco charged for packed subject merchandise shipped FOB, from which we made deductions for movement expenses, including, where applicable, charges for transportation, terminal handling, container stuffing, bill of lading preparation, Customs clearance, and legal and port fees documentation. *See Analysis Memorandum for Tropical Food Industries Co, Ltd., (Trofco Preliminary Analysis Memorandum)* dated concurrently with this notice.

Normal Value

In accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the comparison market, in the usual commercial quantities, in the ordinary course of trade, and, to the extent practicable, at the same level of trade (LOT) as the EP sale. See ''Level of Trade'' section below. After testing comparison market viability and whether comparison market sales were at below–cost prices, we calculated NV for Vita and Trofco as discussed in the following sections.

Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product normally should be greater than or equal to five percent of the aggregate volume of U.S. sales), we compared the aggregate volume of home market sales of the foreign like product to the aggregate volume of its U.S. sales of subject merchandise. *See also* 19 CFR 351.404(b).

Vita: Because the aggregate volume of Vita's home market sales of foreign like product is less than five percent of the aggregate volume of its U.S. sales of subject merchandise, we based NV on sales of the foreign like product in a country other than Vita's home market. *See* section 773(a)(1)(B)(ii) of the Act. Specifically, we based NV for Vita on sales of the foreign like product in Germany. The Department selected Germany because sales to Vita's largest third–country market (the Netherlands) were largely trans–shipments to ultimate customers located in Germany. In addition, the product similarity for CPF sold to Germany and to the U.S. was superior *vis–a-vis* the product similarity for the Netherlands and the United States. *See* ''Cost of Production Analysis'' *infra* for further discussion.

Trofco: Trofco's home market sales were greater than five percent as compared to the aggregate volume of U.S. sales during the POR. Therefore, Trofco's volume of sales in the home market during the POR was sufficient to serve as a viable basis for calculating NV.

Cost of Production (COP) Analysis

Vita: In the most recently completed administrative review of the antidumping duty order on CPF from Thailand, the Department determined that Vita sold foreign–like product in its comparison market at prices below the cost of producing the product and excluded such sales from the calculation of NV. *See 10th Review Preliminary Results* and *10th Review Final Results*. Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department determined that there are reasonable grounds to believe or suspect that during the current POR, Vita sold the foreign like product at prices below the cost of producing the product and instituted a below cost inquiry as to Vita's sales in the comparison market.[2] *Compare Top–of-the–Stove Stainless Steel Cooking Ware From the Republic of Korea: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review*, 67 FR 62951, 62954 (October 9, 2002) (unchanged in final results 68 FR 7503) *with Top–of-the–Stove Stainless Steel Cooking Ware From Korea: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review*, 66 FR 11259, 11263–64 (February 23, 2001) (unchanged in final results 66 FR 45664) for an example where the Department instituted a below cost inquiry under section 773(b)(2)(A)(ii) of the Act based on a below cost finding in the most recently completed administrative review and the recently completed administrative review was based on a different comparison market than the on–going administrative review.

Trofco: On November 27, 2007, petitioner alleged that Trofco made home market sales of CPF at prices below the cost of production during the POR. The Department found a reasonable basis to believe or suspect that Trofco's sales in Thailand were at prices below the COP and accordingly initiated a cost investigation for the current review. *See Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, from The Team on Petitioner's Allegation of Sales Below the Cost of Production for Tropical Food Industries Co., Ltd*, (December 14, 2006). We relied on the COP data submitted by Trofco in its cost questionnaire responses with the following exceptions: (1) We revised the reported net realizable values (''NRV'') which Trofco used to allocate pineapple fruit cost to pineapple solid and pineapple juice products to account for the separately identifiable costs incurred to produce each product; (2) we revised

[2] In addition, the Department notes that on May 15, 2007, petitioner submitted a request that a cost investigation be initiated by the Department with respect to sales of CPF by Vita to Germany during the POR.

the reported financial expense rate to include the net foreign exchange gains and losses; and (3) we adjusted the cost of sales denominator used to calculate the general and administrative and financial expense rates to remove packing expenses. Our revisions to Trofco's COP data are discussed in the Memorandum from Ernest Z. Gziryan, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results,'' dated concurrently with this notice.

Test of Comparison Market Sales Prices

We compared sales of the foreign like product in the home market with model–specific COP figures in the POR. In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general and administrative (SG&A) expenses, and financial expenses and packing. In our sales–below-cost analysis, we used comparison market sales and COP information provided by Vita and Trofco in their questionnaire responses. *See* Vita's September 27, 2006 section D questionnaire response; *see also* Trofco's December 28, 2007 section D questionnaire response.

Results of COP Test

We compared the weighted–average COPs to comparison market sales of the foreign–like product, consistent with section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. *See also* 19 CFR 351.404(b). In determining whether to disregard comparison market sales made at prices below the COP, we examined whether such sales were made (1) Within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with sections 773(b)(1)(A) and (B) of the Act.[3] On a product–specific basis, we compared the COP to comparison market prices, less any movement charges, discounts and rebates, and direct and indirect selling expenses. *See Treatment of Adjustments and Selling Expenses in Calculating the Cost of Production (''COP'') and Constructed Value (''CV'')* Import Policy Bulletin (March 25, 1994) on file in the CRU, which can also be accessed directly on the Web at http://ia.ita.doc.gov.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given model were at prices less than the COP, we did not disregard any below–cost sales of that model because the below–cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given model were at prices less than the COP, we disregarded the below–cost sales when: (1) They were made in substantial quantities within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act and; (2) based on our comparison of prices to average COPs in the POR, we determined that the below–cost prices would not permit the recovery of costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Price–to-Price Comparisons

For those product comparisons for which there were comparison market sales of like product in the ordinary course of trade, we based NV on comparison market prices to affiliated (when made at prices determined to be arms–length) or unaffiliated parties, in accordance with section 773(a)(1)(A) and (B) of the Act. We made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CRF 351.411 as well as for differences in direct selling expenses, in accordance with 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We relied on our model match criteria in order to match U.S. sales of subject merchandise to comparison sales of the foreign like product based on the reported physical characteristics of the subject merchandise. Where there were no sales of identical merchandise in the comparison market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire. *See* section 771(16) of the Act.

Vita: When comparing Vita comparison market sales to its EP sales, the Department calculated Vita's NV (shipped FOB, CNF or FAS) NV based on its gross unit price in Germany to unaffiliated customers. Pursuant to section 773(a)(6)(B)(ii) of the Act, we made deductions for movement expenses (*i.e.*, inland freight, ocean freight and warehousing), when appropriate. In accordance with sections 773(a)(6)(A) and (B) of the Act, we deducted comparison market packing costs and added U.S. packing costs. In accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we deducted comparison market direct selling expenses (*i.e.*, credit, warranty) and added U.S. direct selling expenses. We made the appropriate adjustment for commissions paid in the home market pursuant to 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c). We made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other, the ''commission offset.'' Specifically, where commissions are incurred in one market, but not in the other, we will limit the amount of such allowance to the amount of either the selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

Trofco: The Department calculated Trofco's NV based on its gross unit price to unaffiliated customers less billing adjustments pursuant to section 773(a)(1)(A) of the Act. Pursuant to section 773(a)(6)(B)(ii) of the Act, we made deductions for movement expenses (*i.e.*, inland freight and warehousing), when appropriate. In accordance with sections 773(a)(6)(A) and (B) of the Act, we deducted comparison market packing costs and added U.S. packing costs. In accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we deducted comparison market direct selling expenses (i.e., credit) and added U.S. direct selling expenses. We made the appropriate adjustment for commissions paid in the home market pursuant to 773(a)(6)(C)(iii) of the Act and19 CFR 351.410(c). We made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other, the ''commission offset.'' Specifically, where commissions are incurred in one market, but not in the other, we will limit the amount of such allowance to the amount of either the selling expenses incurred in the one market or the commissions allowed in the other market, whichever is less.

[3] Section 773(b)(2)(ii)(B-C) of the Act defines extended period of time as a period that is normally 1 year, but not less than 6 months, and substantial quantities as sales made at prices below the cost of production that have been made in substantial quantities if (i) The volume of such sales represents 20 percent or more of the volume of sales under consideration for the determination of normal value, or (ii) the weighted average per unit price of the sales under consideration for the determination of normal value is less than the weighted average per unit cost of production for such sales.

Price to Constructed Value Comparisons

In accordance with section 773(a)(4) of the Act, we used constructed value (CV) as the basis for NV when we could not determine NV because there were no above–cost contemporaneous sales of identical or similar merchandise in the comparison market. We calculated CV in accordance with section 773(e) of the Act, including the cost of materials and fabrication, SG&A expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market. Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, SG&A expenses, and profit for CV, where possible.

Vita: We used CV as the basis for NV for sales in which there were no usable contemporaneous sales of the foreign like product in the comparison market, in accordance with section 773(a)(4) of the Act. We calculated CV in accordance with section 773(e) of the Act. We added reported materials, labor, and factory overhead costs to derive the cost of manufacture (COM), in accordance with section 773(e)(1) of the Act. We then added interest expenses, SG&A expenses, profit, and U.S. packing expenses to derive the CV (and added U.S. credit expenses for comparison to EP), in accordance with sections 773(e)(2) and (3) of the Act. We calculated profit based on the total value of sales and total COP reported by Vita in its questionnaire response, in accordance with section 773(e)(2)(A) of the Act. Finally, we deducted comparison market credit expenses from CV and added U.S. credit to calculate the foreign unit price in dollars (FUPDOL), pursuant to section 773(e)(2)(A) of the Act.

Trofco: We used CV as the basis for NV for sales in which there were no usable contemporaneous sales of the foreign like product in the comparison market, in accordance with section 773(a)(4) of the Act. We calculated CV in accordance with section 773(e) of the Act. We added reported materials, labor, and factory overhead costs, adjusted as shown in the COP Analysis section above, to derive the cost of manufacture (COM), in accordance with section 773(e)(1) of the Act. We then added interest expenses adjusted as shown in the COP Analysis section above, SG&A expenses adjusted as shown in the COP Analysis section above, profit, and U.S. packing expenses to derive the CV, in accordance with sections 773(e)(2) and (3) of the Act.

Based on the information currently on the record, all of Trofco's sales in Thailand failed the COP test and therefore were outside the ordinary course of trade; hence, we cannot determine selling expenses or profit under section 773(e)(2)(A) of the Act. Section 773(e)(2)(B) of the Act sets forth three alternatives: (i) Selling expense and profit may be calculated based on ''actual amounts incurred by the specific exporter or producer of merchandise in the same general category'' as subject merchandise; (ii) may be calculated based on ''the weighted average of the actual amounts incurred and realized by {other} exporters or producers that are subject to the investigation''; or (iii) ''any other reasonable method,'' with limits on the ''profit cap.''

For this review, the Department is calculating CV profit based on the amounts earned by Trofco on its home market sales of canned fruit other than pineapple (*i.e.*, profit on sales of the same general category of merchandise as subject canned pineapple fruit under section 773(e)(2)(B)(i) of the Act). For selling expenses, we cannot use alternative (i) because we do not have the information on Trofco's other canned fruit sales (other than pineapple) which we consider to be in the same general category of merchandise as subject canned pineapple fruit. In addition, we cannot use alternative (ii) without violating our responsibility to protect respondent's administrative protective order (APO) information, because Vita is the only other respondent in this review. Therefore, for selling expenses, we are using alternative (iii) 'any other reasonable method;' and basing Trofco's CV selling expenses on its reported home market sales. Therefore, we deducted home market credit expenses from CV and added U.S. credit to calculate the foreign unit price in dollars (FUPDOL), pursuant to section 773(e)(2)(B)(iii) of the Act.

Level Of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same LOT as the EP or CEP sale. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. Id.; *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*South African Plate Final*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution),[4] including selling functions,[5] class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (i.e., NV based on either home market or third–country prices), we consider the starting prices before any adjustments. With respect to CEP sales, the Department removes the selling activities set forth in section 772(d) of the Act from the CEP starting price prior to performing its LOT analysis. *See Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1315 (Fed. Cir. 2001). As such, for CEP sales, the U.S. LOT is based on the starting price of the sales, as adjusted under section 772(d) of the Act.

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP sale, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. However, in this case, the Department preliminarily determines that no level of trade adjustment was necessary for Trofco and Vita, consistent with what the parties reported in their respective questionnaire responses. For further details on the Department's LOT analysis, *see Vita Preliminary Analysis Memorandum and Trofco Preliminary Analysis Memorandum.*

Currency Conversion

In accordance with section 773A of the Act, we made currency conversions

[4] The marketing process in the United States and in the comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale occurs.

[5] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: sales process and marketing support, technical service, freight and delivery, and inventory maintenance.

based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. *See also* 19 CFR 351.415.

Preliminary Results of Review

As a result of this review, we preliminarily find that the following weighted–average dumping margins exist:

Manufacturer/Exporter	Margin
Vita Food Factory (1989) Ltd.	7.11 %
Tropical Food Industries Co., Ltd.	10.51 %

Cash Deposit Requirements

If these preliminary results are adopted in the final results of review, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Act: (1) The cash deposit rate for Vita will be that established in the final results of this review; (2) the cash deposit rate for Trofco will be that established in the final results of this review; (3) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (4) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is a firm covered in this review, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and 5) if neither the exporter nor the manufacturer is a firm covered in this or any previous proceeding conducted by the Department, the cash deposit rate will continue to be the ''all others'' rate established in the LTFV investigation, which is 24.64 percent. *See Antidumping Duty Order* 71 FR at 36776. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Duty Assessment

Upon publication of the final results of this review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. In accordance with 19 CFR 351.212(b)(1), we will calculate importer–specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales and the total entered value of the examined sales. These rates will be assessed uniformly on all entries of the respective importers made during the POR if these preliminary results are adopted in the final results of review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in the final results of review for which the reviewed companies did not know that the merchandise it sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to any party to the proceeding the calculations performed in connection with these preliminary results within five days after the date of public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless extended by the Department, case briefs are to be submitted within 30 days after the date of publication of this notice. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues; (2) a brief summary of the argument; and (3) a table of authorities. *See* 19 CFR 309(c)(2). Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Also, pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the publication of this notice. Requests should contain (1) the party's name, address and telephone number; (2) the number of participants; and, (3) a list of issues to be raised. Issues raised in the hearing will be limited to those raised in the respective case briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location.

The Department will issue the final results of this administrative review within 120 days after the publication of this notice, unless extended. *See* section 751(a)(3)(A) of the Act; 19 CFR 351.213(h).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The preliminary results of this administrative review and this notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2007.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E7–15489 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–803)

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Notice of Extension of Time Limit for Final Results of the 2005–2006 Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 8, 2007.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Enforcement Office 7, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6312 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published the preliminary results and partial rescission of the 2005–2006 antidumping duty administrative review of heavy forged hand tools, finished or unfinished, with or without handles (Hand Tools), from the People's Republic of China (PRC) on March 8, 2007. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results and Partial Rescission of the 2005–2006 Administrative Reviews*, 72 FR 10492 (March 8, 2007). We received a case brief from respondent Shandong Machinery Import & Export Company (SMC) on April 9, 2007. Separate rebuttal briefs were received from both petitioners, Ames True Temper (Ames) and Council Tool Company (Council Tools) on April 16, 2007. On April 24, 2007, we placed on the record certain documents received from the U.S. Customs and Border Protection (CBP). *See* Memorandum to the File from Mark Flessner, Case Analyst, entitled ''Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China (A–580–803): U.S. Entry Documents and Opportunity to Comment,'' dated April 24, 2007. SMC, Ames, and Council Tools filed comments concerning these CBP documents on May 9, 2007. SMC requested and was granted time to file a rebuttal to the Ames and Council Tools comments; SMC's rebuttal was received on May 16, 2007. On July 6, 2007, the Department published in the **Federal Register** a notice of extension for the final results. *See Notice of Extension of Time Limit for Final Results and Partial Rescission of the 2005–2006 Antidumping Duty Administrative Review of Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China*, 72 FR 36959 (July 6, 2007). This partially extended the time limit for the final results until August 6, 2007.

Extension of Time Limits for Final Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act), and 19 CFR 351.213(h)(1), the Department shall issue the preliminary results of an administrative review within 245 days after the last day of the anniversary month of the date of publication of the order. The Tariff Act further provides that the Department shall issue the final results of review within 120 days after the date on which the notice of the preliminary results was published in the **Federal Register**. However, if the Department determines that it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Tariff Act and 19 CFR 351.213(h)(2) allow the Department to extend the 245-day period to 365 days and the 120-day period to 180 days.

Due to the addition of important new information to the record, the complexity of the issues involved, and the time required to analyze the numerous submissions and arguments raised in parties' briefs, the Department has determined that it is not practicable to complete these reviews within the period of the partial extension indicated by the **Federal Register** notice published on July 6, 2007.

Section 751(a)(3)(A) of the Tariff Act and 19 CFR 351.213(h) allow the Department to extend the deadline for the final results of a review to a maximum of 180 days from the date on which the notice of the preliminary results was published. The current deadline for the final results is August 6, 2007. For the reasons noted above, the Department is fully extending the time limit for the completion of the final results for the 2005–2006 antidumping duty administrative review of Hand Tools from the PRC until no later than September 4, 2007, which is 180 days from the date on which the notice of the preliminary results was published.

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act.

Dated: August 2, 2007.

Gary Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–15478 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Stainless Steel Wire Rods From India: Extension of Time Limit for the Preliminary Results of the Antidumping Duty New–Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: August 8, 2007.

FOR FURTHER INFORMATION CONTACT: Catherine Cartsos or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1757 and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 2007, the Department of Commerce (the Department) published a notice of initiation of a new–shipper review of the antidumping duty order on stainless steel wire rods from India for Sunflag Iron and Steel Co., Ltd. (Sunflag). *See Stainless Steel Wire Rod From India: Notice of Initiation of Antidumping Duty New–Shipper Review*, 72 FR 13088 (March 20, 2007). The period of review is December 1, 2005, through November 30, 2006. The preliminary results of this new–shipper review are currently due no later than September 9, 2007.

Extension of Time Limit for Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), provides that the Department will issue the preliminary results of a new–shipper review of an antidumping duty order within 180 days after the date on which the review is initiated. The Act provides further that, if the case is extraordinarily complicated, the Department may extend the 180-day period to 300 days.

The Department has determined that this new–shipper review is extraordinarily complicated and it is not possible to complete the preliminary results by the current deadline of September 9, 2007. Specifically, there are a number of complex factual issues pertaining to the sales practices, manufacturing costs, and the determination of potential comparison–market matches which affect the calculation of the antidumping margin in this new–shipper review. We require additional time to analyze the questionnaire responses, issue supplemental questionnaires, and conduct verification. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department is extending the time limit for the preliminary results by 40 days to October 19, 2007. The final results of the new–shipper review continue to be due 90 days after the date of issuance of the preliminary results of new–shipper review.

We are issuing this notice in accordance with sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act.

Dated: August 2, 2007.

Gary Taverman,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–15481 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; NOAA Public Awareness and Outreach Evaluation Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 9, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patricia Huff, 301–713–1127 or *patricia.huff@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Oceanic and Atmospheric Administration (NOAA) plans to collect information needed to assess the understanding and awareness of NOAA and its programs among the general public, especially as it relates to the collection and dissemination of scientific, operational, and life-saving data. NOAA's mission includes understanding and predicting changes in the Earth's environment; being an international leader in changing the way integrated environmental observations and information are captured, managed, stored, shared, and used to benefit the world; and protecting life and property. NOAA will consider the findings in tailoring its outreach activities and to provide statistical basis for measuring the utilization of tax-funded data products. Respondents will be a cross-section of the U.S. population.

II. Method of Collection

NOAA will survey respondents electronically via the Internet. Sixteen one-hour focus groups will also be conducted with small groups of respondents in person.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents: 4,110.

Estimated Time per Response: 20 minutes per electronic survey; one hour per focus group participant.

Estimated Total Annual Burden Hours: 1,333.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 2, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–15394 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–HR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

ACTION: Notice of intent to evaluate and notice of availability of final findings.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Alaska Coastal Management Program.

The Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA) and regulations at 15 CFR part 923, subpart L. The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of a Coastal Management Program requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

Each evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, state, and local agencies and members of the public. A public meeting will be held as part of the site visit. Notice is hereby given of the dates of the site visit for the listed evaluation, and the date, local time, and location of the public meeting during the site visit.

Date and Time: The Alaska Coastal Management Program evaluation site visit will be held August 13–18, 2007. The public meeting will be held on Monday, August 13, 2007, at 4 p.m. at the Department of Natural Resources Office of Project Management and Permitting, 302 Gold Street, Suite 202, Juneau, Alaska. Members of the public may also participate in the public meeting via teleconference by calling 1–800–315–6338. The call-in code is 1111#.

ADDRESSES: Copies of a state's most recent performance reports, as well as OCRM's evaluation notification and supplemental information request letters to the state, are available upon request from OCRM. Written comments

from interested parties regarding this Program are encouraged and will be accepted until 15 days after the public meeting held for the Program. Please direct written comments to Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the availability of the final evaluation findings for the Massachusetts Coastal Management Program (CMP) and the Chesapeake Bay-Virginia National Estuarine Research Reserve (NERR). Sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approval of CMPs and the operation and management of NERRs.

The Commonwealth of Massachusetts was found to be implementing and enforcing its federally approved coastal management program, addressing the national coastal management objectives identified in CZMA Section 303(2)(A)–(K), and adhering to the programmatic terms of its financial assistance awards. The Chesapeake Bay-Virginia NERR was found to be adhering to programmatic requirements of the NERR System.

Copies of these final evaluation findings may be obtained upon written request from: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, or *Ralph.Cantral@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910, (301) 563–7118.

Dated: August 2, 2007.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E7–15487 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to conduct a natural resource damage assessment at the Diamond Alkali Superfund Site in New Jersey.

SUMMARY: The National Oceanic and Atmospheric Administration, acting as the lead administrative trustee on behalf of itself and the U.S. Department of the Interior, collectively acting as Federal natural resource trustees (Federal Trustees), have concluded their preliminary investigation of potential injuries to natural resources under their trusteeship that may have occurred as the result of releases of hazardous substances at or from the Diamond Alkali Superfund Site (ASite@). Pursuant to 43 CFR 11, the Federal Trustees have completed a Preassessment Screen (''PAS''). The Federal Trustees made the determination to perform a natural resource damage assessment for the Site. Notice letters have been issued to potentially responsible parties (PRPs) to participate in the development and performance of this assessment, and in its funding.

FOR FURTHER INFORMATION CONTACT: PRPs that are being noticed are requested to provide a response within 30 calendar days of receipt of their notice letters, stating whether they wish to participate in this process. PRPs are asked to send responses to: Eli Reinharz, NOAA Assessment and Restoration Division, 1305 East-West Highway, N/ORR3, SSMC#4, Room 10342, Silver Spring, Maryland, 20910–3281.

For further information regarding the notice letters, please feel free to contact Eli Reinharz (NOAA) at (301) 713–4248 ext.193, *eli.reinharz@noaa.gov*, or Tim Kubiak (FWS) at (609) 646–9310, *tim_kubiak@fws.gov.* Legal questions should be addressed to Linda Burlington (NOAA) at (301) 713–1332, *linda.b.burlington@noaa.gov*, or Mark Barash (DOI) at (617) 527–2103, *r5mbarash@gmail.com.*

SUPPLEMENTARY INFORMATION: Please be advised that the National Oceanic and Atmospheric Administration, acting as the lead administrative trustee on behalf of itself and the U. S. Department of the Interior, collectively acting as Federal natural resource trustees (Federal Trustees), have concluded their preliminary investigation of potential injuries to natural resources under their trusteeship that may have occurred as the result of releases of hazardous substances at or from the Diamond Alkali Superfund Site (ASite@). Pursuant to 43 CFR part 11, the Federal Trustees have completed a Preassessment Screen (''PAS''). The complete PAS may be found at *http://www.darrp.noaa/gov/northeast/passaic/injury.html.*

The two agencies cited serve as Federal Trustees under authority of Subpart G of the National Contingency Plan, 40 CFR 300.600(b)(1–3), and 300.605.

Information gathered and presented in the PAS forms the basis of the Federal Trustees—conclusion that the following criteria are met:

1. A release of a hazardous substance has occurred.

2. Natural resources for which the Federal Trustees may assert trusteeship under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) are or are likely to be adversely affected by the release.

3. The quantity and concentration of the released hazardous substances are sufficient to potentially cause injury to natural resources for which the Trustees may assert trusteeship under CERCLA.

4. Data sufficient to pursue a natural resource damage assessment are available or likely to be obtained at a reasonable cost.

5. Currently implemented and planned response actions will not sufficiently remedy the injury to natural resources without further action.

Based upon the above findings, the Federal Trustees made the determination to perform a natural resource damage assessment for the Site, and have issued letters to those companies identified as PRPs in connection with the release of hazardous substances and the subsequent damages resulting from natural resource injury. The Notice of Intent to Perform an Assessment is provided pursuant to 43 CFR 11.32(a)(2)(iii)(A). Accordingly, PRPs are invited to participate in the development and performance of this assessment, and in its funding. Note that other PRPs are being noticed at this time, and the Federal Trustees may in the future also provide notices to additional PRPs as may be deemed appropriate.

Dated: August 3, 2007.

Ken Barton,

Acting Director, Office of Response and Restoration, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. E7–15464 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

ACTION: Notice of Public Comment Period for the Revised Management Plan for the Great Bay (New Hampshire) National Estuarine Research Reserve.

SUMMARY: Notice is hereby given that the Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce is announcing a thirty day public comment period on the revised Great Bay National Estuarine Research Reserve Management Plan which will begin on the day this announcement is published. Comments should be sent within the comment period in hard copy or e-mail to Doris Grimm at *Doris.Grimm@noaa.gov* or NOAA's Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th Floor, Silver Spring, MD 20910.

The Great Bay National Estuarine Research Reserve was designated in October 1989 pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. Pursuant to 15 CFR 921.33(c), a state must revise its management plan every five years. The reserve has been operating under a management plan approved in 1989. The submission of this plan fulfills this requirement and sets a course for successful implementation of the goals and objectives of the reserve.

Since the last management plan, the Great Bay Reserve has constructed needed facilities, increased its staff, changed its boundary, implemented several system-wide programs, and acquired key parcels of land. The original boundary included 4,471 acres of open water and salt marsh in Great Bay proper and 1,882 acres of upland. The boundary expansion includes 2,830 acres of additional open and salt marsh in Little Bay and several tidal rivers as well as 1,052 acres of upland. This expansion also includes all of the Federal lands under the Great Bay National Wildlife refuge that was established in 1992.

The expanded boundary is a more comprehensive representation of the natural communities within the Southern Gulf of Maine province of the Acadian bio-geographic region of the United States. Great Bay serves as a natural field laboratory for researchers and the boundary expansion will increase and diversify the areas capable of supporting NERRS long-term research and monitoring, including opportunities for extensive upland research. The boundary expansion also increases the Reserve's opportunities for educating the public about the estuarine system.

This new management plan serves as the primary guidance document for the operation of the Great Bay Reserve's core and system-wide programs in research and monitoring, education and coastal training, and resource management and stewardship. The plan provides guidance on the acquisition of land to be added to the Reserve and on the construction and renovation of buildings and exhibits that support NERR programs. It also guides the Reserve in important related programs, such as volunteerism and outreach to communities to encourage stewardship of coastal resources in the Great Bay area.

The Great Bay Reserve is administered through the New Hampshire Fish and Game Department. The Reserve is a part of the Marine Fisheries Division, which is based in Durham, New Hampshire. The Reserve also works closely with the New Hampshire Coastal Program and the New Hampshire Estuaries Project, as well as many other partners, such as the University of New Hampshire and the New Hampshire Department of Environmental Services, to meet its goals and objectives.

FOR FURTHER INFORMATION CONTACT: Doris Grimm at (301) 563–7107 or Laurie McGilvray at (301) 563–1158 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th Floor, Silver Spring, MD 20910. For copies of the Wells Management Plan revision, visit *http://www.reserve.org.*

Dated: August 2, 2007.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E7–15483 Filed 8–7–07; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Health Board (DHB) Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, and in accordance with section 10(a)(2) of Public Law, the following meeting is announced:

Name of Committee: Defense Health Board (DHB).

Dates: September 19 and 20, 2007.

Times: 8 a.m.–11:30 a.m. (Open Session). 12:30 p.m.–4:45 p.m. (Open Session).

Place of Meeting: Holiday Inn Riverwalk, 217 N. St. Mary's Street, San Antonio, TX 78205.

Purpose of the Meeting: The purpose of the meeting is to address and deliberate pending and new Board issues and provide briefings for Board members on topics related to ongoing Board business.

Agenda: The Board will deliberate Pandemic Flu preparedness and the subcommittee recommendations, recruit Chlamydia screening efficacy, Army Action Plan to address wounded warriors' concerns, and discuss the DOD disability evaluation system, to include an overview and plans for reengineering the system. The status of the DOD response plan for Traumatic Brain Injury and Post Traumatic Stress Disorder will be discussed. The Board will also receive an update from the Task Force on the Future of Military Health Care.

The Board will conduct an administrative session on September 18, 2007, in the same location. The administrative session is closed to the public.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, the Defense Health Board meeting from 9 a.m. to 4 p.m. on May 3, 2007 is open to the public. Any member of the public wishing to provide input to the Defense Health

Board should submit a written statement in accordance with 41 CFR 102–3.140(C) and section 10(a)(3) of the Federal Advisory Committee Act, and the procedures described in this notice. Written statement should be not longer than two type-written pages and must address the following detail: The issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and to provide any necessary background information.

Individuals submitting a written statement may submit their statement to the Designated Federal Officer at the address detailed below at any point. However, if the written statement is not received at least 10 calendar days prior to the meeting, which is subject to this notice, then it may not be provided to or considered by the Defense Health Board until the next open meeting.

The Designated Federal Officer will review all timely submissions with the Defense Health Board Chairperson, and ensure they are provided to members of the Defense Health Board before the meeting that is subject to this notice. After reviewing the written comments, the Chairperson and the Designated Federal Officer may choose to invite the submitter of the comments to orally present their issue during an open portion of this meting or at a future meeting.

The Designated Federal Officer, in consultation with the Defense Health Board Chairperson, may, if desired, allot a specific amount of time for members of the public to present their issues for review and discussion by the Defense Health Board.

FOR FURTHER INFORMATION CONTACT: Colonel Roger L. Gibson, Executive Secretary, Defense Health Board, Five Skyline Place, 5111 Leesburg Pike, Room 810, Falls Church, Virginia 22041–3206, (703) 681–3279, Ext. 123, Fax: (703) 681–3321, (*roger.gibson@ha.osd.mil).* Additional information, agenda updates, and meeting registration are available online at the Defense Health Board Web site, *http://www.ha.osd.mil/dhb.* The public is encouraged to register for the meeting. Written statements may be mailed to the above address, e-mailed to *dhb@ha.osd.mil* or faxed to (703) 681–3321.

Dated: August 3, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–3881 Filed 8–6–07; 11:39 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Secretary of Education requests comments on the Student Aid Report (SAR) that the Secretary proposes to use for the 2008–2009 award year. The SAR is used to notify Free Application for Federal Student Aid (FAFSA) applicants of their eligibility to receive federal student aid under the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, and to provide an opportunity for applicants to correct or update the information they provided on their FAFSA.

DATES: Interested persons are invited to submit comments on or before October 9, 2007.

ADDRESSES: Comments may be submitted electronically through e-mail to *SAR_Comments@ed.gov.* Written requests for information should be addressed to U.S. Department of Education (ED), 400 Maryland Avenue, SW., Potomac Center Plaza, 9th Floor, Washington, DC 20202–4700. In addition, interested persons can access this document on the Internet:

(1) Go to IFAP at *http://ifap.ed.gov*.

(2) Scroll to ''On-Line References''.

(3) Click on ''SAR/ISIR Reference Materials''.

(4) Click on ''By 2008–2009 Award Year''.

(5) Click on ''Draft 2008–2009 Student Aid Report (SAR) and SAR Acknowledgement Mockups are available for public comment''.

Please note that the free Adobe Acrobat Reader software, version 4.0 or greater, is necessary to view this file. This software can be downloaded for free from Adobe's Web site: *http://www.adobe.com*.

FOR FURTHER INFORMATION CONTACT: 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: The Secretary is publishing this request for comment under the Provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* Under that Act, ED must obtain the review and approval of the Office of Management and Budget (OMB) before it may use a form to collect information. However, under procedure for obtaining approval from OMB, ED must first obtain public comment of the proposed form, and to obtain that comment, ED must publish this notice in the **Federal Register**.

In addition to comments requested above, to accommodate the requirements of the Paperwork Reduction Act, the Secretary is interested in receiving comments with regard to the following matters: (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: August 3, 2007.

James Hyler,

Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Revision.

Title: Student Aid Report (SAR).

Frequency: Annually.

Affected Public: Individuals.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 27,699,605.

Burden Hours: 5,639,472.

Abstract: The SAR is used to notify Free Application for Federal Student Aid (FAFSA) applicants of their eligibility to receive federal student aid under the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended, and to provide an opportunity for applicants to correct or update the information they provided on their FAFSA.

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 3426. 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 directed to the e-mail address *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 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

[FR Doc. E7–15476 Filed 8–7–07; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information; Fund for the Improvement of Postsecondary Education—Special Focus Competition: U.S.-Russia Program: Improving Research and Educational Activities in Higher Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116S.

Dates: Applications Available: August 8, 2007.

Deadline for Transmittal of Applications: September 7, 2007.

Eligible Applicants: Institutions of higher education (IHEs) or combinations of IHEs and other public and private nonprofit institutions and agencies.

Estimated Available Funds: $600,000.

Estimated Range of Awards: $150,000–$300,000 for first year of the award.

Estimated Average Size of Awards: $400,000 for the two-year duration of the grant.

Maximum Award: We will reject any application that proposes a budget exceeding $300,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: To provide grants that demonstrate partnerships between Russian and American institutions of higher education that contribute to the development and promotion of educational opportunities between the two nations, particularly in the areas of mutual foreign language learning and the cooperative study of mathematics and science.

Priority: Under this competition, we are particularly interested in applications that address the following priority.

Invitational Priority: For FY 2007 this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is designed to support the formation of educational consortia of American and Russian institutions to encourage mutual socio-cultural-linguistic cooperation; the coordination of joint development of curricula, educational materials, and other types of educational and methodological activities; and the conduct of related joint educational research.

This invitational priority is issued in cooperation with the Russian Ministry of Education and Science. These awards support only the participation of U.S. institutions, faculty and students in these consortia. Russian institutions eligible to participate in any consortium proposal have been pre-selected by the Russian Federation from the Russian Federation's ''Development of Higher Education'' competition. The Russian Federation has identified the following Russian institutions as eligible for participation in this competition:

- Plekhanov Russian Academy of Economics.
- Moscow Engineering Physics Institute (State University) (MEPhI).
- Southern Federal University (SFU).

These institutions, if part of a U.S.-Russian consortium, will receive separate but parallel funding from the Russian Ministry of Education and Science. The U.S. Department of Education strongly encourages the participation of U.S. institutions that have not had any previous academic partnerships with the Russian institutions identified in the above listing.

Program Authority: 20 U.S.C. 1138–1138d.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $600,000.

Estimated Range of Awards: $150,000–$300,000 for first year of the award.

Estimated Average Size of Awards: $400,000 for the two-year duration of grant.

Maximum Award: We will reject any application that proposes a budget exceeding $300,000 for a single budget period of 12 months. The Assistant Secretary for Postsecondary Education may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education (IHEs) or combinations of IHEs and other public and private nonprofit institutions and agencies.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* Sylvia W. Crowder, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., 6th floor, Washington, DC 20006–8544. Telephone: (202) 502–7514.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 20 pages (double spaced), using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget

section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section Part III.

We will reject your application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: August 8, 2007.

Deadline for Transmittal of Applications: September 7, 2007.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR part 74. We reference regulations outlining funding restrictions in the *Applicable Regulations* section in this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.* Applications for grants under the U.S.-Russian Program: Improving Research and Educational Activities in Higher Education, CFDA Number 84.116S must be submitted electronically using the Government-wide Grants.gov Apply site at *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the U.S.-Russian Program: Improving Research and Educational Activities in Higher Education at *http://www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.326, not 84.326S).

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted, and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*

• To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp).* These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf).* You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Education Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).

• You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Sylvia W. Crowder, U.S. Department of Education, 1990 K Street, NW., room 6012, Washington, DC 20006–8544. Fax: (202) 502–7859.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.* If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.116S), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center, Stop 4260, Attention: (CFDA Number 84.116S), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, *Attention:* (CFDA Number 84.116S), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications:

If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt

of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for evaluating applications for this program are from 34 CFR 75.210 of EDGAR and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The success of this program depends upon—(1) The extent to which funded projects are being replicated (i.e., adopted or adapted by others); and (2) The manner in which projects are being institutionalized and continued after funding. These two performance measures constitute the Fund for the Improvement of Postsecondary Education's (FIPSE's) indicators of the success of the program. If funded, you will be asked to collect and report data from your project on steps taken toward achieving these goals. Consequently, applicants are advised to include these two outcomes in conceptualizing the design, implementation, and evaluation of their proposed projects. Institutionalization and replication are important outcomes that ensure the ultimate success of international consortia funded through this program. Directly related to these two performance measures is the capacity for projects to develop long-term research and educational collaboration and exchanges of students, faculty, and administrative personnel of U.S. and Russian institutions.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Sylvia W. Crowder, Office of Postsecondary Education, U.S.-Russia Program: Improving Research and Educational Activities in Higher Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8544. Telephone: (202) 502–7514.

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: August 3, 2007.

James F. Manning,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. E7–15454 Filed 8–7–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RR07–14–000]

North American Electric Reliability Corporation; Notice of Compliance Filing

August 1, 2007.

Take notice that on July 20, 2007, the North American Electric Reliability Corporation (NERC) submitted a compliance filing to paragraph 468 of Order No. 672 issued February 3, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on August 20, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–15403 Filed 8–7–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–461–001]

Northern Natural Gas Company; Notice of Amendment

August 1, 2007.

Take notice that on July 27, 2007, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP06–461–001, an application pursuant to section 7 of the Natural Gas Act (NGA) to amend the certificate issued in the above-reference proceeding on July 10, 2007, which authorized an increase in the certificated capacity at the Redfield Storage Field located in Dallas County, Iowa, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

In this application, Northern requests an amendment to the certificate to: (1) Increase the maximum reservoir pressures; (2) continue the existing aggregated field capacity limit; (3) allow Northern to inject gas into the Elgin Formation for the limited purpose of operations and maintenance as discussed herein; and (4) modify the requirement to report pressures and reservoir-specific inventories at the aggregate levels to include only the initial year.

Any questions regarding this application may be directed to Michael T. Loeffler, Director of Certificates for Northern, 1111 South 103rd Street, Omaha, Nebraska 68124, (402) 398–7103 or Bret Fritch, Senior Regulatory Analyst, at (402) 398–7140.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, before the comment date of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Dated: August 14, 2007.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–15405 Filed 8–7–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

August 1, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–118–000.

Applicants: Virginia Electric and Power Company.

Description: Application of Virginia Electric and Power Co for approval under section 203 of the FPA to acquire approximately 540 MW Possum Point Generating Unit 6.

Filed Date: July 26, 2007.

Accession Number: 20070730–0370.

Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: EC07–119–000.

Applicants: Zeeland Power Company, LLC, Consumers Energy Company, Broadway Gen Funding, LLC.

Description: Application of Zeeland Power Co, LLC et al. for authorization under section 203 of the FPA and request for waivers.

Filed Date: July 27, 2007.

Accession Number: 20070730–0391.

Comment Date: 5 p.m. Eastern Time on Friday, August 17, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01–316–025.

Applicants: ISO New England Inc.

Description: ISO New England Inc submits its Index of Customers for the second quarter of 2007 under its FERC Tariff, for Transmission Dispatch and Power Administration Services.

Filed Date: July 27, 2007.

Accession Number: 20070731–0041.

Comment Date: 5 p.m. Eastern Time on Friday, August 17, 2007.

Docket Numbers: ER05–718–000.

Applicants: California Independent System Operator Corporation.

Description: California ISO One Hundred Thirteenth Weekly DMM Report on Market Impacts of Amendment 66 pursuant to FERC's April 7, 2005 Order.

Filed Date: July 27, 2007.

Accession Number: 20070727–5011.

Comment Date: 5 p.m. Eastern Time on Friday, August 17, 2007.

Docket Numbers: ER06–1271–007.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits an amendment to the compliance filing made on May 21, 2007.

Filed Date: July 26, 2007.

Accession Number: 20070730–0360.

Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1062–001.

Applicants: AB Energy NY, Pty. Ltd.

Description: AB Energy NY Pty Ltd submits an amended tariff which correct the pagination of the tariff sheets designated as Original Sheet No.1 *et. al.* to FERC Electric Tariff, Original Volume No. 1.

Filed Date: July 26, 2007.

Accession Number: 20070730–0361.

Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1063–001.

Applicants: AB Energy NE, Pty. Ltd.

Description: AB Energy NE Pty, Ltd submits amended tariff, Original Sheets 1 and 2 regarding their June 20, 2007 filing of petition for acceptance of initial tariff under ER07–1063.

Filed Date: July 26, 2007.

Accession Number: 20070730–0362.

Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1071–000.
Applicants: PJM Interconnection, LLC.
Description: Answer of Virginia Electric and Power Company Opposing Industrial Power Generating Company, LLC's Motion to Strike.
Filed Date: July 26, 2007.
Accession Number: 20070726–5033.
Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1076–001.
Applicants: Upper Peninsula Power Company.
Description: Upper Peninsula Power Company submits an Amendment to its original filing in response to an informal request by FERC Staff concerning its June 25, 2007 filing.
Filed Date: July 27, 2007.
Accession Number: 20070730–0390.
Comment Date: 5 p.m. Eastern Time on Friday, August 17, 2007.

Docket Numbers: ER07–1199–000.
Applicants: Airtricity Munnsville Wind Farm, LLC.
Description: Application of Airtricity Munnsville Wind Farm, LLC for order accepting initial market based rate tariff and granting certain waivers and blanket approvals.
Filed Date: July 26, 2007.
Accession Number: 20070727–0047.
Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1200–000.
Applicants: Allegheny Power.
Description: Allegheny Power submits notice of cancellation of the Interconnection and Operating Agreement with the Borough of Chambersburg, Service Agreement 353, FERC Electric Tariff, 2 Revised Volume 1.
Filed Date: July 26, 2007.
Accession Number: 20070727–0046.
Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1202–000.
Applicants: JD Wind 4, LLC.
Description: JD Wind 4, LLC submits an application for market-based rate authority, certain waivers, blanket authorization, FERC Electric Tariff, Original Volume No. 1.
Filed Date: July 26, 2007.
Accession Number: 20070727–0044.
Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1203–000
Applicants: Duke Energy Carolinas, LLC.
Description: Duke Energy Carolinas, LLC submits the June 7, 2007 Amended and Restated Confirmation with North Carolina Municipal Power Agency Number No. 1.
Filed Date: July 26, 2007.
Accession Number: 20070727–0042.
Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1204–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits an executed interconnection service agreement with DPL Energy, LLC.
Filed Date: July 26, 2007.
Accession Number: 20070730–0369.
Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1205–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits an executed interconnection service agreement with WM Renewable Energy, LLC.
Filed Date: July 26, 2007.
Accession Number: 20070730–0368.
Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Docket Numbers: ER07–1206–000.
Applicants: PSEG Lawrenceburg Energy Company LLC.
Description: PSEG Lawrenceburg Energy Company LLC submits its Notice of Cancellation of market-based rate authority under its FERC Electric Tariff, Original Volume No. 1.
Filed Date: July 27, 2007.
Accession Number: 20070730–0363.
Comment Date: 5 p.m. Eastern Time on Friday, August 17, 2007.

Docket Numbers: ER07–1207–000.
Applicants: Premier Energy Marketing L.L.C.
Description: Premier Energy Marketing LLC requests acceptance of FERC Electric Tariff, Original Volume No. 1 to engage in wholesale electric power and energy transactions and grant of certain blanket approvals.
Filed Date: July 25, 2007.
Accession Number: 20070731–0040
Comment Date: 5 p.m. Eastern Time on Wednesday, August 15, 2007.

Docket Numbers: ER07–1208–000.
Applicants: Wind Capital Holdings, LLC.
Description: Wind Capital Holdings LLC submits an application for market-based rate authority, certain waivers, and blanket authorizations.
Filed Date: July 27, 2007.
Accession Number: 20070731–0039.
Comment Date: 5 p.m. Eastern Time on Friday, August 17, 2007.

Docket Numbers: ER07–1209–000.
Applicants: American Transmission Company LLC.
Description: American Transmission Company LLC submits an executed Amended and Restated Generation—Transmission Interconnection Agreement with Upper Peninsula Power Company.
Filed Date: July 27, 2007.
Accession Number: 20070731–0038.
Comment Date: 5 p.m. Eastern Time on Friday, August 17, 2007.

Docket Numbers: ER07–1210–000.
Applicants: PJM Interconnection L.L.C.
Description: PJM Interconnection, LLC submits an executed interconnection service agreement with Handsome Lake Energy, LLC and Pennsylvania Electric Company.
Filed Date: July 27, 2007.
Accession Number: 20070731–0037.
Comment Date: 5 p.m. Eastern Time on Friday, August 17, 2007.

Docket Numbers: ER07–1211–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits six executed interconnection service agreements with American Electric Power Service Corp.
Filed Date: July 27, 2007.
Accession Number: 20070731–0083.
Comment Date: 5 p.m. Eastern Time on Friday, August 17, 2007.

Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES07–43–001.
Applicants: PSEG Fossil LLC.
Description: Supplement filing of the PSEG Companies to the July 9, 2007 Application.
Filed Date: July 25, 2007.
Accession Number: 20070725–5033
Comment Date: 5 p.m. Eastern Time on Wednesday, August 15, 2007.

Docket Numbers: ES07–46–001.
Applicants: PSEG Fossil LLC.
Description: Supplemental Filing of the PSEG Companies to the July 19, 2007 Application.
Filed Date: July 25, 2007.
Accession Number: 20070725–5035.
Comment Date: 5 p.m. Eastern Time on Wednesday, August 15, 2007.

Docket Numbers: ES07–49–000.
Applicants: Georgia Power Company.
Description: Form 523—Request for Permission to Issue Securities of Georgia Power Company.
Filed Date: July 26, 2007.
Accession Number: 20070726–5012.
Comment Date: 5 p.m. Eastern Time on Thursday, August 16, 2007.

Take notice that the Commission received the following public utility holding company filings:
Docket Numbers: PH07–26–000.
Applicants: Stora Enso Oyj, Stora Enso North America, Inc. Stora Enso North America Corp.
Description: FERC Form 65 B—Waiver Notification of Stora Enso Oyj, *et al.*

Filed Date: July 25, 2007.

Accession Number: 20070725–5074.

Comment Date: 5 p.m. Eastern Time on Wednesday, August 15, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–15402 Filed 8–7–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–443–000]

Iroquois Gas Transmission System, L.P.; Notice of Technical Conference

August 1, 2007.

The Commission's June 27, 2007 Order in the above-captioned proceeding,[1] directed that a technical conference be held to discuss Iroquois Gas Transmission System, L.P.'s proposed gas quality and interchangeability standards.

Take notice that a technical conference will be held on Monday, September 10, 2007 at 10 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested parties and staff are permitted to attend. For further information please contact Katie Williams at (202) 502–8246 or e-mail *kathleen.williams@ferc.gov*.

Kimberly D. Bose,

Secretary.

[FR Doc. E7–15404 Filed 8–7–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL07–2–000]

Composition of Proxy Groups for Determining Gas and Oil Pipeline Return on Equity

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed policy statement; correction.

SUMMARY: This document corrects an error in the Proposed Policy Statement that the Federal Energy Regulatory Commission published in the **Federal Register** on July 31, 2007. The Proposed Policy Statement had an incorrect reply comment date.

EFFECTIVE DATE: August 1, 2007.

FOR FURTHER INFORMATION CONTACT: John M. Robinson (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission at (202) 502–6806.

SUPPLEMENTARY INFORMATION: In FR Document E7–14708, published July 31, 2007 (72 FR 41744) make the following correction to the **DATES:** section of the preamble language.

On page 41744, column 1, the reply comment date is corrected to read as follows: ''Reply comments are due on September 19, 2007.''

Kimberly D. Bose,

Secretary.

[FR Doc. E7–15390 Filed 8–7–07; 8:45 am]

BILLING CODE 6717–01–P

[1] Iroquois Gas Transmission System, L.P., 119 FERC ¶ 61,325 (2007).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0237; FRL–8142–3]

Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness have been awarded a contract to perform work for OPP, and access to this information will enable Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness to fulfill their obligations of the contract.

DATES: Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness will be given access to this information on or before August 13, 2007.

FOR FURTHER INFORMATION CONTACT: Felicia Croom, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number:

(703) 305-0786; e-mail address: *croom.felicia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–0038 Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.,) 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Contractor Requirements

Under Contract Numbers EP06D000508 Will James Backe, EP06D000478 Rebbeca L. Maciewski, WP07D000479 Melissa Dybvig and EP07D000483 Megyn K. Mereness will perform data entry which will assist in building a database through systematic entry of relevant experimental data and chemical structure information. In addition, the student may be asked to assist in laboratory experiments to measure chemical metabolism in aquatic organism.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness, until the requirements in this document have been fully satisfied. Records of information provided to Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness, will be maintained by EPA Project Officers for this contract. All information supplied toWill J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness, by EPA for use in connection with this contract will be returned to EPA when Will J. Backe, Rebbeca L. Maciewski, Melissa Dybvig and Megyn K. Mereness, have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: July 25, 2007.

Oscar Morales,

Acting Director, Office of Pesticide Programs.

[FR Doc. E7–15052 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0038 FRL–8142–8]

System Research and Applications Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to System Research and Applications Corporation, in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). System Research and Applications Corporation, has been awarded a contract to perform work for OPP, and access to this information will enable System Research and Applications Corporation, to fulfill the obligations of the contract.

DATES: System Research and Applications Corporation will be given access to this information on or before August 13, 2007.

FOR FURTHER INFORMATION CONTACT: Felicia Croom, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305–0786; e-mail address: *croom.felicia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2007–0038 Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Contractor Requirements

Under Contract No. EP-W-05-024 Task Order #39, System Research and Applications Corporation, will perform configuration management support to the Enterprise Policy and Planning Oversight Staff. System Research and Applications Corporation will designate a configuration management contractor to assist in creating policy, administer and support the database, and assist in facilitating the configuration

management workflow process for ITRMD/EPPOS.

The OPP has determined that access by System Research and Applications Corporation, to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with System Research and Applications Corporation, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, System Research and Applications Corporation, are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to System Research and Applications Corporation, until the requirements in this document have been fully satisfied. Records of information provided to System Research and Applications Corporation, will be maintained by EPA Project Officers for this contract. All information supplied to System Research and Applications Corporation, by EPA for use in connection with this contract will be returned to EPA when System Research and Applications Corporation, have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: July 25, 2007.

Oscar Morales,

Acting Director, Office of Pesticide Programs.

[FR Doc. E7–15053 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8451–5]

National Environmental Justice Advisory Council; Notification of Public Meeting and Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notification of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will convene a meeting on the date and time described below. All meetings are open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the NEJAC. For additional information about registering for public comment, please see **SUPPLEMENTARY INFORMATION.**

DATES: The NEJAC will convene an open meeting via teleconference call on Thursday, August 23, 2007, from 2 p.m. to 4 p.m. (all times noted are Eastern Time.). Due to limited telephone lines, all members of the public who wish to attend the teleconference meeting or to provide public comment must register in advance, no later than Monday, August 20, 2007.

ADDRESSES: Because this meeting will be held via teleconference call, there is no physical location where members of the public can listen in. To attend, you must register in advance. See **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Pre-registration for all attendees is required. Because this meeting is conducted via teleconference call, online registrations will not be accepted. Rather, requests should be sent to Ms. Julianne Pardi of ICF International at: 9300 Lee Highway, Fairfax, Virginia 22031; Telephone: (703) 934–3873; E-mail: *jpardi@icfi.com*, or fax: (703) 934–3270.

Correspondence concerning the meeting should be sent to Ms. Victoria Robinson, NEJAC Program Manager, U.S. Environmental Protection Agency, at 1200 Pennsylvania Avenue, NW., (MC2201A), Washington, DC 20460; via e-mail at *environmental-justice-epa@epa.gov*; by telephone at (202) 564–6349; or by fax at (202) 564–1624. Additional information about the meeting is available at the Internet Web site: *http://www.epa.gov/compliance/environmentaljustice/nejac/meetings.html*.

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee shall provide independent advice to the Administrator on areas that may include, among other things, ''advice about EPA's progress, quality and adequacy in planning, developing and implementing environmental justice strategies, projects and programs'' relating to environment justice. The purpose of the teleconference meeting is to provide a briefing of the Agenda and major topics to be discussed at the NEJAC public meeting scheduled for September 18–20, 2007. These issues are: (1) Air pollution impacts of goods movement on communities, and (2) key issues related to the interpretation of environmental justice consideration in EPA's programs, policies, and activities.

Public Comment: Individuals or groups making oral presentations during the public comment period will be limited to a total time of five minutes. Only one representative of a community, an organization, or a group will be allowed to speak. Any number of written comments can be submitted for the record. The suggested format for individuals making public comment should be as follows: Name of Speaker, Name of Organization/Community, Address/Telephone/E-mail, Description of Concern and its Relationship to the policy issue(s), and Recommendations or desired outcome. Written comments received by August 17, 2007 will be included in the materials distributed to the members of the NEJAC. Written comments received after that date will be provided to the NEJAC as logistics allow. All information should be sent to the address, e-mail, or fax number listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Information about Services for the Handicapped: Individuals requiring accommodations for a disability should contact Ms. Julianne Pardi at least five business days prior to the meeting so that appropriate arrangements can be made to facilitate their participation. For information about services for the disabled or to request special assistance at the meeting, contact Ms. Pardi as soon as possible. All requests should be sent to the address, e-mail, or fax number listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: August 2, 2007.

Linda K. Smith,

Acting Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. E7–15463 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0434; FRL–8133–9]

2,4-D, 2,4-DP, and 2,4-DB; Decision Not to Initiate Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's Decision Not to Initiate a Special Review for 2,4-D, 2,4-DB and 2,4-DP. Based on extensive scientific review of many epidemiology and animal studies, the Agency finds that the weight of the evidence does not support a conclusion that 2,4-D, 2,4-DB and 2,4-DP are likely human carcinogens. The Agency has determined that the existing data do not support a conclusion that links human cancer to 2,4-D exposure. This conclusion applies to 2,4-DB and 2,4-DP because they were considered for Special Review based solely on their similarity to 2,4-D. In addition, because they are used significantly less than 2,4-D, their contribution to exposure is minimal relative to 2,4-D. Because the Agency has determined that the existing data do not support a conclusion that links human cancer to 2,4-D exposure, the Agency is not initiating a Special Review of 2,4-D, 2,4-DB and 2,4-DP. This decision was first proposed on March 23, 1988 (53 FR 9590).

FOR FURTHER INFORMATION CONTACT: Richard P. Dumas, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; fax number: (703) 308–8005; e-mail address: *dumas.richard @epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0434. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Facility Docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

II. Background

A. What Action is the Agency Taking?

On September 22, 1986, the Agency issued a preliminary notification of Special Review of 2,4-D. Because of their similarity to 2,4-D, on December 3, 1986, EPA issued preliminary notifications of Special Review of 2,4-DB and 2,4-DP. These notices were issued because of concerns for epidemiological links of 2,4-D, 2,4-DB and 2,4-DP to non-Hodgkin's lymphoma from both occupational and residential exposure. A proposed decision Not to Initiate Special Review was published on March 23, 1988 ((53 FR 9590; FRL–3353–3)) based on findings that such a link is not supported by the existing data. Two sets of comments were received in response to the proposal, both on behalf of the 2,4-D Task Force. Both sets supported the proposed decision, but questioned the need for a new cancer study. The latter point is moot because the registrant ultimately conducted and submitted an acceptable cancer study. The final decision was deferred until a more comprehensive review of 2,4-D was completed. This review was completed with the signature of the Reregistration Eligibility Decision for 2,4-D in June of 2005.

To address the potential link of non-Hodgkin's lymphoma to 2,4-D exposure, a joint Science Advisory Board/Scientific Advisory Panel Special Joint Committee was convened to review available epidemiological and other data on 2,4-D. In 1992, the Committee concluded that ''the data are not sufficient to conclude that there is a cause and effect relationship between exposure to 2,4-D and non-Hodgkin's lymphoma.'' 2,4-D was classified as a Group D, ''not classifiable as to human carcinogenicity.'' To help better inform the Agency, EPA requested further histopathological examinations of mouse and rat tissue from previously conducted studies. These exams were submitted and reviewed, and on March 16, 1999, the Agency notified the 2,4-D Task Force that the EPA would continue to classify 2,4-D as a Group D carcinogen.

The Agency has twice recently reviewed epidemiological studies linking cancer to 2,4-D exposure. In the first review, completed January 14, 2004, EPA concluded there is no additional evidence that would implicate 2,4-D as a cause of cancer (EPA, 2004). The second review of available epidemiological studies occurred in response to comments received during Phase 3 of the Public Participation Process for the 2,4-D RED. EPA's report, dated December 8, 2004, found that none of the more recent epidemiological and animal studies support a conclusion that 2,4-D, 2,4-DB and 2,4-DP are likely human carcinogens. Because the Agency has determined that the existing data do not support a conclusion that links human cancer to 2,4-D exposure, it has decided not to initiate a Special Review of 2,4-D, 2,4-DB and 2,4-DP.

B. What is the Agency's Authority for Taking this Action?

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 *et seq.*). Before a product can be registered it must be shown that it can be used without causing ''unreasonable adverse effects on the environment,'' FIFRA section 3(c)(5). The term ''unreasonable adverse effects on the environment'' is defined in FIFRA section 2(bb) as ''any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.'' The burden of proving that a pesticide meets this standard for registration is, at all times, on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard, the Administrator may cancel this registration under section 6 of FIFRA.

The Special Review process provides a mechanism to permit public participation in EPA's deliberations prior to issuance of any Notice of Final

Determination describing the regulatory action which the Administrator has selected. The Special Review process, which was previously called the Rebuttable Presumption Against Registration (RPAR) process, is described in 40 CFR part 154, published in the **Federal Register** of November 27, 1985 (50 FR 49003, 49015; FRL–2914–6). The purpose of this process is to determine whether some or all registrations of a particular active ingredient or ingredients meet the FIFRA standard for registration, or whether amendment of the terms and conditions of registration or cancellation of portions or all of the registrations is appropriate.

Prior to formal initiation of a Special Review, a preliminary notification is sent to registrants and applicants for registration pursuant to 40 CFR 154.21 announcing that the Agency is considering commencing a Special Review. Registrants and applicants for registration are allowed 30 days from receipt of the notification to comment on the Agency's proposal to commence a Special Review.

If the Agency determines, after issuance of a notification pursuant to 40 CFR 154.21, that it will not conduct a Special Review, it is required under 40 CFR 154.23 to issue a proposed decision to be published in the **Federal Register**. That regulation requires that a period of not less than 30 days be provided for public comment on the Proposed Decision Not to Initiate a Special Review. Subsequent to receipt and evaluation of comments on the Proposed Decision Not to Initiate a Special Review, pursuant to 40 CFR 154.25 the Administrator must publish in the **Federal Register** his final decision regarding whether or not to initiate a Special Review. As discussed above, the Agency previously published a notice pursuant to 40 CFR 154.23 for these compounds, considered public comments and has decided not to initiate the Special Review under 40 CFR 154.25(b).

List of Subjects

Environmental protection, Pesticides and pest.

Dated: July 30, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–15109 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0061; FRL–8134–7]

Azinphos-methyl; Notice of Receipt of Requests to Terminate Uses and Voluntarily Cancel Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by the registrants to amend their registrations to terminate certain uses of products containing the pesticide azinphos-methyl (AZM) and to cancel their registrations by September 30, 2012. The requests would terminate AZM use on Brussels sprouts and nursery stock not sooner than the later of September 30, 2007 or 90 days from the date EPA approves draft labeling submitted by the registrants; terminate AZM use on walnuts, almonds, and pistachios by October 30, 2009; and cancel all AZM products by September 30, 2012. The cancellation requests would serve to terminate the five uses of AZM (apples, pears, cherries, blueberries and parsley) remaining in 2012. The registrants have conditioned these requests on EPA making certain determinations regarding AZM, including a determination, by not later than November 11, 2011, regarding the availability of AZM alternatives. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests. Any sale, distribution, or use of products listed in this notice will be permitted only if such sale, distribution, or use is consistent with the terms as described in the final order acting upon these requests.

DATES: Comments must be received on or before September 7, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0061, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2005–0061. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material,

is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Katie Hall, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0166; fax number: (703) 308–8090; e-mail address: *hall.katie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background on the Receipt of Requests to Cancel and/or Amend Registrations to Delete Uses

AZM is an organophosphate insecticide that was first registered in the United States in 1959. It is currently used on apples, blueberries, cherries, pears, parsley, Brussels sprouts, nursery stock, almonds, walnuts, and pistachios. On November 16, 2006, EPA issued a determination that the farm worker and ecological risks of AZM require the phaseout of all remaining AZM uses by 2012. In conjunction with that determination, in letters dated November 15, 2006, November 16, 2006, November 17, 2006, and November 24, 2006, Bayer CropScience, Arysta LifeScience, Makhteshim Agan of North America, Inc., and Gowan Company, respectively, requested that EPA terminate certain uses in 2007 and 2009 and cancel all affected product registrations in 2012 (identified in Table 1 of this notice), subject to certain terms and conditions. Specifically they requested the deletion of the Brussels sprouts and nursery stock uses from their registrations not sooner than the later of September 30, 2007 or 90 days from the date EPA approves draft labeling submitted by the registrants; deletion of the walnut, almond, and pistachio uses not sooner than October 30, 2009; and the cancellation of all AZM registrations (thereby ending AZM use on apples, pears, cherries, blueberries, and parsley) not sooner than September 30, 2012.

Other terms and conditions described in the letters include:

1. A condition that the requests for termination of use and voluntary cancellation shall not be made effective until EPA conducts an independent scientific review of a submission from the registrants requesting reconsideration of EPA's decision to maintain an inter-species uncertainty factor in its risk assessment of AZM for agricultural workers; and

2. A condition that the requests for voluntary cancellation of all AZM products shall not become effective unless

i. EPA holds at least one public meeting to obtain views regarding the continued need for access to AZM prior to July 1, 2011; and

ii. EPA makes a determination not later than November 1, 2011 for the remaining uses of AZM whether to conduct a risk-benefit analysis for AZM prior to the cancellation of these uses.

If the actions described above result in the retention of any AZM use beyond the stop-use date (as provided in the existing stocks provisions below and in appendix A of the November 16, 2006 Final Decisions for the Remaining Uses of Azinphos-methyl), the registrants may request that product labeling be amended consistent with the terms of such actions and EPA shall grant any amendment that is consistent with such actions and the provisions of 40 CFR part 156.

III. What Action is the Agency Taking?

This notice announces receipt by EPA of requests from registrants to terminate uses and cancel all AZM product registrations. The affected products and the registrants making the requests are identified in Tables 1 and 2 of this unit. EPA believes this is the complete list of all such products; however, the registrants' requests extend to all AZM products irrespective of whether they are specifically listed in the tables below.

Under section 6(f)(1)(A) of FIFRA, registrants may request, at any time, that their pesticide registrations be canceled or amended to terminate one or more pesticide uses. Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30–day public comment period on the request for voluntary cancellation or use termination. In addition, section 6(f)(1)(C) of FIFRA requires that EPA provide a 180–day comment period on a request for voluntary cancellation or termination of

any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The AZM registrants have requested that EPA waive the 180–day comment period. EPA will provide a 30–day comment period on the proposed requests.

Unless the Agency determines that there are substantive comments that warrant further review of this request, an order will be issued amending and canceling the affected registrations.

TABLE 1.—AZM PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT AND CANCELLATION

Registration No.	Product name	Company
264-722	Guthion Technical Insecticide	Bayer Crop Science
264-733	Guthion Solupak 50% Wettable Powder Insecticide	Bayer Crop Science
CA800146	Guthion 50% Wettable Powder in Water Soluble Packets	Bayer Crop Science
ID000006	Guthion Solupak 50% Wettable Powder Insecticide	Bayer Crop Science

TABLE 1.—AZM PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT AND CANCELLATION—Continued

Registration No.	Product name	Company
NJ990010	Guthion Solupak 50% Wettable Powder Insecticide	Bayer Crop Science
OH020005	Guthion Solupak 50% Wettable Powder Insecticide	Bayer Crop Science
OR040020	Guthion Solupak 50% Wettable Powder Insecticide	Bayer Crop Science
TX030011	Guthion Solupak 50% Wettable Powder Insecticide	Bayer Crop Science
WA000001	Guthion Solupak 50% Wettable Powder Insecticide	Bayer Crop Science
WA030025	Guthion Solupak 50% Wettable Powder Insecticide	Bayer Crop Science

TABLE 1.—AZM PRODUCT REGISTRATIONS WITH PENDING REQUESTS FOR AMENDMENT AND CANCELLATION—Continued

Registration No.	Product name	Company
11678-53	Cotnion-Methyl	Makhteshim Chemical Works LTD
66222-11	Cotnion-Methyl Azinphos-methyl 50W	Makhteshim Agan of North America Inc.
10163-78	Gowan Azinphos-M 50 WSB	Gowan Company
10163-95	Azinphos Methyl Technical	Gowan Company
66330-233	Azinphos Methyl 50W	Arysta Lifescience

Table 2 of this unit includes the names and addresses of record for the registrants of the products listed in Table 1 of this unit.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS

EPA Company No.	Company name and address
264	Bayer Crop Science P.O. Box 12014 2 T.W. Alexander Drive Research Triangle Park, NC 27709
11678	Makteshim Chemical Works LTD c/o Makteshim Agan of North America 4515 Falls Of Neuse RD STE 300 Raleigh, NC 27609
66222	Makteshim-Agan of North Americal 4515 Falls Of Neuse RD STE 300 Raleigh, NC 27609
10163	Gowan Company PO Box 5569 Yuma, AZ 85366-5569

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION AND/OR AMENDMENTS—Continued

EPA Company No.	Company name and address
66330	Arysta Lifescience North America Corporation 15401 Weston Parkway, Suite 150 Cary, NC 27513

IV. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

V. Provisions for Disposition of Existing Stocks

For purposes of this notice, EPA considers existing stocks to be those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

In any order issued in response to these requests for amendments to terminate uses, the Agency proposes to include the following provisions for the treatment of any existing stocks of the products identified or referenced in Table 1. These provisions are consistent with the requests for use deletions and requests for voluntary cancellations outlined in Unit II. of this notice:

1. *Distribution or sale*. i. EPA intends to prohibit distribution or sale of products bearing the Brussels sprouts and nursery stock uses not sooner than the later of September 30, 2007 or 90 days from the date EPA approves draft labeling submitted by the registrants, except that sale or distribution of products bearing these uses for the purposes of proper disposal, reformulation, relabeling, or export consistent with section 17 of FIFRA may continue until such stocks are depleted.

ii. For products bearing all other uses, EPA intends to prohibit distribution or sale of such products after September 30, 2012 except that sale or distribution of such products for the purposes of proper disposal, reformulation, relabeling, or export consistent with section 17 of FIFRA may continue until such stocks are depleted.

2. *Use*. EPA intends to prohibit use of the subject products on:

i. Brussels sprouts and nursery stock after September 30, 2007 or 90 days from the date EPA approves draft labeling submitted by the registrants;

ii. Walnuts, almonds, and pistachios after October 30, 2009; and

iii. All remaining uses (apples, pears, cherries, blueberries and parsley) after September 30, 2012.

The stop use dates for the uses listed in items ii. and iii. above will also be reflected on amended product labeling. Any use of existing stocks must be consistent with the directions for use on product labeling. If the request for voluntary cancellation and use termination is granted, the Agency intends to publish the cancellation order in the **Federal Register.**

List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 31, 2007.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–15245 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0470; FRL–8143–5]

Benzoic Acid Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Reregistration Eligibility Decision (RED) for the pesticide case benzoic acid and opens a public comment period on this document. The Agency's risk assessments and other related documents also are available in the benzoic acid Docket. The Benzoic acid case contains four benzyl derivative compounds of which benzyl benzoate has active registrations. Benzyl benzoate is an insecticide/miticide used to control dust mites in carpets, mattresses, upholstery, and on furniture, as well as for control of mites on dogs. EPA has reviewed benzoic acid through the public participation process that the Agency uses to involve the public in developing pesticide reregistration and tolerance reassessment decisions. Through these programs, EPA is ensuring that all pesticides meet current health and safety standards.

DATES: Comments must be received on or before October 9, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0470, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0470. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of

encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT:

Laura Parsons, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305–5776; fax number: (703) 308–7070; e-mail address: *parsons.laura@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

Under section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is reevaluating existing pesticides to ensure that they meet current scientific and regulatory standards. EPA has completed a Reregistration Eligibility Decision (RED) for the pesticide case, benzoic acid under section 4(g)(2)(A) of FIFRA. The benzoic acid case contains four benzyl derivative compounds of which benzyl benzoate has active registrations. Benzyl benzoate is an insecticide/miticide used to control dust mites in carpets, mattresses, upholstery, and on furniture, as well as for control of mites on dogs. EPA has determined that the data base to support reregistration is substantially complete and that products containing benzyl benzoate are eligible for reregistration. Upon submission of any required product specific data under section 4(g)(2)(B) and any necessary changes to the registration and labeling (either to address concerns identified in the RED or as a result of product specific data), EPA will make a final reregistration decision under section 4(g)(2)(C) for products containing benzyl benzoate.

EPA is applying the principles of public participation to all pesticides undergoing reregistration and tolerance reassessment. The Agency's Pesticide Tolerance Reassessment and Reregistration; Public Participation Process, published in the **Federal Register** on May 14, 2004, (69 FR 26819)(FRL–7357–9) explains that in conducting these programs, EPA is tailoring its public participation process to be commensurate with the level of risk, extent of use, complexity of issues, and degree of public concern associated with each pesticide. Due to its uses, risks, and other factors, benzoic acid was reviewed through the modified 1-Phase process.

The reregistration program is being conducted under Congressionally mandated time frames, and EPA recognizes the need both to make timely decisions and to involve the public. The Agency is issuing the benzoic acid RED for public comment. This comment period is intended to provide an additional opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. These comments will become part of the Agency Docket for benzoic acid. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the benzoic acid RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient,

the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration, before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 26, 2007.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–15248 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0435; FRL–8133–7]

Ethyl Parathion; Proposal Not to Initiate the Special Review and Tributyltin Antifoulants; Proposal to Terminate Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Agency's intention not to initiate a Special Review of Ethyl Parathion and its proposal to terminate the Special Review of Tributyltin (TBT) used in antifouling paints. The Agency is proposing these actions because all pesticide registrations of ethyl parathion and all TBT antifouling paints are canceled.

DATES: Comments must be received on or before September 7, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0435, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0435. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Richard P. Dumas, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; fax number: (703) 308–8005; e-mail address: *dumas.richard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a

Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

1. *Ethyl Parathion*: On May 16, 1986, as required by 40 CFR 154.21, EPA provided the registrants a preliminary notification that EPA was considering initiating a Special Review of Ethyl Parathion. The basis for the concern was acute toxicity to humans from oral and dermal exposure and to birds from dietary and dermal exposures. In 1991, to address the human health concerns, the registrants voluntarily canceled many uses of ethyl parathion and imposed several mitigation measures for the remaining nine uses.

In 2002, all products being manufactured for sale in the U.S. were voluntarily canceled. However, four ethyl parathion product registrations held by Drexel Chemical Company that had not been manufactured for several years were not included in the 2002 cancellation actions. On March 16, 2005, Drexel Chemical Company requested voluntary cancellation for the four registrations. The cancellation of the four remaining ethyl parathion product registrations was effective on December 13, 2006.

Under 40 CFR 154.23, the Administrator must provide his rationale for not initiating a Special Review and provide an opportunity for comment. Because there are no remaining product registrations, and thus the risk concerns have been mitigated, EPA is proposing not to initiate a Special Review for Ethyl Parathion. The public will have until September 7, 2007 to comment on this proposal. Once comments are reviewed, EPA will issue a notice in the **Federal Register** with its final determination as to whether or not to initiate a Special Review for Ethyl Parathion.

2. *Tribuyltin Antifoulants*: The Special Review of Tribuyltin Antifoulants was initiated on January 8, 1986. Studies indicated toxicity to non-target marine and fresh water organisms at low levels, in some cases, at the parts per trillion level. On October 4, 1988, EPA partially concluded the Special Review for Tributyltin Antifoulants (53 FR 390222-41). The Special Review was concluded except for the issue of the release rates of TBT from antifoulant paints into the environment. Since that time, all antifouling paint products containing TBT have been voluntarily canceled. The last cancellation was effective on December 1, 2005. Under 40 CFR 154.31, the Administrator must provide his rationale for terminating a Special Review and provide an opportunity for comment. Because there are no remaining pesticide registrations for the antifouling paint use, EPA is proposing to terminate the Special Review of Tributytin Anitfoulants. The public will have until September 7, 2007 to comment on this proposal. Once comments are reviewed, EPA will issue a notice in the **Federal Register** with its final determination as to whether or not to terminate the Special Review of Tributytin Antifoulants.

B. What is the Agency's Authority for Taking this Action?

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 *et seq.*). Before a product can be registered it must be shown that it can be used without causing ''unreasonable adverse effects on the environment,'' FIFRA section 3(c)(5). The term ''unreasonable adverse effects on the environment'' is defined in FIFRA section 2(bb) as ''any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.'' The burden of proving that a pesticide meets this standard for registration is, at all times, on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard, the Administrator may cancel this registration under section 6 of FIFRA.

The Special Review process provides a mechanism to permit public participation in EPA's deliberations prior to issuance of any Notice of Final Determination describing the regulatory action which the Administrator has selected. The Special Review process, which was previously called the Rebuttable Presumption Against Registration (RPAR) process, is described in 40 CFR part 154, published in the **Federal Register** of November 25, 1985 (50 FR 49015). The purpose of this process is to determine whether some or all registrations of a particular active ingredient or ingredients meet the FIFRA standard for registration, or whether amendment of the terms and conditions of registration or cancellation of portions or all of the registrations is appropriate.

Prior to formal initiation of a Special Review, a preliminary notification is sent to registrants and applicants for registration pursuant to 40 CFR part 154.21 announcing that the Agency is considering commencing a Special Review. Registrants and applicants for registration are allowed 30 days from receipt of the notification to comment on the Agency's proposal to commence a Special Review.

If the Agency determines, after issuance of a notification pursuant to 40 CFR 154.21, that it will not conduct a Special Review, it is required under 40 CFR 154.23(b) to issue a proposed decision to be published in the **Federal Register**. The portion of this Notice concerning ethyl parathion is being issued pursuant to 40 CFR 154.23(b). That regulation requires that a period of not less than 30 days be provided for public comment on the Proposed Decision Not to Initiate a Special Review. Subsequent to receipt and evaluation of comments on the Proposed Decision Not to Initiate a Special Review, pursuant to 40 CFR 154.25 the Administrator must publish in the **Federal Register** his final decision regarding whether or not to initiate a Special Review.

If the Agency determines, after issuance of a notification pursuant to 40 CFR 154.21, that it will initiate a Special Review, 40 CFR 154.23(c) requires the Administrator to publish a Notice of Special Review in the **Federal Register**. To conclude the Special Review after a Special Review has been initiated, 40 CFR 154.31 requires the Administrator to first publish a Notice of Preliminary Determination in the Federal Register. The portion of this Notice concerning the Tributylin Antifoulants is being issued pursuant to 40 CFR 154.31. That regulation requires the Administrator to respond to all significant comments received on the Notice of Special Review and, among other things, make a preliminary determination of whether any of the applicable risk criteria have been satisfied. Finally, after receipt and evaluation of comments on the Notice of Preliminary Determination, 40 CFR 154.33 requires that the Administrator

publish in the **Federal Register** a Notice of Final Determination, including the reasons for the determination.

List of Subjects

Environmental protection, Pesticides, Pests.

Dated: July 30, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–15110 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0436; FRL–8133–8]

Oxydemeton-Methyl; Proposal to Terminate Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's proposed determination to terminate the Special Review of oxydemeton-methyl (ODM). On October 5, 1987, in the **Federal Register,** EPA initiated a Special Review of ODM because of its potential to adversely affect reproduction of workers who mix, load, and apply products containing ODM. Since the initiation of the Special Review, additional data and more comprehensive reviews of potential risks associated with ODM exposure have been completed, including those described in the 2002 Interim Reregistration Eligibility Decision (IRED) for ODM. During the reregistration process EPA conducted a public, intensive review of ODM risks. In the 2002 IRED and subsequent label amendments, the Agency addressed the occupational risk concerns, including risks associated with potential reproductive effects. There continues to be evidence of reproductive effects; however, there is no evidence that these effects inhibit the ability of organisms to reproduce. Similarly, further data and analysis have addressed the concern for heritable effects. With the label amendments that have been made since the initiation of Special Review, ODM exposure is expected to be below the levels where any reproductive effects occur. Because the risks that were the basis of the Special Review are no longer of concern, the Agency is proposing to terminate the Special Review of ODM.

DATES: Comments must be received on or before September 7, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0436, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0436. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov web site to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Richard P. Dumas, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8015; fax number: (703) 308–8005; e-mail address: *dumas.richard@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or

CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

On October 5, 1987, (52 FR 37248; FRL–3273–1) EPA initiated a Special Review of oxydemeton-methyl (ODM) because of its potential to adversely affect reproduction of workers who mix, load, and apply products containing ODM. The Agency's concerns regarding reproductive effects were based primarily on the results of a two-generation rat reproduction study and interim progress reports from an ongoing male rat reproductive toxicity study. Observed reproductive effects were decreased parental body weight, parental testes weight and fertility index, vacuolation of the corpus epididymus, decreased litter size, decreased pup weight and increased pup mortality.

Since the initiation of the Special Review, additional data and more comprehensive reviews of potential risks associated with ODM exposure have been completed, including those described in the 2002 Interim Reregistration Eligibility Decision (IRED) for ODM. In addition, during the reregistration process EPA conducted an intensive and public review of whether or not ODM registrations, meet the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) standard for registration. In the 2002 IRED and subsequent label amendments, the Agency addressed the occupational risk concerns, including risk associated with potential reproductive effects. There continues to be evidence of reproductive effects; however, there is no evidence that these effects inhibit the ability of organisms to reproduce. Similarly, further data and analysis have addressed the concern for heritable effects. With the label amendments that have been made since the initiation of Special Review, ODM exposure is expected to be below the levels where any reproductive effects occur. Because the risks that were the basis of the Special Review are no longer of concern, the Agency is proposing to terminate the Special Review of ODM.

The final risk management decision regarding the risk to workers exposed to ODM was completed with the 2002 IRED. A detailed description of the rationale and supporting documents can be found in *http://www.regulations.gov* under EPA–HQ–OPP–2005–0281. As described above and in the 2002 IRED, concerns regarding reproductive effects were addressed under FIFRA and no further action is required at this time. As such, EPA is proposing to terminate the Special Review of ODM.

B. What is the Agency's Authority for Taking this Action?

A pesticide product may be sold or distributed in the United States only if it is registered or exempt from registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended (7 U.S.C. 136 *et seq.*). Before a product can be registered it must be shown that it can be used without causing ''unreasonable adverse effects on the environment,'' FIFRA section 3(c)(5). The term ''unreasonable adverse effects on the environment'' is defined in FIFRA section 2(bb) as ''any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.'' The burden of proving that a pesticide meets this standard for registration is, at all times, on the proponent of initial or continued registration. If at any time the Agency determines that a pesticide no longer meets this standard, the Administrator may cancel this registration under section 6 of FIFRA.

The Special Review process provides a mechanism to permit public participation in EPA's deliberations prior to issuance of any Notice of Final Determination describing the regulatory action which the Administrator has selected. The Special Review process, which was previously called the Rebuttable Presumption Against Registration (RPAR), is described in 40 CFR part 154, published in the **Federal Register** of November 27, 1985 (50 FR 49003, 49015; FRL 2914-6). The purpose of this process is to determine whether some or all registrations of a particular active ingredient or ingredients meet the FIFRA standard for registration, or whether amendment of the terms and conditions of registration or cancellation of portions or all of the registrations is appropriate.

Prior to formal initiation of a Special Review, a preliminary notification is sent to registrants and applicants for registration pursuant to 40 CFR 154.21 announcing that the Agency is considering commencing a Special Review. Registrants and applicants for registration are allowed 30 days from receipt of the notification to comment on the Agency's proposal to commence a Special Review.

If the Agency determines, after issuance of a notification pursuant to 40 CFR 154.21, that it will initiate a Special Review, 40 CFR 154.23(c) requires the Administrator to publish a Notice of Special Review in the *Federal Register*. To conclude the Special Review after a Special Review has been initiated, 40 CFR 154.31 requires the Administrator to first publish a Notice of Preliminary Determination in the **Federal Register**. This Notice concerning the ODM is being issued pursuant to 40 CFR 154.31.

That regulation requires the Administrator to respond to all significant comments received on the Notice of Special Review and, among other things, make a preliminary determination of whether any of the applicable risk criteria have been satisfied. Finally, after receipt and evaluation of comments on the Notice of Preliminary Determination, 40 CFR 154.33 requires that the Administrator publish in the **Federal Register** a Notice of Final Determination, including the reasons for the determination.

List of Subjects

Environmental protection, Pesticides, Pests.

Dated: July 30, 2007.

James B. Gulliford,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E7–15113 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0433; FRL–8138–9]

Notice of Filing of a Pesticide Petition for an Amendment Establishing Tolerances for 1-Methylcyclopropene in Outdoor Pre-harvest use in or on Fruits and Vegetables

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing to amend an existing tolerance for 1-Methylcyclopropene in outdoor pre-harvest use in or on fruits and vegetables.

DATES: Comments must be received on or before September 7, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0433 and the pesticide petition number (PP) 7F7170, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0433. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Driss Benmhend, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9525; e-mail address: *benmhend.driss@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What Action is the Agency Taking?

EPA is printing notice of the filing of a pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petition described in this notice contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. Additional data may be needed before EPA rules on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition included in this notice, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available on-line at *http://www.regulations.gov*.

Amendment to Existing Tolerance

PP 7F7170. Agrofresh Inc., 100 Independence Mall, Philadelphia, PA 19106-2399, proposes to amend the tolerance in 40 CFR 180.1220 for residues of the biochemical pesticide, 1-Methylcyclopropene in outdoor pre-harvest use in or on fruits and vegetables. Because this petition is a request for an exemption from the requirement of a tolerance without numerical limitations, no analytical method is required.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 25, 2007.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E7–15114 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0570; FRL–8139–7]

Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before September 7, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0570 and the pesticide petition number (PP) of interest, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to EPA–HQ–OPP–2007–0570 and the pesticide petition number of interest. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: The persons listed at the end of the pesticide petition summary of interest.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or

pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the pesticide petition summary of interest.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Docket ID Numbers

When submitting comments, please use the docket ID number and the pesticide petition number of interest, as shown in the table.

PP Number	Docket ID Number
PP 7F7192-*Bacillus thuringiensis* Cry2Ae insect control protein(vector pTEM12) in cotton	EPA–HQ–OPP–2007–0573
PP 7E7205-*Aspergillus flavus* AF36 on corn	EPA–HQ–OPP–2007–0545
PP 7F7212-*Bacillus thuringiensis* Vip3Aa20 insect control protein (vector pNOV1300) in corn	EPA–HQ–OPP–2007–0574
PP 7F7216-*Bacillus thuringiensis* Vip3Aa19 insect control protein (vector pCOT1) in cotton	EPA–HQ–OPP–2007–0575
PP 7F7186-Ammonium Salts of Fatty Acids	EPA–HQ–OPP–2007–0571

III. What Action is the Agency Taking?

EPA is printing notice of the filing of pesticide petitions received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions included in this notice, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

A. New Temporary Exemptions from Tolerance

1. *PP 7F7192.* (EPA–HQ–OPP–2007–0573). Bayer CropScience LP, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709, proposes to establish a temporary exemption from the requirement of a tolerance for residues of the plant-incorporated protectant, *Bacillus thuringiensis* Cry2Ae insect control protein (vector pTEM12), in or on food commodity cotton. Because this petition is a request for a temporary exemption from the requirement of a tolerance without numerical limitations, no analytical method is required. Contact: Sharlene Matten, telephone number: (703) 605–0514; e-mail address: *matten.sharlene@epa.gov*.

2. *PP 7F7212.* (EPA–HQ–OPP–2007–0574). Syngenta Seeds, Inc., 3054 Cornwallis Rd., P.O. Box 12257, Research Triangle Park, NC 27709, proposes to establish a temporary exemption from the requirement of a tolerance for residues of the plant-incorporated protectant, *Bacillus thuringiensis* Vip3Aa20 insect control protein (vector pNOV1300), in or on food commodity corn. Because this petition is a request for a temporary exemption from the requirement of a tolerance without numerical limitations, no analytical method is required. Contact: Alan Reynolds, telephone number: (703) 605–0515; e-mail address:*reynolds.alan@epa.gov*.

3. *PP 7F7216.* (EPA–HQ–OPP–2007–0575). Syngenta Seeds, Inc., 3054 Cornwallis Rd., P.O. Box 12257, Research Triangle Park, NC 27709, proposes to establish a temporary exemption from the requirement of a tolerance for residues of the plant-incorporated protectant, *Bacillus thuringiensis* Vip3Aa19 insect control protein (vector pCOT1), in or on food commodity cotton. Because this petition

is a request for a temporary exemption from the requirement of a tolerance without numerical limitations, no analytical method is required. Contact: Alan Reynolds, telephone number: (703) 605–0515; e-mail address: *reynolds.alan@epa.gov*.

B. Amendment to Existing Tolerance Exemption

PP 7E7205. (EPA–HQ–OPP–2007–0545). IR–4, Rutgers University, 500 College Road East, Suite 201W, Princeton, NJ 08540, on behalf of Arizona Cotton Research and Protection Council, 3721 East Wier Ave., Phoenix, AZ 85040–2933, proposes to amend the tolerance in 40 CFR 180.1206 for residues of the fungicide, *Aspergillus flavus* AF36 to include a temporary exemption from tolerance in or on the food commodity corn. Because this petition is a request for a temporary exemption from the requirement of a tolerance without numerical limitations, no analytical method is required. Contact: Shanaz Bacchus, telephone number: (703) 308–8097; e-mail address: *bacchus.shanaz@epa.gov*.

C. New Exemption from Tolerance

PP 7F7186. (EPA–HQ–OPP–2007–0571). Falcon Lab, LLC., 1103 Norbee Dr., Wilmington, DE 19803, (petition submitted by Forster and Associates Consulting, LLC, 230 Steeplechase Circle, Wilmington, DE 19808), proposes to establish an exemption from the requirement of a tolerance for residues of the biochemical pesticide, Ammonium Salts of Fatty Acids, in or on all food commodities. Because this petition is a request for an exemption from the requirement of a tolerance without numerical limitations, no analytical method is required. Contact: Raderrio Wilkins, telephone number: (703) 308–1259; e-mail address: *wilkins.raderrio@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 26, 2007.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E7–15485 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8451–6]

Operator Training Grant Guidelines for States; Solid Waste Disposal Act, Subtitle I, as Amended by Title XV, Subtitle B of the Energy Policy Act of 2005

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: By this notice, the Environmental Protection Agency (EPA), Office of Underground Storage Tanks (OUST) is advising the public that EPA is issuing the operator training grant guidelines for states that receive underground storage tank (UST) funds from EPA. In this notice, EPA is publishing the operator training grant guidelines in their entirety. In addition, EPA will subsequently make the guidelines available on EPA's Web site. EPA developed the operator training grant guidelines as required by Section 9010 of Subtitle I of the Solid Waste Disposal Act, as amended by Section 1524 of the Energy Policy Act of 2005.

DATES: EPA is notifying the public via this notice that the operator training grant guidelines are available as of August 8, 2007.

ADDRESSES: In addition to publishing the operator training grant guidelines here, EPA will post the operator training grant guidelines on our Web site at: *http://www.epa.gov/oust/fedlaws/epact_05.htm#Final*. You may also obtain paper copies from the National Service Center for Environmental Publications (NSCEP), EPA's publications distribution warehouse. You may request copies from NSCEP by calling 1–800–490–9198; writing to U.S. EPA/NSCEP, Box 42419, Cincinnati, OH 45242–0419; or faxing your request to NSCEP at 301–604–3408. Ask for: Grant Guidelines to States for Implementing the Operator Training Provision of the Energy Policy Act of 2005 (EPA 510–R–07–005, August 2007).

FOR FURTHER INFORMATION CONTACT: Tim R. Smith, EPA's Office of Underground Storage Tanks, at *smith.timr@epa.gov* or (703) 603–7158.

SUPPLEMENTARY INFORMATION: On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, Subtitle B of this act, titled the Underground Storage Tank Compliance Act of 2005, contains amendments to Subtitle I of the Solid Waste Disposal Act. This is the first federal legislative change for the underground storage tank (UST) program since its inception over 20 years ago. The UST provisions of the law significantly affect federal and state UST programs, require major changes to the programs, and are aimed at further reducing UST releases to our environment. Among other things, the UST provisions of the Energy Policy Act require that states receiving funding under Subtitle I comply with certain requirements contained in the law. OUST worked, and is continuing to work, with its partners to develop grant guidelines that EPA regional tank programs will incorporate into states' grant agreements. The guidelines will provide states that receive UST funds with specific requirements, based on the UST provisions of the Energy Policy Act, for their state UST programs.

Sections 9010(a) and (b) of Subtitle I of the Solid Waste Disposal Act, as amended by Section 1524 of the Energy Policy Act, require EPA to publish guidelines that establish training requirements for three distinct classes of UST system operators and require states to develop state-specific training requirements consistent with the guidelines. As a result of that requirement, EPA worked with states and other UST stakeholders to develop the operator training grant guidelines. In April 2007, EPA published in the **Federal Register** a draft of the operator training grant guidelines. EPA considered comments and today is publishing the operator training grant guidelines. EPA will incorporate these guidelines into grant agreements between EPA and states. States receiving funds from EPA for their UST programs must comply with the UST provisions of the Energy Policy Act and will be subject to action by EPA under 40 CFR 31.43 if they fail to comply with the guidelines.

Statutory and Executive Order Reviews: Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to OMB review. Because this grant action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. Section 601 et.) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments. Although this action does create new binding legal requirements, such requirements do not substantially and directly affect tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). Although this grant action does not have significant federalism implications

under Executive Order 13132 (64 FR 43255, August 10, 1999), EPA consulted with states in the development of these grant guidelines. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. Section 272 note) do not apply. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Section 3501 *et seq.*). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Since this final action will contain legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit a report to Congress containing this final action prior to the publication of this action in the **Federal Register.**

Grant Guidelines to States for Implementing the Operator Training Provision of the Energy Policy Act of 2005, U.S. Environmental Protection Agency; Office of Underground Storage Tanks

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Overview of Operator Training Grant Guidelines

Why Is EPA Issuing These Guidelines?

The U.S. Environmental Protection Agency (EPA), in consultation with states, developed these grant guidelines as required by the operator training provision in Section 9010(a) of the Solid Waste Disposal Act (SWDA), enacted by the Underground Storage Tank Compliance Act, part of the Energy Policy Act of 2005 signed by President Bush on August 8, 2005.

Section 1524 of the Energy Policy Act amends Subtitle I of the Solid Waste Disposal Act by adding Section 9010. Section 9010 requires EPA to publish guidelines that specify training requirements for three classes of operators:

- Persons having primary responsibility for on-site operation and maintenance of underground storage tank systems.
- Persons having daily on-site responsibility for the operation and maintenance of underground storage tank systems.
- Daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

Section 9010(a)(2) requires EPA to consider:

- State training programs in existence when the guidelines are published.
- Training programs that are being used by tank owners and operators as of August 8, 2005.
- The high turnover rate of tank operators and other personnel.
- The frequency of improvement in underground storage tank equipment technology.
- The business in which tank operators are engaged.
- The substantial differences in the scope and length of training needed for the three classes of operators.
- Such other factors as EPA finds necessary to carry out Section 9010.

Section 9010(b)(2) also requires each state receiving Subtitle I funding (hereafter referred to as ''state''), to develop state-specific training requirements that:

- Are consistent with EPA's guidelines.
- Are developed in cooperation with tank owners and operators.
- Consider training programs implemented by tank owners and operators.
- Are appropriately communicated to tank owners and operators.

In addition, Section 9010(c) requires that all persons who are subject to the operator training requirements specified in these guidelines must:

- Meet the state-specific training requirements.
- Repeat applicable requirements if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with a requirement or standard of 40 CFR part 280 or a requirement or standard of a state program approved under Section 9004.

EPA's Office of Underground Storage Tanks (OUST) is issuing these grant guidelines to establish the minimum requirements a state receiving Subtitle I funding must meet in order to comply with the operator training provisions of the Energy Policy Act.

What Is in These Guidelines?

These guidelines describe the minimum requirements a state's underground storage tank (UST) program must contain in order for a state to comply with the Section 9010 requirements for Subtitle I funding. These guidelines include: a description of the classes of operators; required training for each class of operator; deadlines when operator training is required; and examples of acceptable state approaches to operator training.

When Do These Guidelines Take Effect?

These guidelines are effective August 8, 2007.

Operator Training Requirements

What Is Operator Training?

Underground storage tank operator training means any program that meets the requirements of these guidelines. Such a program is designed to ensure knowledge regarding operating and maintaining underground storage tank systems.

What Underground Storage Tank Systems Do These Guidelines Apply to?

These guidelines apply to underground storage tank systems regulated under Subtitle I, except those excluded by regulation at 40 CFR 280.10(b) and those deferred by regulation at 40 CFR 280.10(c).

How Does a State Implement These Guidelines?

A state implements these guidelines by:

• Requiring operator training for all operators in each class.

• Developing state-specific operator training requirements consistent with EPA's guidelines by August 8, 2009. State-specific operator training requirements must:

• Be developed in cooperation with tank owners and operators;

• Take into consideration training programs implemented by tank owners and tank operators; and

• Be appropriately communicated to tank owners and operators.

• Establishing a procedure to identify individuals who are required to be trained under the operator training requirements specified in these guidelines.

• Ensuring all operators are trained in accordance with these guidelines.

States may choose to be more stringent than these minimum requirements.

Who Is Subject to Operator Training Requirements and What Are the Requirements?

For purposes of implementing the operator training requirements, these guidelines establish three classes of operators identified as Class A, Class B, and Class C. Each underground storage tank system or group of underground storage tank systems at a facility must have a Class A, Class B, and Class C operator designated. All individuals designated as a Class A, B, or C operator must, at a minimum, be trained according to these guidelines. Separate individuals may be designated for each class of operator described above or an individual may be designated to more than one of the above operator classes. An individual who is designated to more than one operator class must be trained in each operator class for which he or she is designated. Because an individual may be designated for more than one operator class, states may allow a training approach that encompasses training for more than one operator class.

States must establish a procedure to identify individuals who are required to meet the operator training requirements specified in these guidelines. For example, a state may accomplish this by requiring that underground storage tank system owners or operators identify, for each underground storage tank system or group of underground storage tank systems at a facility, at least one name for each class of operator outlined in these guidelines.

These guidelines in no way relieve the owner or operator, as defined in 40 CFR part 280, from any legal responsibility mandated by the Federal underground storage tank regulations or requirements of a state underground storage tank program approved by EPA under SWDA Section 9004.

There may be occasions when a Class A, Class B, or Class C operator will not be present at the facility. For example, operators are frequently not present at unmanned facilities, such as emergency generators at telecommunication towers and card lock/card access facilities. However, these operators are still responsible for operation and maintenance activities or responding to emergencies and must be trained according to these guidelines.

To assist states in identifying responsible individuals to be trained pursuant to these guidelines, the following sections characterize, in general terms, each class of operator. These sections also identify general training requirements pertaining to operating and maintaining underground storage tank systems. See Appendix (The Three Operator Classes At A Glance) which describes the operator classes and the objectives of training requirements. States must further specify training for each individual class of operator by developing state-specific training requirements.

Class A Operator

A Class A operator has primary responsibility to operate and maintain the underground storage tank system. The Class A operator's responsibilities include managing resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

In general, this individual focuses on the broader aspects of the statutory and regulatory requirements and standards necessary to operate and maintain the underground storage tank system (i.e., 40 CFR part 280 or requirements of a state underground storage tank program approved by EPA under SWDA Section 9004). For example, this individual typically ensures that appropriate individual(s):

• Properly operate and maintain the underground storage tank system.

• Maintain appropriate records.

• Are trained to operate and maintain the underground storage tank system and keep records.

• Properly respond to emergencies caused by releases or spills from underground storage tank systems at the facility.

• Make financial responsibility documents available to the underground storage tank implementing agency as required.

At a minimum, the Class A operator must be trained in the following:

• A general knowledge of underground storage tank system requirements so he or she can make informed decisions regarding compliance and ensure appropriate individuals are fulfilling operation, maintenance, and recordkeeping requirements and standards of 40 CFR part 280 or requirements and standards of a state underground storage tank program approved by EPA under SWDA Section 9004 regarding:

• Spill prevention.

• Overfill prevention.

• Release detection.

• Corrosion protection.

• Emergency response.

• Product compatibility.

• Financial responsibility documentation requirements.

• Notification requirements.

• Release and suspected release reporting.

• Temporary and permanent closure requirements.

• Operator training requirements.

Class B Operator

A Class B operator implements applicable underground storage tank regulatory requirements and standards (i.e., 40 CFR part 280 or requirements of a state underground storage tank program approved by EPA under SWDA Section 9004) in the field. This individual implements day-to-day aspects of operating, maintaining, and recordkeeping for underground storage tanks at one or more facilities. For example, this individual typically monitors, maintains, and ensures:

• Release detection method, recordkeeping, and reporting requirements are met.

• Release prevention equipment, recordkeeping, and reporting requirements are met.

• All relevant equipment complies with performance standards.

• Appropriate individuals are trained to properly respond to emergencies caused by releases or spills from underground storage tank systems at the facility.

Compared with training for the Class A operator, training for the Class B operator will provide a more in-depth understanding of operation and maintenance aspects, but may cover a more narrow breadth of applicable regulatory requirements.

States may require either site-specific operator training, which is focused only

on equipment used at the underground storage tank facility, or broader training regarding regulatory requirements that, at a minimum, encompass the following:

- Components of underground storage tank systems.
- Materials of underground storage tank system components.
- Methods of release detection and release prevention applied to underground storage tank components.
- Operation and maintenance requirements of 40 CFR part 280 or requirements of a state underground storage tank program approved by EPA under SWDA Section 9004 that apply to underground storage tank systems and include:
- Spill prevention.
- Overfill prevention.
- Release detection.
- Corrosion protection.
- Emergency response.
- Product compatibility.
- Reporting and recordkeeping requirements.
- Class C operator training requirements.

Class C Operator

A Class C operator is an employee and is, generally, the first line of response to events indicating emergency conditions. This individual is responsible for responding to alarms or other indications of emergencies caused by spills or releases from underground storage tank systems. This individual notifies the Class B or Class A operator and appropriate emergency responders when necessary. Not all employees of the facility are necessarily Class C operators. This individual typically:

- Controls or monitors the dispensing or sale of regulated substances, or
- Is responsible for initial response to alarms or releases.

At a minimum, the Class C operator must be trained to:

- Take action in response to emergencies (such as, situations posing an immediate danger or threat to the public or to the environment and that require immediate action) or alarms caused by spills or releases from an underground storage tank system.

When Must Operators Be Trained?

States must ensure that Class A, Class B, and Class C operators are trained according to state-specific training requirements by August 8, 2012, which is three years after the date states are required to develop state-specific training requirements. A state may want to establish a schedule for phasing in the training over this time.

After August 8, 2012, states must require operators be trained as follows:

- Class A and Class B operators must be trained within 30 days or another reasonable period specified by the state, after assuming operation and maintenance responsibilities at the underground storage tank system.
- Class C operators must be trained before assuming responsibility for responding to emergencies.

If a state determines an underground storage tank system is out of compliance, appropriate operator(s) must be retrained. States may determine whether both Class A and Class B operators are retrained, or if only one class of operator (either Class A or Class B) is retrained. At a minimum, an underground storage tank system is out of compliance if the system:

- Does not meet EPA's Significant Operational Compliance requirements for release prevention and release detection measures identified at: *http://www.epa.gov/oust/cmplastc/soc.htm;* or
- Is not in significant compliance with other requirements, such as financial responsibility, as determined by the state.

Operators must be retrained within a reasonable time frame established by the state. At a minimum, retraining must include training of the areas determined not in significant compliance. States requiring at least annual operator training that covers all operator class requirements would meet retraining requirements.

What Training Approaches Would Meet the Operator Training Requirements?

Operator training must evaluate operator knowledge of the minimum training requirements described for each class of operator in these guidelines.

The following is a list of acceptable approaches to meet training requirements stated in these guidelines:

- An operator training program conducted or developed by the state or by a third party that has received prior state [1] approval. The program may include in-class, on-line, or hands-on training. Such a program must include an evaluation of operator knowledge. Examples include testing, practical demonstration, or other tools determined as acceptable by the state.
- An appropriately administered and evaluated verification of operator knowledge (i.e., examination). This determination must be accomplished through an operator examination designed to measure operator knowledge as required in these guidelines. The state or a third party acceptable to the state may administer this examination. The examination process must be acceptable to the state and reasonably determine the person tested has the necessary knowledge and skills to be considered competent to operate underground storage tanks.
- For Class C operator training, the state may accept training conducted by a trained Class A or Class B operator.
- To address operators responsible for underground storage tank systems in multiple states, states may develop a program that accepts operator training verification from other states.
- Any combination of the above listed operator training approaches or comparable training approaches recognized by the state.

How May States Ensure All Operators Are Trained in Accordance With These Guidelines?

States must have a system in place for ensuring all operators are trained in accordance with these guidelines. The following are some examples for meeting this requirement.

- Require owners or operators maintain records documenting the training received for all Class A, Class B, and Class C operators either: At the underground storage tank site and immediately available for inspection by the implementing agency; or at a readily available alternative site and be provided for inspection to the implementing agency upon request.
- Require owners or operators report Class A, Class B, and Class C operator compliance to the implementing agency.

What Enforcement Authority Must States Have for Operator Training?

At a minimum, states must have comparable enforcement authorities for their operator training requirements as they have for current underground storage tank requirements.

How Will States Demonstrate Compliance With These Guidelines?

After August 8, 2009, and before receiving future grant funding, states must provide one of the following to EPA:

- For a state that has met the requirements for operator training, the state must submit a certification indicating that the state meets the requirements in the guidelines.
- For a state that has not yet met the requirements for operator training, the state must provide a document that describes the state's efforts to meet the requirements. This document must include:

[1] States might need to establish criteria to determine the suitability of any training provider or curriculum of training courses provided.

• A description of the state's activities to date to meet the requirements in the guidelines;

• A description of the state's planned activities to meet the requirements; and

• The date by which the state expects to meet the requirements.

EPA may verify state certifications of compliance through site visits, record reviews, or audits as authorized by 40 CFR part 31.

How Will EPA Enforce State's Compliance With the Requirements in These Guidelines?

As a matter of law, each state that receives funding under Subtitle I, which would include a Leaking Underground Storage Tank (LUST) Cooperative Agreement, must comply with certain underground storage tank requirements of Subtitle I. The Agency will establish terms and conditions on grants and cooperative agreements for underground storage tank activities to require compliance with applicable requirements as a condition of funding. EPA will address noncompliance with these terms and conditions by utilizing EPA's grant enforcement authorities under 40 CFR 31.43, as necessary and appropriate.

For More Information About the Operator Training Grant Guidelines

Visit the EPA Office of Underground Storage Tanks Web site at *http://www.epa.gov/oust* or call 703–603–9900.

Background About the Energy Policy Act of 2005

On August 8, 2005, President Bush signed the Energy Policy Act of 2005. Title XV, Subtitle B of this act (titled the Underground Storage Tank Compliance Act) contains amendments to Subtitle I of the Solid Waste Disposal Act—the original legislation that created the underground storage tank (UST) program. These amendments significantly affect federal and state underground storage tank programs, will require major changes to the programs, and are aimed at reducing underground storage tank releases to our environment.

The amendments focus on preventing releases. Among other things, they expand eligible uses of the Leaking Underground Storage Tank (LUST) Trust Fund and include provisions regarding inspections, operator training, delivery prohibition, secondary containment and financial responsibility, and cleanup of releases that contain oxygenated fuel additives.

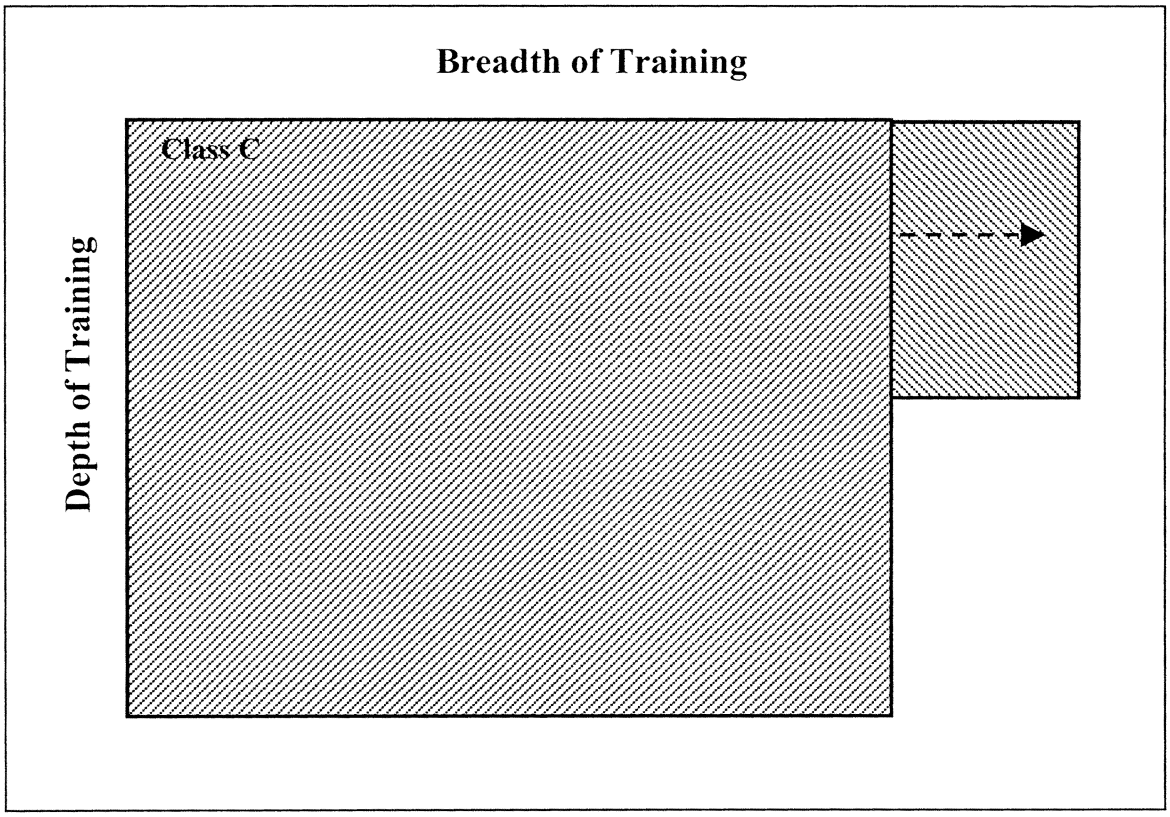
Some of these provisions require implementation by August 2006; others will require implementation in subsequent years. To implement the new law, EPA and states will work closely with tribes, other federal agencies, tank owners and operators, and other stakeholders to bring about the mandated changes affecting underground storage tank facilities.

To see the full text of this new legislation and for more information about EPA's work to implement the underground storage tank provisions of the law, see: *http://www.epa.gov/oust/fedlaws/nrg05_01.htm*.

APPENDIX.—THE THREE OPERATOR CLASSES AT A GLANCE

	Class A Operator	Class B Operator	Class C Operator
Who fits this class of operator?	The individual who generally focuses on the statutory and regulatory requirements related to operating and maintaining the underground storage tank system.	The individual who is generally responsible for field implementation of applicable underground storage tank regulatory requirements and implements day-to-day aspects of operating, maintaining, and recordkeeping for USTs at one or more facilities.	The individual who is generally the first line of response to events indicating emergency conditions or responding to alarms.
What is the objective of the training requirements?	Ensure broad knowledge of regulatory requirements.	Ensure in-depth knowledge of implementing regulatory requirements.	Ensure knowledge of actions to take in the event of a leak or other emergency.

BILLING CODE 6560–50–P



Dated: August 2, 2007.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. E7–15493 Filed 8–7–07; 8:45 am]

BILLING CODE 6560–50–C

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 1, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 9, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact below as soon as possible.

ADDRESSES: You may submit all Paperwork Reduction Act (PRA) comments by e-mail or U.S. post mail. To submit you comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street SW., Washington, DC 20554 and Jasmeet Seehra, Office of Management and Budget (OMB) Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* or via fax (202) 395–5167.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0982.

Title: Implementation of LPTV Digital Data Services Pilot Project.

Form Number: Not applicable

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 14.

Estimated Hours per Response: 0.25 hours—15 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion reporting requirement; Quarterly and Annual reporting requirements.

Total Annual Burden: 672 hours.

Total Annual Cost: $51,800.

Privacy Impact Assessment: No impact(s).

Needs and Uses: This collection implements the provisions of the Low Power TV (LPTV) Pilot Project Digital Data Services Act (DDSA). The DDSA mandates that the Commission issue regulations establishing a pilot project pursuant to which specified LPTV

licensees or permittees can provide digital data services to demonstrate the feasibility of using LPTV stations to provide high-speed wireless digital data service. The Commission is required to implement reporting requirements under the statute. The data collected will be used to ensure that the proposal will not cause interference to other authorized services and to evaluate the project.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15441 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

July 31, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before October 9, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, Room 1–B441, 445 12th Street, SW., Washington, DC 20554 or an e-mail to *PRA@fcc.gov*. If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0360.

Title: Section 80.409, Station Logs.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local and tribal government.

Number of Respondents: 20,549 respondents; 20,549 responses.

Estimated Time per Response: 27.3–95 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 574,508 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this extension (no change in the recordkeeping requirement) to the OMB after this 60 day comment period to obtain the full three-year clearance from them.

The recordkeeping requirements contained in section 80.409 is necessary to document the operation and public correspondence service of public coast radiotelegraph, public coast radiotelephone stations and Alaska-public fixed stations, ship radiotelegraph, ship radiotelephone and applicable radiotelephone including the logging of distress and safety calls where applicable.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15442 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission, Comments Requested

August 1, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 9, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all Paperwork Reduction Act (PRA) comments by email or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554 and Jasmeet Seehra, Office of Management and Budget (OMB) Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* or via fax (202) 395–5167.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), send an e-mail

to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: OMB Control Number: 3060–0519.

Title: Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991, CG Docket No. 02–278.

Form Number: Not Applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households; Not-for-profit institutions.

Number of Respondents: 54,497.

Estimated Time per Response: .004 hours (15 seconds) − 3 hours (average per response).

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 1,851,600 hours.

Total Annual Costs: $4,360,500.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB–1, ''Informal Complaints and Inquiries.''

Privacy Impact Assessment: Yes. The Privacy Impact Assessment was completed on June 28, 2007. It may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.*

Needs and Uses: The reporting requirements included under this OMB Control Number 3060–0519 enable the Commission to gather information regarding violations of the Do-Not-Call Implementation Act (Do-Not-Call Act).

If the information collection was not conducted, the Commission would be unable to track and enforce violations of the Do-Not-Call Act. The Do-Not-Call rules provide consumers with several options for avoiding most unwanted telephone solicitations.

This national do-not-call registry supplements the current company-specific do-not-call rules for those consumers who wish to continue requesting that particular companies not call them. Any company, which is asked by a consumer, including an existing customer, not to call again must honor that request for five (5) years. The Commission retains the current calling time restrictions of 8 a.m. until 9 p.m.

However, a provision of the Commission's rules allows consumers to give specific companies permission to call them through an express written agreement. Nonprofit organizations, companies with whom consumers have an established business relationship, and calls to persons with whom the telemarketer has a personal relationship are exempt from the ''do-not-call'' requirements.

On September 21, 2004, the Commission released the *Safe Harbor Order* establishing a limited safe harbor in which persons will not be liable for placing autodialed and prerecorded message calls to numbers ported from a wireline service within the previous 15 days. The Commission also amended its existing national do-not-call registry safe harbor to require telemarketers to scrub their lists against the do-not-call database every 31 days.

OMB Control Number: 3060–1078.

Title: Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, CG Docket No. 04–53.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 11,027,600.

Estimated Time per Response: 1–11 hours (average per response).

Frequency of Response: Recordkeeping requirement; On occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 115,645,100 hours.

Total Annual Cost: $37,105,283.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The reporting requirements included under this OMB Control Number 3060–1078 enables the Commission to collect information regarding violations of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN–SPAM Act). This information is used to help wireless subscribers stop receiving unwanted commercial mobile services messages. On August 12, 2004, the Commission released an *Order,* Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, CG Docket No. 04–53, FCC 04–194, adopting rules to prohibit the sending of commercial messages to any address referencing an Internet domain name associated with wireless subscribers' messaging services, unless the individual addressee has given the sender express prior authorization. The information collection requirements consist of 47 CFR 64.3100 (a)(4), (d), (e) and (f) of the Commission's rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15443 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 1, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before October 9, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact below as soon as possible.

ADDRESSES: You may submit all Paperwork Reduction Act (PRA) comments by e-mail or U.S. post mail. To submit you comments by e-mail,

send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554 and Jasmeet Seehra, Office of Management and Budget (OMB) Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* or via fax (202) 395–5167.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Number: 3060–0180.

Title: Section 73.1610, Equipment Tests.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 500.

Estimated Hours per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 250 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1610 requires the permittee of a new broadcast station to notify the FCC of its plans to conduct equipment tests for the purpose of making adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit and applicable engineering standards. The data is used by FCC staff to assure compliance with the terms of the construction permit and applicable engineering standards.

OMB Control Number: 3060–0188

Title: Call Sign Reservation and Authorization System.

Form Number: FCC Form 380.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit, Not-for-profit institutions; State, local, or tribal government.

Number of Respondents: 1,600.

Estimated Hours per Response: 0.166–0.5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 333 hours.

Total Annual Cost: $142,000.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.3550 provides that all requests for new or modified call signs be made via the on-line call sign reservation and authorization. The FCC Form 380 is an on-line system for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs. Access to the call sign reservation and authorization system is made by broadcast licensees and permittees, or by persons acting on their behalf, via the Internet. This on-line, electronic call sign system enables users to determine the availability and licensing status of call signs; to request an initial, or change an existing, call sign; and to determine and submit more easily the appropriate fee, if any. 47 CFR 74.783 also permits any low power television (LPTV) station to request a four-letter call sign after receiving its construction permit. All initial LPTV construction permits will continue to be issued with a five-character alpha-numeric LPTV call sign. LPTV licensees/permittees are also required to use the on-line call sign reservation and authorization system. The call sign reservation and authorization system is used by permittees, licensees, or persons acting on their behalf to determine the availability of a call sign and to request an initial call sign or change an existing call sign.

OMB Control Number: 3060–0439.

Title: Section 64.201, Regulations Concerning Indecent Communications by Telephone.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households.

Number of Respondents: 10,200.

Estimated Time per Response: 0.16 hours (10 minutes average per response).

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 1,632 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information (PII), which is covered under the FCC's system of records notice (SORN), FCC/CGB–1, ''Informal Complaints and Inquiries.''

Privacy Impact Assessment: Yes. The Privacy Impact Assessment was completed on June 28, 2007. It may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.*

Needs and Uses: Under Section 223 of the Communications Act of 1932, as amended, telephone companies are required, to the extent technically feasible, to prohibit access to indecent communications from the telephone of a subscriber who has not previously requested access. 47 CFR 64.201 of the Commission's rules implements Section 223 of the Communications Act and contains several information collection requirements: (1) A requirement that certain common carriers block access to indecent messages unless the subscriber seeks access from the common carrier (telephone company) in writing; (2) A requirement that adult message service providers notify their carriers of the nature of their programming; and (3) A requirement that a provider of adult message services request that their carrier identify it as such in bills to its subscribers. The information requirements are imposed on carriers, adult message service providers, and those who solicit their services to ensure that minors are denied access to material deemed indecent.

OMB Control Number: 3060–0665.

Title: Section 64.707, Public Dissemination of Information by Providers of the Operator Services.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 436.

Estimated Time per Response: 4 hours (average per response).

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 1,744 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: As required by 47 U.S.C. 226(d)(4)(b) of the Communication's Act, 47 CFR 64.707 of the Commission's rules, provides that operator service providers must

regularly publish and make available upon request from consumers written materials that describe any changes in operator services and choices available to consumers. Consumers use the information to increase their knowledge of the choices available to them in the operator services marketplace.

OMB Control Number: 3060–0973.

Title: Section 64.1120(e), Sale of Transfer of Subscriber Base to Another Carrier, CC Dockets 00–257 and 94–129.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 75.

Estimated Time per Response: 5 hours (average per response).

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 450 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Privacy Impact Assessment: No impacts(s).

Needs and Uses: Pursuant to 47 CFR 64.1120(e) of the Commission's rules, an acquiring carrier will self-certify to the Commission, in advance of the transfer, that the carrier will comply with the required procedures, including giving advance notice to the affected subscribers in a manner that ensures the protection of their interests. By streamlining the carrier change rules, the Commission will continue to protect consumers' interests and, at the same time, will ensure that its rules do not inadvertently inhibit routine business transactions.

On July 16, 2004, the Commission released a *First Order on Reconsideration and Fourth Order on Reconsideration* which made a minor modification to 47 CFR 64.1120(e)(iii) of the Commission's rules.

The modification in the rule did not impose any new or modified information collection requirements nor did it affect the existing annual hourly and cost changes.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15444 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

July 26, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 7, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Jasmeet K. Seehra, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3123, or via fax at 202–395–5167 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission, Room 1–B441, 445 12th Street, SW., DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0999.

Title: Section 20.19, Hearing Aid-Compatible Mobile Handsets (Hearing Aid Compatibility Act).

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 925 respondents; 1,850 responses.

Estimated Time per Response: 2–160 hours.

Frequency of Response: Annual reporting requirement and third party disclosure requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 6,050 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Information requested in the annual reports might need to disclose confidential information. However, covered entities would be allowed to request that such materials submitted to the Commission be withheld from public inspection under 47 CFR 0.459.

Needs and Uses: The Commission will submit this information collection to OMB as a revision during this comment period to obtain the full three-year clearance from them. The Commission is reporting a decrease in the number of respondents that are no longer subject to the rules because they have met certain benchmark requirements. The estimate regarding the annual hourly burden requires adjustment because the Commission did not impose the semi-annual reporting requirement on all three groups. Instead, it required wireless service providers and digital wireless handset manufacturers to report every six months for the first three years of implementation, and then annually thereafter through the fifth year of implementation. The Commission expects that each company would utilize staff engineers to draft the reports, and each report would take about two hours to draft. Therefore, the service provider and handset manufacturer reports to an estimated total of four hours per entity for the first three years, and will take two hours per entity in the current (fourth) and the fifth year. Thus, the annual burden for the remaining information collections involving annual reports is 925 (965 entities were reported to OMB in 2004) $\times$ 2 hours per entity = 1,850 hours per year. The actual hour burden may be less because the Commission gave these

entities the option to submit joint reports, if desired.

The Commission anticipates there may be ongoing modifications to the technical standard. We expect that a subset of approximately 50 of the 965 entities will meet and make modifications to the technical standard for the remaining years. The total estimated annual burden hours for these entities are 4,200 hours. Additionally, we anticipate that 12 principal representatives will account for 1,920 hours (12 entities × 160 per entity = 1,920 hours) and 38 representatives will account for 2,280 hours (38 entities × 60 hours per entity = 2,280). 1,920 + 2,280 hours = 6,050 total annual burden hours is being reported to OMB.

OMB Control Number: 3060–0950.

Title: Bidding Credits for Tribal Lands.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 3 respondents; 3 responses.

Estimated Time per Response: 10–180 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 600 hours.

Total Annual Cost: $108,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this information collection to OMB as an extension (no change in reporting or recordkeeping requirements) during this comment period to obtain the full three-year clearance from them. Due to significantly less respondents (−1,310 respondents estimated in 2004) since the last submission to the OMB, the Commission has adjusted the number of respondents, burden hours and annual costs for this information collection. Although there are currently three applicants taking part in the Tribal Land Bidding Credit (TLBC) program, almost all applicants in any auction where TLBCs are available could take part in the program. Because so many could participate, we need to continue this collection.

On June 2000, the Commission adopted rules and policies to encourage the deployment of wireless services to tribal lands. Pursuant to the objectives and requirements of section 309(j)(3) and (4) of the Communications Act of 1934, as amended and in conjunction with the 1990 Census which indicates that communities on tribal lands have historically had less access to telecommunications services than any other segment of the population. The Commission adopted rules and policies to encourage deployment of wireless services to tribal communities.

On March 2003, the Commission adopted rules which extended the time period during which winning bidders can negotiate with relevant tribes to obtain the certification needed to obtain the bidding credit in a particular market from 90 days to 180 days.

On August 2004, the Commission adopted a third final rule which raised the wireline telephone penetration rate at which tribal lands are eligible for a bidding credit from 70 percent or less to 85 percent or less, and increased the amount of the bidding credit available to carriers that pledge to deploy on and serve qualifying tribal lands. A winning bidder seeking a bidding credit to serve a qualifying tribal land within a particular market must meet specific requirements (filing FCC Form 601) and various certifications from tribal government stating specific requirements are met.

The Commission believes that the lack of basic telecommunications services puts affected tribal communities at a social and economic disadvantage. This information collection will be used to ensure that tribal communities within federally-recognized tribal areas have access to wireless telecommunications services equivalent to that of the nation as a whole.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15445 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comment Requested

August 1, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to (PRA) of 1995 (PRA), Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before October 9, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0184.

Title: Section 73.1740, Minimum Operating Schedule.

Form Number: Not Applicable.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 368.

Estimated Hours per Response: 0.25 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 184 hours.

Total Annual Cost: None.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.1740 requires licensees of commercial broadcast stations to notify the FCC in Washington, DC, when events beyond

their control make it impossible to continue operation or to adhere to the required operating schedules set forth in this section. In addition, the FCC must be notified when normal operation is resumed. No further authority is needed for limited operation or discontinued operation for a period not exceeding 30 days. Should events beyond the licensees control make it impossible for compliance within the required 30-day time period, an informal written request shall be submitted to the FCC requesting the amount of additional time that the licensee deems necessary. The data is used by FCC staff to temporarily authorize a limited operation or a discontinuance of operation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15446 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

August 3, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 7, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–5887, or via fax at 202–395–5167 or via email to *Nicholas_A._Fraser@omb.eop.gov,* and to Jerry Cowden, Federal Communications Commission, Room 1–B135, 445 12th Street, SW, DC 20554 or via e-mail to *PRA@fcc.gov*. If you would like to obtain or view a copy of this information collection after the 60-day comment period, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Jerry Cowden at 202–418–0447 or via e-mail at *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0855.

Title: Telecommunications Reporting Worksheets.

Form Nos.: FCC Forms 499–A and 499–Q.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 5,625 respondents; 36,068 responses.

Estimated Time per Response: 15 minutes—25 hours.

Frequency of Response: On occasion, quarterly, and annual reporting requirements, recordkeeping requirement, third party disclosure requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 273,129 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission will allow respondents to certify that data contained in their submission are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity filing the Worksheet. If the Commission receives a request for or proposes to disclose the information, the respondent would be required to make the full showing pursuant to the Commission's rules for withholding from public inspection information submitted to the Commission.

Needs and Uses: The 60-day Notice for this collection was published as an extension. Since that publication, however, the U.S. Court of Appeals of the District of Columbia Circuit issued a decision and the Commission issued an order affecting this collection which requires that the collection now be submitted as a revision. Specifically, on June 1, 2007, the U.S. Court of Appeals of the District of Columbia Circuit, in *Vonage Holdings Corp.* v. *FCC,* generally affirmed the *2006 Contribution Methodology Order*. The Court, however, vacated the pre-approval requirement for traffic studies submitted by interconnected VoIP providers and the interim suspension of the carrier's carrier rule. Later, on June 15, 2007, the Commission released an Order requiring interconnected VoIP providers to contribute to the Telecommunications Relay Service (TRS) fund. The revised 2007 FCC 499–A and 499–Q forms and instructions contained in this submission incorporate the changes required by the *Vonage Holdings Corp. Decision and TRS Contribution Order*.

The Federal Communications Commission (Commission) requires telecommunications carriers and other providers of telecommunications to contribute to the Universal Service Fund (USF) and other funds. Contribution revenue data, as well as other information, are reported by carriers and other providers of telecommunications on FCC Forms 499–A and 499–Q. Accompanying these forms are instructions on how to report revenue. This revision is necessary to incorporate the changes required by the Vonage Holdings Corp. Decision and TRS Contribution Order and will go into effect with the November 1, 2007 quarterly filing of FCC Form 499–Q.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15450 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval

August 2, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as

required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 7, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Jasmeet K. Seehra, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–3123, or via fax at (202) 395–5167 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *Cathy.Williams@fcc.gov*.

If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918 or via the Internet at *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0937.

Title: Establishment of a Class A Television Service, MM Docket No. 00–10.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 560.

Estimated Time per Response: 0.017—52 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Quarterly reporting requirement; Third party disclosure requirement.

Total Annual Burden: 263,168 hours.

Total Annual Cost: $1,295,500.

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On November 29, 1999, the Community Broadcasters Protection Act of 1999 (CBPA), Pub. L. No. 106–113, 113 Stat. Appendix I at pp. 1501A–594–1501A–598 (1999), codified at 47 U.S.C. 336(f), was enacted. That legislation provided that a low power television (LPTV) licensee should be permitted to convert the secondary status of its station to the new Class A status, provided it can satisfy certain statutorily-established criteria. The CBPA directs that Class A licensees be subject to the same license terms and renewal standards as full-power television licenses and that Class A licensees be accorded primary status as television broadcasters as long as they continue to meet the requirements set forth in the statute for a qualifying low power station. The CBPA sets out certain certification and application procedures for LPTV licensees seeking Class A designation, prescribes the criteria LPTV licensees must meet to be eligible for Class A licenses, and outlines the interference protection Class A applicants must provide to analog, digital, LPTV and TV translator stations.

The CBPA directs that Class A stations must comply with the operating requirements for full-service television broadcast stations. Therefore, beginning on the date of its application for a Class A license and thereafter, a station must be ''in compliance'' with the Commission's operating rules for full-service television stations, contained in 47 CFR part 73.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15451 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval

August 1, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 7, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Jasmeet K. Seehra, Office of Management and Budget (OMB), Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, (202) 395–3123, or via fax at (202) 395–5167 or via Internet at *Jasmeet_K._Seehra@omb.eop.gov* and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC.

If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy

Williams at (202) 418–2918 or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0874.

Title: Consumer Complaint Forms, FCC Form 475–B and FCC Form 2000.

Form No.: FCC Forms 475–B; 2000–A, 2000–B, 2000–C, 2000–D, 2000–E, and 2000–F.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; Business and other for-profit entities; Not-for-profit Institutions.

Number of Respondents: 1,330,108 (FCC Forms 475–B: 1,271,332; 2000A through 2000F: 58,776).

Estimated Time per Response: 15 minutes per form for the Form 475–B; 30 minutes per form for the Form 2000.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary.

Total Annual Burden: 347,221 (FCC Forms 475–B: 317,833 hours; 2000A through 2000F: 29,388 hours).

Total Annual Costs: $0.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB–1, ''Informal Complaints and Inquiries.''

Privacy Act Impact Assessment: Yes. The Privacy Impact Assessment was completed on June 28, 2007. It may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.*

Needs and Uses: Section 208(a) of the Communications Act of 1934, as amended, authorizes complaints by any ''person complaining of anything done or omitted to be done by any common carrier'' subject to the provisions of the Act. Section 208(a) further states that, if a carrier does not satisfy a complaint or there appears to be any reasonable ground for investigating the complaint, the Commission shall ''investigate the matters complained of in such manner and by such means as it shall deem proper.'' Although the Act does not discuss how the Commission should treat complaints against non-common carriers for violations of the Act or Commission rules, the Commission investigates such complaints in a manner similar to how it treats those against common carriers.

Currently, the Commission has specific complaint forms for the unauthorized conversion of a person's telephone service (''slamming'') (FCC Form 501), the broadcast of indecent, obscene, or profane material (FCC Form 475B), and the unlawful telemarketing, ''junk faxing,'' or e-mail messaging to a wireless device (FCC Form 1088). The current FCC Form 475 is used for all other types of complaints, although, as currently drafted, it is predominately oriented toward common carrier complaints.

The proposed FCC Form 2000 replaces current FCC Form 475, providing greater clarity and ease of use by separating the various complaint subject areas into separate subparts tailored to each subject. The Internet-based version of FCC Form 2000 first asks for the complainant's contact information, including name, address, telephone number, and e-mail address; then presents a ''gateway'' question to determine the general topic of the complaint: (1) Deceptive or unlawful advertising or marketing; (2) billing, privacy, or service quality; (3) disability access;

(4) emergency or public safety; (5) general media issues; or (6) other complaints. As described below, the form provides examples of the types of issues covered by each topic. After the complainant answers this question, the form asks additional questions geared to the specific type of violation reported. The form poses certain mandatory threshold questions that must be answered for the Commission to determine whether a violation has occurred. It also provides space for complainants to provide additional information and details that may be necessary or helpful to the Commission in investigating the complaint.

In printed format, FCC Form 2000 will have six subparts, one for each area described above.

Each subpart of the printable version of FCC Form 2000 consolidates the complainant's personal information with detailed questions about the specific violations alleged by the complainant.

The following descriptions of FCC Form 2000A, 2000B, 2000C, 2000D, 2000E and 2000F, therefore, refer to the printable subparts of FCC Form 2000.

FCC Form 2000A, Deceptive or Unlawful Advertising or Marketing Complaint. This form would be used if the complainant alleges deceptive or otherwise unlawful advertising or marketing by communications companies, including common carriers, broadcasters, and cable and satellite service providers. The consumer protection issues covered by this form include deceptive advertising by telephone companies, wireless service providers, or Internet access service providers, as well as subliminal advertising on radio or television, illegal advertisements on non-commercial educational television or radio stations, and excessive or otherwise unlawful commercials during children's television programming.

FCC Form 2000B, Billing, Privacy, or Service Quality Complaint. This form would be used if the complainant alleges billing, privacy, or service quality issues with a telephone company or wireless provider. The consumer protection issues covered by this form include complaints about the quality or availability of service by a telephone company, wireless provider, or Internet access service provider, including complaints that a telephone company or wireless provider is not allowing the complainant to keep his or her telephone number after changing service providers. Complainants also would use this form for complaints about the unauthorized disclosure of calling records by telephone companies or wireless providers.

FCC Form 2000C, Disability Access Complaint. This form would be used for complaints about disability access, *e.g.*, issues with Telecommunications Relay Service (TRS), closed captioning, or the accessibility of emergency information. This form would also be used for complaints about the accessibility of telecommunications equipment and services such as the compatibility of hearing aids with both wireless and wireline telephone equipment.

FCC Form 2000D, Emergency or Public Safety Complaint. This form would be used for complaints regarding problems with communications companies about emergency or public safety issues. This form would be used for complaints about the quality or availability of Enhanced 911 service, interference with emergency/public safety communications or devices, radio tower problems (lighting, fencing, painting), Emergency Alert System (EAS) problems, and cable signal leakage.

FCC Form 2000E, Media (General) Complaint. This form would be used for complaints alleging misconduct by radio or television stations, cable systems, or satellite operators. This form would cover a broad spectrum of complaints, including those alleging unfair contests, hoaxes, payola or sponsorship identification problems, news distortion, unauthorized or pirate broadcasters, and the broadcast of telephone conversations without prior notice.

FCC Form 2000F, Other Communications Complaint Not Covered by Form 2000A through Form 2000E.

This form would be used for complaints that do not come within the scope of any of the other subparts of FCC Form 2000. Some of the areas covered by this form would be interference to non-emergency services or communications, such as garage door openers or home appliances, as well as amateur or Citizens Band (CB) radio issues.

FCC Form 2000 will allow the Commission to collect detailed information from complainants concerning possible violations of the Act and the Commission's rules, which will enable the Commission to investigate such allegations more efficiently and to initiate enforcement actions against violators as appropriate. By collecting complaint information in a single, comprehensive template, the form will provide a standardized way for complainants to provide their information, thus reducing the need for further documentation or questions from FCC investigators to determine whether violations have occurred. This approach will ensure that complainants present their information in a way that maximizes the FCC's ability to take enforcement action against violators and protects complainants from violations that are unjust, unreasonable, and potentially hazardous to life and property. Additionally, FCC Form 2000's format reduces the need for complainants to compose narratives with all the information necessary for the Commission to begin an investigation, principally by including fields for and examples of the information most commonly needed for investigations of the most common types of violations. The form will allow the Commission to gather and review this information more efficiently. The information collected by FCC Form 2000 may ultimately become the foundation for enforcement actions and/or rulemaking proceedings, as appropriate.

FCC Form 475–B, Obscene, Profane, and Indecent Complaint Form. This form is used by consumers to lay out precisely their complaint(s) and issue(s) concerning the practices of the communications entities, which consumers believe may have aired obscene, profane, and/or indecent programming. FCC Form 475–B will remain unchanged.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15452 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

July 31, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 7, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Jasmeet K. Seehra, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3123, or via fax at 202–395–5167 or via internet at *Jasmeet_K._Seehra@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, Room 1-B441, 445 12th Street, SW., DC 20554 or an e-mail to *PRA@fcc.gov*. If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0192.

Title: Section 87.103, Posting Station License.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 67,800 respondents; 67,800 responses.

Estimated Time Per Response: .25 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 16,950 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this information collection to OMB as an extension during this comment period to obtain the full three-year clearance from them. The Commission is reporting an increase in the number of respondents that are affected by this rule section by 20,000.

The recordkeeping requirement in Section 87.103 is necessary to demonstrate that all transmitters in the Aviation Service are properly licensed in accordance with the requirements of Section 103 of the Communications Act of 1934, as amended; 47 U.S.C. 301, No. 2020 of the International Radio Regulations, and Article 30 of the Convention on International Civil Aviation. The information used by FCC staff during inspection and investigations to ensure the particular station is licensed and operated in compliance with applicable rule, statutes and treaties. Section 87.103 requires (a) *stations at fixed locations:* The licensee or a photocopy must be posted or retained in the station's permanent records; (b) *aircraft radio stations:* The licensee must be either posted in the aircraft or kept with the aircraft registration certificate. If a single authorization covers a fleet of aircraft, a copy of the license must be either posted in each aircraft or kept with each aircraft registration certificate; and (c) *aeronautical mobile stations:* The license must be retained as a permanent part of the station records.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–15453 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

August 3, 2007.

FCC To Hold Open Commission Meeting Tuesday, August 7, 2007

The Federal Communications Commission will hold an Open Meeting on the subject listed below on Tuesday, August 7, 2007, which is scheduled to commence at 10 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC. The prompt and orderly conduct of Commission business permits less than 7 days notice be given for consideration of this item.

Item No.	Bureau	Subject
1	Wireless Tele-Communications.	*Title:* Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers (WT Docket No. 05–265); Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services (WT Docket No. 00–193). *Summary:* The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking addressing the roaming obligations of Commercial Mobile Radio Service providers.

*The summaries listed in this notice are intended for the use of the public attending open Commission meetings. Information not summarized may also be considered at such meetings. Consequently these summaries should not be interpreted to limit the Commission's authority to consider any relevant information.

Action by the Commission, August 3, 2007. Chairman Martin; Commissioners Copps, Adelstein, Tate and McDowell voting to consider this item.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. In addition, include a way we can contact you if we need more information. Make your request as early as possible; please allow at least 5 days advance notice. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com.*

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC's Audio/Video Events Web page at *www.fcc.gov/realaudio.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 07–3890 Filed 8–6–07; 12:40 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: APEX BROADCASTING, INC., Station WAVF, Facility ID 13890, BPH–20070705ADU, From HANAHAN, SC, To FORESTBROOK, SC; BOND BROADCASTING INC., Station WGEL, Facility ID 6343, BPH–20070619AAL, From GREENVILLE, IL, To TRENTON, IL; BRAD MAURICE COTHRAN, Station WXTN, Facility ID 27486, BP–20070702CUL, From LEXINGTON, MS, To BENTON, MS; CHAPARRAL BROADCASTING, INC., Station KLZY, Facility ID 164113, BMPH–20070615ACW, From HONOKAA, HI, To PAIA, HI; COUNTRY MOUNTAIN AIRWAVES, LLC, Station KQAZ, Facility ID 17391, BPH–20070611AHV, From SPRINGERVILLE, AZ, To PINETOP, AZ; EDUCATIONAL MEDIA FOUNDATION, Station WPLX, Facility ID 52906, BMP–20070703ABC, From GERMANTOWN, TN, To TURRELL, AR; ELECTRONIC APPLICATIONS RADIO SERVICES, Station WLHN, Facility ID 1724, BP–20070521ABD, From MUNCIE, IN, To ARLINGTON, IN; GOOD SAMARITAN EDUCATIONAL RADIO, INC., Station WKJD, Facility ID 86545, BMPED–20070116AAK, From COLUMBUS, IN, To NASHVILLE, IN; GOOD SHEPHERD RADIO INC., Station WXVW, Facility ID 90853, BMPED–20070327ABD, From VEEDERSBURG, IN, To DANVILLE, IL; GREAT LAKES RADIO, INC., Station WRUP, Facility ID 41825, BPH–20070619AAN, From MUNISING, MI, To PALMER, MI; J. L. BREWER BROADCASTING OF CLEVELAND, LLC, Station WHJK, Facility ID 66956, BPH–20070629BXS, From CLEVELAND, TN, To OOLTEWAH, TN; KONA COAST RADIO, LLC, Station NEW, Facility ID 170962, BNPH–20070502AHA, From STRATTON, CO, To ORDWAY, CO; MARATHON MEDIA GROUP, L.L.C., Station KLPW–FM, Facility ID 70301, BPH–20070614ADU, From UNION, MO, To ELSBERRY, MO; MILLER COMMUNICATIONS, INC., Station WWBD, Facility ID 6634, BPH–20070705ADV, From BAMBERG, SC, To ISLE OF PALMS, SC; MULTICULTURAL RADIO BROADCASTING LICENSEE, LLC, Station WNYG, Facility ID 5208, BP–20070601BDE, From BABYLON, NY, To MEDFORD, NY; NM LICENSING LLC, Station WKZQ–FM, Facility ID 24776, BPH–20070705ADT, From MYRTLE BEACH, SC, To HANAHAN, SC; THE RAFTT CORPORATION, Station KTON, Facility ID 60091, BP–20070607AAO, From BELTON, TX, To LANCASTER, TX; WAY–FM MEDIA GROUP, INC.,

Station KRYI, Facility ID 87410, BMPED–20070620ABW, From RYE, CO, To TRINIDAD, CO; WHITE PARK BROADCASTING, INC., Station KHNA, Facility ID 166001, BMPH–20070117AFI, From HANNA, WY, To ROCK RIVER, WY; WHITE PARK BROADCASTING, INC., Station KXMP, Facility ID 166000, BMPH–20070622ABG, From HANNA, WY, To NORTH ROCK SPRINGS, WY; WHITE PARK BROADCASTING, INC., Station KYPT, Facility ID 166004, BMPH–20070628ACH, From WAMSUTTER, WY, To CLEARVIEW ACRES, WY.

DATES: Comments may be filed through October 9, 2007.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. E7–15369 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket Nos. 06–121, 02–277, MM Docket Nos. 01–235, 01–317, 00–244; DA 07–3470]

2006 Quadrennial Regulatory Review

AGENCY: Federal Communications Commission.

ACTION: Notice; comments requested.

SUMMARY: This document announces the release of and seeks public comment on ten research studies on media ownership intended to inform the Commission's review of its broadcast ownership rules.

DATES: The agency must receive comments on or before October 1, 2007 and reply comments on or before October 16, 2007.

ADDRESSES: Comments may be filed electronically using the Internet by accessing the Electronic Comment Filing System, *http://www.fcc.gov/cgb/ecfs/,* or the Federal eRulemaking Portal, *http://www.regulations.gov.* The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michelle Connolly, Office of Strategic Planning & Policy Analysis, at (202) 418–1503. Press inquiries should be directed to Mary Diamond, Media Bureau, at (202) 418–2388.

SUPPLEMENTARY INFORMATION:

1. The Commission announces the release of ten research studies on media ownership intended to inform the Commission's comprehensive review of its broadcast ownership policies undertaken in rulemaking proceeding MB Docket No. 06–121 involving the issues raised by the opinion of the U.S. Court of Appeals for the Third Circuit in *Prometheus* v. *FCC, 373* F.3d 372 (2004) and its quadrennial review of its broadcast ownership rules and certain other rules, 2006 *Quadrennial Review Further Notice of Proposed Rule Making,* 71 FR 45511, August 9, 2006. The studies, which were conducted by outside researchers and by Commission staff, examine a range of issues that impact diversity, competition, and localism, three important policy goals of those rules. Pursuant to this public notice, the Commission seeks public comment on the studies, which are available on the Commission's Web site at *http://www.fcc.gov/ownership/studies.html.* The Commission will incorporate the studies and the public comments in the record of this proceeding. The studies will also be peer-reviewed and the Commission intends to use the data collected in the studies, as well as the comments, to inform its decisions in the ownership proceeding.

2. The following is a list of the media ownership studies released on July 31, 2007 and their respective authors and professional affiliations:

Study 1: How People Get News and Information. This study surveys consumers about their use of media. It identifies consumers' primary, secondary, and tertiary sources of news and information and the frequency with which consumers access these sources. The author is Nielsen Media Research, Inc.

Study 2: Ownership Structure and Robustness of Media. This study describes the ownership structure and robustness of current media, including broadcast television, cable television, satellite television, broadcast radio, satellite radio, newspapers, and the Internet. The information gathered concerning the current media marketplace is compared to the state of the media marketplace when the Commission last reviewed its ownership rules in the years 2002–2003. The authors are Kiran Duwadi, Scott Roberts, and Andrew Wise, FCC; and the Technical Appendix author is Anthony Bush, FCC.

Study 3: Television Station Ownership Structure and the Quantity and Quality of TV Programming. This study analyzes the effect of ownership structure and robustness (as described in Study 2) on various measures of the quantity and the quality of different types of TV programming, including local news and public affairs, minority programming, children's programming, family programming, religious programming, and violent and indecent content. The author is Gregory S. Crawford, Department of Economics, University of Arizona.

Study 4: News Operations. This study, which is divided into four sections, collects data on the size and scope of the news operations of radio and television stations and newspapers. It also analyzes the relationship between the nature of the news operations and market characteristics, including ownership structure and robustness. *Section I is The Impact of Ownership Structure on Television Stations' News and Public Affairs Programming* by author Daniel Shiman, FCC; *Section II is Ownership Structure, Market Characteristics and the Quantity of News and Public Affairs Programming: An Empirical Analysis of Radio Airplay,* by author Kenneth Lynch, FCC; *Section III is Factors that Affect a Radio Station's Propensity to Adopt a News Format,* by author Craig Stroup, FCC; and *Section IV is The Effect of Ownership and Market Structure on News Operations,* by author Pedro Almoguera, FCC.

Study 5: Station Ownership and Programming in Radio. This study uses station-level data to examine how ownership structure affects the programming and audience of radio

stations. The author is Tasneem Chipty, CRA International, Inc.

Study 6: The Effects of Cross-Ownership on the Local Content and Political Slant of Local Television News. This study examines the effect of newspaper cross-ownership on television news coverage using matched pairs of cross-owned and non-cross-owned television stations. The author is Jeffrey Milyo, Center for Applied Economics, University of Kansas, School of Business; Department of Economics and Truman School of Public Affairs, University of Missouri.

Studies 7 and 8: These two studies examine levels of minority ownership of media companies and barriers to entry. Study 7: Minority and Female Ownership in Media Enterprises. The authors are Arie Beresteanu and Paul B. Ellickson, Duke University.

Study 8: The Impact of the FCC's TV Duopoly Rule Relaxation on Minority and Women Owned Broadcast Stations 1999–2006. The author is Allen S. Hammond, IV, Santa Clara University.

Study 9: Vertical Integration and the Market for Broadcast and Cable Television Programming. This study examines levels of vertical integration in the media industry. The author is Austan Goolsbee, University of Chicago, Graduate School of Business; American Bar Foundation; and National Bureau of Economic Research.

Study 10: Review of the Radio Industry, 2007. This study updates a study done during our last review of the media ownership rules, which was titled ''Radio Industry Review 2002: Trends in Ownership, Format, and Finance.'' The author is George Williams, FCC.

Procedural Matters

3. Interested parties may file comments on or before October 1, 2007 and reply comments on or before October 16, 2007. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal; or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (May 1, 1998).

• Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.

• For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.

• Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format) send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

4. This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules.

5. For further information, contact Michelle Connolly at (202) 418–1503 of the Office of Strategic Planning & Policy Analysis. Press inquiries should be directed to Mary Diamond, Media Bureau, at (202) 418–2388. TTY: (202) 418–7172 or (888) 835–5322.

Federal Communications Commission.

Royce Sherlock,

Chief, Industry Analysis Division, Media Bureau.

[FR Doc. E7–15457 Filed 8–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

[No. 2007–N–11]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Board (Finance Board) is seeking public comments concerning a 3 year extension by the Office of Management and Budget (OMB) of its approval of the information collection entitled ''Federal Home Loan Bank Directors.'' OMB has been assigned control number 3069–0002, which is due to expire on November 30, 2007.

DATES: Interested persons may submit comments on or before October 9, 2007.

Comments: Submit comments by any one of the following methods:

E-mail: comments@fhfb.gov.

Fax: 202–408–2580.

Mail/Hand Delivery: Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006, Attention: Public Comments.

Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Include the following information in the subject line of your submission: Federal Housing Finance Board. Proposed Collection; Comment Request: Federal Home Loan Bank Directors. 2007–N–11.

We will post all public comments we receive on this notice without change, including any personal information you provide, such as your name and address, on the Finance Board Web site at *http://www.fhfb.gov/Default.aspx?Page=93&Top=93.*

FOR FURTHER INFORMATION CONTACT: Patricia L. Sweeney, Program Analyst, Office of Supervision, by electronic mail at *sweeneyp@fhfb.gov*, by telephone at 202–408–2872, or by regular mail to the Federal Housing Finance Board, 1625 Eye Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of Information Collection

Section 7 of the Federal Home Loan Bank Act (Bank Act) (12 U.S.C. 1427) and the Finance Board's implementing regulation, codified at 12 CFR part 915, establish the eligibility requirements and the procedures for electing and appointing Federal Home Loan Bank (Bank) directors. Under part 915, the Banks determine the eligibility of elective directors and director nominees and run the annual director election process. To determine eligibility, the Banks use the Federal Home Loan Bank Elective Director Eligibility Certification Form, which has not changed since the information collection was last cleared in 2004. A copy of the Form is attached to this Notice. The Finance Board welcomes comments on the Form.

In 2007, the Finance Board published two rules affecting the eligibility and selection of appointive Bank directors. The first rule, published in April 2007, requires the boards of directors of the Banks to submit to the Finance Board a list of individuals that includes information regarding each individual's eligibility and qualifications to serve as a Bank director. The Finance Board uses the list provided by each Bank to select well-qualified individuals to serve on the Bank's board of directors. *See* 72 FR 15600 (Apr. 2, 2007). The second rule, published in June 2007, clarifies the types of financial interests an appointive Bank director may maintain in a member of the Bank on whose board the director serves. *See* 72 FR 33637 (June 19, 2007). As a result of these regulatory changes, the Finance Board has revised the form the Banks and the Finance Board use to determine whether prospective appointive directors satisfy the statutory and regulatory eligibility requirements and renamed it the Federal Home Loan Bank Appointive Director Application Form (Application Form). The revised Application Form asks individuals for information about their background and qualifications to serve as an appointive Bank director as well as compliance with statutory eligibility requirements. It also conforms the information about prohibited financial interests to the new rule. In addition, to reduce the burden on incumbent appointive directors, the Finance Board has created a new Federal Home Loan Bank Appointive Bank Director Annual Certification Form (Annual Form) that allows individuals simply to certify that they continue to meet the director eligibility requirements. Copies of both the revised Application Form and the new Annual Form are attached to this Notice. The Finance Board welcomes comments on both forms.

The likely respondents include Banks, Bank members, and prospective and incumbent Bank directors. The OMB number for the information collection is 3069–0002. The OMB clearance for the information collection expires on November 30, 2007.

B. Burden Estimate

The Finance Board estimates that the total number of respondents is 4,351, which includes 12 Banks, 4,000 Bank members, and 339 prospective and incumbent Bank directors. As explained below, the Finance Board estimates that the total annual hour burden for all respondents is 4,501.5 hours.

1. Elections and Elective Directors

a. Banks

The Finance Board estimates the total annual average hour burden for each Bank to conduct the election of directors and to process Elective Director Eligibility Certification Forms is 235 hours. The estimate for the average hour burden for all Banks is 2,820 hours (12 Banks × 235 hours).

b. Members

The Finance Board estimates the total annual average hour burden for all Bank members to participate in the election process is 1,075 hours. This includes the time necessary to consider elective director candidates and to cast votes. The Finance Board estimates that Bank members will consider 300 elective director candidates annually for a total of 75 hours (300 individuals × 15 minutes = 75 hours). The Finance Board estimates the total annual average hour burden for a Bank member to vote in the director election is 15 minutes for a total of 1,000 hours (4,000 voting members × 15 minutes = 1,000 hours).

c. Prospective and Incumbent Elective Directors

The Finance Board estimates the total annual average hour burden for all prospective and incumbent elective directors is 75 hours. This includes a total annual average of 100 prospective elective directors (out of the 300 individuals the Banks consider), with 1 response per individual taking an average of 30 minutes (100 individuals × 30 minutes = 50 hours). It also includes a total annual average of 100 incumbent elective directors, with 1 response per individual taking an average of 15 minutes (100 individuals × 15 minutes = 25 hours).

2. Appointive Directors

a. Banks

The Finance Board estimates the total annual average hour burden for each Bank to recruit, review, and recommend individuals to be appointed as Bank directors is 28 hours. The estimate for the average hour burden for all Banks is 336 hours (12 Banks × 28 hours).

b. Prospective and Incumbent Appointive Directors

The Finance Board estimates the total annual average hour burden for all prospective and incumbent appointive directors is 195.5 hours. This includes a total annual average number of 84 prospective appointive directors with 1 response per individual taking an average of 2 hours (84 individuals × 2 hours = 168 hours). It also includes a total annual average of 55 incumbent appointive directors, with 1 response per individual taking an average of 30 minutes (55 individuals × 30 minutes = 27.5 hours).

C. Comment Request

The Finance Board requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of Finance Board functions, including whether the information has practical utility; (2) the accuracy of the Finance Board's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Dated: August 2, 2007.

By the Federal Housing Finance Board.

Neil R. Crowley,

Acting General Counsel.

BILLING CODE 6725–01–P

FEDERAL HOME LOAN BANK ELECTIVE DIRECTOR ELIGIBILITY CERTIFICATION FORM

1. Print or type your full name:

_____

2. Are you a citizen of the United States? **Yes** ____ **No** ____

3. Provide the address of your principal residence:

Street	City	State	Zip code

4. Provide the following information about the institution you serve as an officer or director that is a member of your Federal Home Loan Bank:

Name of member	**Your title or position**

Telephone number	**Fax number**	**E-mail address**

Street	**City**	**State**	**Zip code**

Mailing address (if different)	**City**	**State**	**Zip code**

5. Provide the name and location of any other institution you serve as an officer or a director that is a member of any Federal Home Loan Bank:

Name of member	**City**	**State**	**Your title or position**

Name of member	**City**	**State**	**Your title or position**

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FEDERAL HOME LOAN BANK ELECTIVE DIRECTOR ELIGIBILITY CERTIFICATION FORM

-1-

6. Does each member listed in LINE 4 and LINE 5 comply with all of its applicable minimum capital requirements established by its appropriate federal or state regulator?

Yes ____ **No** ____

I HEREBY CERTIFY that the information provided on this Federal Home Loan Bank Electec Director Eligibility Certification Form is true, correct and complete to the best of my knowledge.

_____ _____
Signature Date

State of _____)
County of _____)

Signed and sworn to before me this ____ day of _____ of 20___.

_____
Signature of Notary Public

(Notarial Seal)

My commission expires: _____

DIRECTIONS

If you need assistance in completing this Form or have any questions, please contact:

Name:
Federal Home Loan Bank of
Address:
Telephone:
Fax:
E-Mail:

Who Must File and When

The Federal Home Loan Bank (FHLBank) uses the information you provide on this Form to determine whether you meet the statutory and regulatory eligibility requirements to serve as an elected FHLBank director. You can find these requirements in section 1427 of Title 12 of the United States Code (12 U.S.C. § 1427) and in part 915 of the Title 12 of the Code of Federal Regulations (12 C.F.R. part 915). A copy of the statutory and regulatory eligibility requirements is enclosed for your reference. Only individuals who satisfy these requirements may run for an elected directorship or serve as an elected director.

Nominees for an Elected FHLBank Directorship

If you wish to accept a nomination to serve as an elected FHLBank director, you must complete this Form and return it to the FHLBank on or before *[Insert Date]*. If you do not submit this Form to the FHLBank by the deadline, you will be deemed to have declined the nomination.

Incumbent Elected FHLBank Directors

Every year, each incumbent elected director must complete this Form and return it to the FHLBank on or before March 1st. The FHLBank will use information to confirm your continued eligibility to serve as an elected director. If you do not submit this form by the March 1st deadline, the FHLBank may declare that you are no longer eligible to serve as an FHLBank director, and may declare vacant the elected directorship that you hold. If March 1st falls on a Saturday, Sunday or federal holiday, you have until the next business day to submit the completed Form.

Individuals Selected to Fill a Vacancy

If the FHLBank selected you to fill a vacancy on the board of directors, you must complete this Form and return it to the FHLBank on or before *[Insert Date]*. You cannot become an elected director unless you complete and return the Form to the FHLBank.

FHLBANK ELECTED DIRECTOR ELIGIBILITY CERTIFICATION FORM: DIRECTIONS

Line-by-Line Instructions

LINE 1. Print or type your full name.

LINE 2. You must be a United States citizen in order to serve as an FHLBank director. Check the appropriate answer.

LINE 3. Provide the address of your principal residence.

LINE 4. You must be an officer or a director of an institution that is a member of the FHLBank in order to be an elected director of that FHLBank. In addition, the member must be located in the state within the FHLBank district that is to be represented by the directorship you wish to hold. In most cases, a member will be deemed to be located where it maintains its home office or its principal place of business. Provide the requested information for the member you serve as an officer or director, as well as your title or position at that institution.

LINE 5. If you are an officer or director of any other institution that is a member of this or any other FHLBank, provide the name and location of the institution(s), as well as the position that you hold at the institution(s).

LINE 6. In order for you to be eligible to serve as an elected FHLBank director, every FHLBank member you serve as an officer or director must be in compliance with all of its applicable minimum capital requirements established by its appropriate federal or state regulator. The term "appropriate federal regulator" has the same meaning as the term "appropriate Federal banking agency" in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(q)), and, for federally insured credit unions, means the National Credit Union Administration. The term "appropriate state regulator" means any State officer, agency, supervisor or other entity that has regulatory authority over, or is empowered to institute enforcement action against, a member.

Each institution you listed in LINE 4 and LINE 5 must be in compliance with all of the applicable minimum capital requirements established by its appropriate federal or state regulator. Please check the appropriate answer to this question.

FEDERAL HOME LOAN BANK APPOINTIVE DIRECTOR APPLICATION FORM

PERSONAL INFORMATION

Full name: _____

Address: _____

_____

_____

_____

Current employment:

_____ _____
Name of organization **Your title or position**

_____ _____ _____
Telephone number **Fax number** **E-mail address**

_____ _____ _____ _____
Street **City** **State** **Zip code**

_____ _____ _____ _____
Mailing address (if different) **City** **State** **Zip code**

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STATUTORY ELIGIBLITY REQUIREMENTS

An individual must satisfy certain statutory requirements in order to be eligible for appointment to the board of a Federal Home Loan Bank (Bank). The requirements relate to citizenship, residency, and, for prospective community interest directors, experience in that field. The statute also prohibits an appointive director from having certain financial interests in an institution that is a member of the Bank on whose board the director serves. The questions below address these statutory requirements.

1. ***Citizenship.*** Are you a citizen of the United States? **Yes** ___ **No** ___

2. ***Residency.*** In order to be an appointive director you must be a bona fide resident of a state that is within the geographic district of the Bank on whose board you wish to serve. You will satisfy this requirement if your principal residence is located within that geographic district (A), or if you own or lease a second residence within the district *and* are employed within the district (B). Please indicate the basis you are using to demonstrate bona fide residence.

A. Is your principal residence located within the Bank's geographic district? **Yes** ___ **No** ___

B. If you answered **No**, do you own or lease a second residence within the Bank's district *and* are you employed within the district? **Yes** ___ **No** ___

If so, provide the address of your second home, the name and address of your employer, and your title or position.

Second home address: _____

_____

Employer information:

Name of organization	**Your title or position**

Telephone number	**Fax number**	**E-mail address**

Street	**City**	**State**	**Zip code**
Mailing address (if different)	**City**	**State**	**Zip code**

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3. ***Community Interest Directors.*** If you are seeking appointment as a community interest director, you must be able to demonstrate that you are a director, officer, employee, or member of an organization that has represented consumer or community interests on banking services, credit needs, housing, or financial consumer protections for at least two years.

If you meet this requirement, provide the name and address of the organization, specify your association with the organization, and describe how the organization has represented consumer or community interests for the past two years.

Name of organization	Your title or position

Street	City	State	Zip code

Describe how the organization represents consumer or community interests:

_____

_____

_____

_____

4. ***Conflicts of interest.*** The statute prohibits an appointive director from serving as an officer or director of any member of the Bank on whose board the appointive director serves. The statute also prohibits an appointive director from owning shares or having certain other financial interests in any such member. You will have to give up any conflicting position and divest any conflicting financial interest before you can become a Bank director.

For purposes of this conflict of interest provision, the term:

"Member" includes the member institution itself and any subsidiary of the member. If the member is owned by a holding company, the term "member" includes the holding company if 35 percent or more of the holding company's assets, on a consolidated basis, are attributable to institutions that are members of the Bank on whose board the appointive director serves. Thus, you may not own stock in, or serve as a director or officer of, a holding company if one or more members of your Bank constitute 35 percent or more of the holding company's assets.

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"Financial interest" is broadly defined and includes any "direct or indirect financial interest in any activity, transaction, property, or relationship that involves receiving or providing something of monetary value," and "any right, contractual or otherwise, to the payment of money." It does not include:

- Financial interests that arise in the normal course of business with a member and are on terms generally available to the public, such as having money on deposit with, or obtaining a loan from, a member.
- Ownership of shares of a registered investment company (mutual fund) that owns debt or equity instruments issued by a member.
- Ownership of shares through a managed account (held by an investment adviser registered under the Investment Advisers Act of 1940), provided the adviser has complete investment discretion and you neither are affiliated with the adviser nor have control over the selection of securities.
- Contractual rights to the payment of money if the amount due to you is less than 10 percent of your adjusted gross income for a calendar year.

"Direct" financial interest includes any interest that you hold in your own name, either as a sole or joint owner.

"Indirect" financial interest includes interests of your spouse or minor child(ren) and interests held through a trust or similar arrangement that are attributed to you.

A. Please specify each position or financial interest you, your spouse, or minor child(ren) have in any member of the Bank on whose board you would serve.

_____

_____

_____

_____

_____

_____

B. Do you agree to give up positions and divest interests that are deemed to be conflicting financial interests before becoming an appointive director of that Bank? **Yes** ___ **No** ___

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SELECTION CRITERIA

The Banks are multi-billion dollar financial institutions, the principal business of which is to borrow funds in the capital markets and then provide secured loans to their members. The size and nature of the Banks' business requires each Bank to have a board of directors that possesses expertise in areas such as capital markets transactions, asset/liability management, the use of derivatives, accounting and financial modeling, mortgage markets, affordable housing, community investment, and legal/regulatory compliance. In making appointments to the boards of the Banks, the Finance Board seeks individuals who have broad business leadership experience, are financially literate, and have a commitment to serving on the board, as well as experience in one or more of the above areas.

1. ***Leadership Experience.*** Bank directors should have experience in senior management or policy-making in one or more fields of business, government, education, or community/civic affairs, and should have a record of achievement in their chosen profession or field of business. This experience should provide directors with the ability to understand the business of the Bank, to act independently, and to ask Bank management appropriate questions about how they are conducting Bank business.

A. If you have ever served as the CEO, CFO, COO, or in a similar capacity for a business enterprise, or as a dean or senior faculty member at a prominent college or university, or as a senior official for a federal or state government or prominent nonprofit organization, please provide the details for those positions, including the dates of service and the positions held.

_____

_____

_____

_____

B. If you have other experience dealing with issues such as developing or implementing business strategies, overseeing regulatory compliance, corporate governance, or board operations, or have previously served on the board of a large business enterprise, please describe those experiences.

_____

_____

_____

_____

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C. If you have other significant business or professional achievements that demonstrate your ability to lead an organization please describe them.

_____

_____

_____

_____

2. ***Business Knowledge.*** Bank directors must be financially literate, meaning they must be familiar with how financial statements and various financial ratios are used in managing a business enterprise, how basic accounting conventions apply to the Bank, and how internal controls are used to manage risk. They also must have some knowledge about one or more of the areas of the Bank's business, such as mortgage finance, capital markets transactions, accounting/modeling practices, affordable housing, community and economic development, and legal and regulatory compliance.

A. Do you know how to read and understand a financial statement, and do you understand how financial ratios and other indices are used for evaluating the performance of a business enterprise? **Yes** ___ **No** ___

If you answered **Yes**, please describe the setting in which you gained that knowledge.

_____

_____

_____

_____

B. Do you have a working familiarity with basic finance and accounting practices, including internal controls and risk management? **Yes** ___ **No** ___

If you answered **Yes**, please describe the setting in which you acquired that knowledge.

_____

_____

_____

_____

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C. Do you have experience with financial accounting and corporate finance, particularly with a publicly traded company? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

_____

_____

_____

D. Do you have experience in capital market transactions? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

_____

_____

_____

E. Do you have experience in an organization providing financing for residential mortgages, housing for low or moderate income individuals and families, or real estate development? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

_____

_____

_____

F. Have you served in any position that required an understanding of the legal and other fiduciary obligations associated with being an independent director? **Yes** ___ **No** ___

If you answered **Yes**, please describe that experience.

_____

_____

_____

Expires 11/30/2007
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G. The mission of the Banks is to support the housing finance activities of their members, which includes residential mortgage finance and community and economic development lending activities. Please describe any prior experience that is related to the mission of the Banks.

_____

_____

_____

3. ***Commitment to Service.*** In order to serve effectively on the board of a Bank, a director must be able to attend the meetings of the board of directors and subcommittees on which the director serves, and to devote the time necessary to prepare for those meetings.

A. Do you have any other business or professional commitments that would hinder your ability to prepare for and attend board of director and committee meetings? **Yes** ___ **No** ___

If so, please describe the constraints on your ability to serve.

_____

_____

_____

_____

_____

B. If you serve on any other corporate boards, please provide the name and location of the organization, your role (*e.g.*, chair and committee assignments), and the term of service.

Name of organization	Your role	Term

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4. ***Personal Integrity.*** Character is an important consideration in evaluating any prospective Bank director. All directors must have high ethical standards and integrity in both their personal and professional dealings. Please indicate whether you ever have been convicted of a felony, been found to have violated any federal or state civil laws relating to the securities, banking, housing or real estate industries, or have had a professional license suspended or revoked. **Yes** ___ **No** ___ If you answered **Yes**, please explain.

_____

_____

_____

_____

5. ***Independence.*** It is essential that an appointive director be able to act independently of management in overseeing the policy and operations of a Bank, and not have any relationships that may create actual or apparent conflicts of interest. Please disclose whether you have any familial or business relationships with any members of Bank management or the board of directors of the Bank, and any other relationship(s) that might lead a reasonable person to question your independence. **Yes** ___ **No** ___

If you answered **Yes**, please explain below.

_____

_____

_____

_____

6. ***Other Experience and Education.*** Please provide a copy of your resume that describes other business, professional, or educational achievements that are not described in the responses to the questions above.

BY EXECUTING AND SUBMITTING THIS APPLICATION FORM, YOU ARE CERTIFYING THAT THE INFORMATION YOU PROVIDED IS TRUE, CORRECT, AND COMPLETE TO THE BEST OF YOUR KNOWLEDGE AND THAT YOU AGREE TO SERVE AS A DIRECTOR IF APPOINTED.

_____ _____

Signature Date

Expires 11/30/2007
OMB No. 3069-0002

FEDERAL HOME LOAN BANK APPOINTIVE DIRECTOR ANNUAL CERTIFICATION FORM

Your name: _____

Federal Home Loan Bank of: _____

Every year, each incumbent appointive Federal Home Loan Bank (Bank) director must certify that he or she continues to meet all of the following eligibility requirements:

- United States citizen
- Bona fide resident of a state within the geographic district of the Bank on whose board you serve
  - your principal residence is located within that geographic district OR
  - you own or lease a second residence within the district *and* are employed within the district
- During your term of office, you may not:
  - serve as an officer of any Federal Home Loan Bank
  - serve as an officer or director of any member or subsidiary of a member of the Bank you serve, or any holding company that controls one or more members of the Bank you serve if the assets of all such members constitute 35 percent or more of the assets of the holding company, on a consolidated basis
  - hold shares of stock or have any other financial interest in any member or subsidiary of a member of the Bank you serve, or any holding company that controls one or more members of the Bank you serve if the assets of all such members constitute 35 percent or more of the assets of the holding company, on a consolidated basis
  - have contractual rights to the payment of money from a member, a subsidiary of a member, or a holding company that controls one or more members of the Bank you serve, if the amount due in a calendar year constitutes 10 percent or more of your adjusted gross income for that calendar year
- To be designated a community interest director, you must come from an organization with more than a two-year history of representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections

By executing this form, you are certifying that you continue to meet these requirements and that the Appointive Director Application Form you previously submitted as amended by any Annual Certification Form, is true, correct, and complete to the best of your knowledge.

Expires 11/30/2007
OMB No. 3069-0002

Please check one box:

☐ **No changes have occurred.**

☐ **Changes have occurred to my responses in these sections of my Form:**

Personal information:

_____

_____

Eligibility information, including conflicts of interest:

_____

_____

Commitment to serve:

_____

_____

Personal integrity:

_____

_____

Independence:

_____

_____

Other changes:

_____

_____

Dated: _____

Signature: _____

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Expires 11/30/2007
OMB No. 3069-0002

[FR Doc. 07–3862 Filed 8–7–07; 8:45 am]

BILLING CODE 6725–01–C

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 012008.

Title: The 360 Quality Association Agreement.

Parties: NYKLauritzenCool AB and Seatrade Group NV.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

Synopsis: The agreement authorizes the parties to implement, supervise, and administer a code of conduct applicable to the handling of specialized reefer cargoes and to implement, manage, exploit and own any such code and any intellectual property rights associated therewith.

By Order of the Federal Maritime Commission.

Dated: August 3, 2007.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E7–15437 Filed 8–7–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 23, 2007.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Emmalie Gessner Cowherd, as an individual, as trustee of the Emmalie Gessner Cowherd Revocable Living Trust, as personal representative of the Clifton R. Cowherd Estate and as a member of a group acting in concert with Benjamin G. Polen; to retain voting shares of Carroll County Bancshares, Inc., and thereby indirectly retain voting shares of Carroll County Trust Company of Carrollton, Missouri, all of Carrollton, Missouri.

Board of Governors of the Federal Reserve System, August 3, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–15436 Filed 8–7–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 4, 2007.

A. Federal Reserve Bank of Kansas City (Todd Offenbacker, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Carroll County Bancshares, Inc., Carrollton, Missouri, to acquire up to 100 percent of the voting shares of Farmers and Merchants Bank, Hale, Missouri.

B. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. Sterling Financial Corporation, Spokane, Washington; to merge with North Valley Bancorp, and thereby indirectly acquire North Valley Bank, both of Redding, California.

Board of Governors of the Federal Reserve System, August 3, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–15435 Filed 8–7–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 10 a.m. (Eastern Time), August 20, 2007.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC 20005.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the July 16, 2007 Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
   a. Monthly Participant Activity Report.
   b. Monthly Investment Performance Report.
   c. Legislative Report.
3. MetLife Audit Report.

FOR FURTHER INFORMATION CONTACT: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: August 6, 2007.

Thomas K. Emswiler,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 07–3875 Filed 8–6–07; 10:40 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cooperative Agreement To Support the National Alliance for Hispanic Health; Notice of Intent To Accept and Consider a Single Source Application; Availability of Funds for Fiscal Year 2007

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intent to accept and consider a single source application (RFA-FDA–07–006) for the awarding of a Cooperative

Agreement to the National Alliance for Hispanic Health (the Alliance). The purpose of the agreement is to empower consumers to improve their health by providing better consumer health information; ensure that health information available to consumers is clear, informative, and effective; leverage opportunities to eliminate health disparities in subpopulations; respond to the health promotion and disease prevention objectives of the Department of Health and Human Services (HHS) ''Healthy People 2010'' document; and improve health literacy for Hispanic Americans. FDA anticipates providing $ 35,000.00 (direct and indirect costs) in fiscal year (FY) 2007 in support of this project. Subject to the availability of funds and successful performance, two additional years of support up to $35,000.00 per year (direct and indirect) will be available.

DATES: Applications are due August 24, 2007.

FOR FURTHER INFORMATION CONTACT: Gladys M. Bohler, Office of Acquisitions and Grants Services, Food and Drug Administration, 5630 Fishers Lane, rm. 2105, Rockville, MD 20857, 301–827–7168, or e-mail: *gladys.melendez-bohler@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Application and Submission Information

In FY 2007, all applications must be received by August 24, 2007. Applications must be received by close of business on the established receipt date. Late applications may be accepted under extreme circumstances beyond the control of the applicant. Applicants not received on time will not be considered for review and will generally be returned to the applicant.

Applications must be submitted electronically through grants.gov. The application must be on SF424 R&R (Research and Related Portable Document Format). Exceptions may be made in unusual circumstances and on a case by case basis. Applicants must download the SF424 (R&R) application forms and 424 (R&R) Application Guide for this funding opportunity through grants.gov at *http://www.grants.gov/Apply*. Please note, only the forms package directly attached to this specific funding opportunity in grants.gov can be used.

If electronic submission is impossible, please contact Gladys M. Bohler, Grants Management Specialist, at 301–827–7168 or by e-mail at *gladys.melendez-bohler@fda.hhs.gov* (See **Agency Contacts**). When submitting applications electronically, provide URL link, and identify any particular software that is required, and identify your organization contact in the event of system problems.

For the grants.gov electronic application process, applicants are required to register with the Central Contractor Registration (CCR) database. This database is a government-wide warehouse of commercial and financial information for all organizations conducting business with the Federal Government.

Registration with CCR is a requirement and is consistent with the government-wide management reform to create a citizen-centered Web presence and build e-gov infrastructures in and across agencies to establish a ''single face to industry.'' The preferred method for completing a registration is through the World Wide Web at *http://www.ccr.gov*. This Web site provides a CCR handbook with detailed information on data you will need prior to beginning the online registration, as well as steps to walk you through the registration process.

In order to access grants.gov, an applicant will be required to register with the Credential Provider. Information about this is available at *https://apply.grants.gov/OrcRegister.* (FDA has verified the Web site address, but we are not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.)

II. Agency Contacts

For issues regarding the administrative and financial management aspects of this notice, contact: Gladys M. Bohler by mail: Office of Acquisitions and Grants Services, Food and Drug Administration, 5630 Fishers Lane, Rockville, MD 20857; telephone: 301–827–7168; FAX: 301–827–7101; e-mail: *gladys.melendez-bohler@fda.gov*.

For issues regarding the programmatic aspects, contact: Mary C. Hitch, Senior Policy Advisor, Office of External Relations (HF–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; telephone: 301–827–4406; FAX: 301–827–8030; e-mail: *mary.hitch@fda.hhs.gov*.

Dated: August 2, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–15491 Filed 8–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006P–0445]

Determination That MIVACRON (Mivacurium Chloride) Injection Equivalent to 2 Milligrams Base/Milliliter Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that MIVACRON (mivacurium chloride) injection equivalent to (EQ) 2 milligrams (mg) base/milliliter (mL) was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for mivacurium chloride injection EQ 2 mg base/mL.

FOR FURTHER INFORMATION CONTACT: Christine F. Rogers, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations'' which is generally known as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the agency withdraws or suspends approval

of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

MIVACRON (mivacurium chloride) injection EQ 2 mg base/mL is the subject of approved NDA 20–098 held by Abbott Laboratories, Inc. (Abbott). MIVACRON is a short-acting neuromuscular blocking agent indicated for inpatients and outpatients, as an adjunct to general anesthesia, to facilitate tracheal intubation and to provide skeletal muscle relaxation during surgery or mechanical ventilation. FDA approved the NDA for MIVACRON on January 22, 1992. Abbott ceased marketing MIVACRON in July 2006.

Regulus Pharmaceutical Consulting, Inc., submitted a citizen petition dated October 25, 2006 (Docket No. 2006P–0445/CP1), under 21 CFR 10.30, requesting that the agency determine, as described in § 314.161, whether MIVACRON (mivacurium chloride) injection EQ 2 mg base/mL was withdrawn from sale for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that MIVACRON was withdrawn from sale as a result of safety or effectiveness concerns.

We have reviewed our records and determined that Abbott's MIVACRON (mivacurium chloride) injection EQ 2 mg base/mL was not withdrawn from sale for reasons of safety or effectiveness. We have also independently evaluated relevant literature and data for adverse event reports and have determined that this product was not withdrawn for reasons of safety or effectiveness.

After considering the citizen petition and reviewing its records, FDA has determined that, for the reasons outlined in this notice, Abbott's MIVACRON (mivacurium chloride) injection EQ 2 mg base/mL was not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will list MIVACRON (mivacurium chloride) injection EQ 2 mg base/mL in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to MIVACRON (mivacurium chloride) injection EQ 2 mg base/mL may be approved by the agency as long as they meet all relevant legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

Dated: July 30, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–15488 Filed 8–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2006P–0520]

Determination That Methotrexate Injection, USP, Preservative Free, Equivalent to 500 Milligrams Base/20 Milliliters (25 Milligrams/Milliliter), Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that methotrexate injection, USP, preservative free, equivalent to (Eq.) 500 milligrams (mg) base/20 milliliters (mL) (25 mg/mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for methotrexate injection, preservative free, Eq. 500 mg base/20 mL (25 mg/mL).

FOR FURTHER INFORMATION CONTACT: Elena Cohen, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is typically a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations'' which is generally known as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under 21 CFR 314.161(a)(1), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

Methotrexate injection, USP, preservative free, Eq. 500 mg base/20 mL (25 mg/mL), is the subject of approved NDA 11–719 currently held by Mayne Pharma USA (Mayne). Although NDA 11–719 was originally approved in 1959, this formulation and dosage was approved in April 2005 (S–108). Methotrexate is an antifolate cytotoxic drug used in the treatment of a variety of malignancies, including acute lymphoblastic leukemia, osteosarcoma, advanced metastatic breast cancer, and others. It is also used to treat some inflammatory conditions such as rheumatoid arthritis. To date, Mayne has not marketed methotrexate injection, USP, preservative free, Eq. 500 mg base/20 mL (25 mg/mL). At the request of the sponsor, the product was moved to the discontinued section of the Orange Book in June 2005. In previous instances (see, e.g., the **Federal Register** document of December 30, 2002 (67 FR 79640), addressing a relisting request for Diazepam Autoinjector), the agency has determined that, for purposes of §§ 314.161 and 314.162, never marketing an approved drug product is equivalent to withdrawing the drug from sale.

SICOR Pharmaceuticals, Inc., submitted a citizen petition dated

December 15, 2006 (Docket No. 2006P–0520/CP1), under 21 CFR 10.30, requesting that the agency determine whether methotrexate injection, preservative free, Eq. 500 mg base/20 mL (25 mg/mL), was withdrawn from sale for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that methotrexate injection, preservative free, Eq. 500 mg base/20 mL (25 mg/mL), was withdrawn from sale for reasons of safety or effectiveness. FDA has independently evaluated relevant literature and data for possible postmarketing adverse events and has found no information that would indicate this product was withdrawn for reasons of safety or effectiveness.

After considering the citizen petition and reviewing agency records, FDA has determined that, for the reasons outlined in this document, methotrexate injection, preservative free, Eq. 500 mg base/20 mL (25 mg/mL), was not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list methotrexate injection, preservative free, Eq. 500 mg base/20 mL (25 mg/mL), in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to methotrexate injection, preservative free, Eq. 500 mg base/20 mL (25 mg/mL), may be approved by the agency as long as they meet all relevant legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for these drug products should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

Dated: July 30, 2007.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E7–15490 Filed 8–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2002D–0081]

Guidance for Industry: Adequate and Appropriate Donor Screening Tests for Hepatitis B; Hepatitis B Surface Antigen Assays Used to Test Donors of Whole Blood and Blood Components, Including Source Plasma and Source Leukocytes; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Adequate and Appropriate Donor Screening Tests for Hepatitis B; Hepatitis B Surface Antigen (HBsAg) Assays Used to Test Donors of Whole Blood and Blood Components, Including Source Plasma and Source Leukocytes'' dated July 2007. The guidance document provides recommendations to manufacturers of HBsAg assays that are intended to test donors of Whole Blood and blood components, including Source Plasma and Source Leukocytes, and to establishments using an HBsAg assay. Topics include recommendations on minimum sensitivity standards for HBsAg assays. This guidance finalizes the draft guidance entitled ''Guidance for Industry: A Modified Lot-Release Specification for Hepatitis B Surface Antigen (HBsAg) Assays Used to Test Blood, Blood Components, and Source Plasma Donations'' dated April 2002.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to 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. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the 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*.

FOR FURTHER INFORMATION CONTACT: Joseph L. Okrasinski, Jr., Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Adequate and Appropriate Donor Screening Tests for Hepatitis B; Hepatitis B Surface Antigen (HBsAg) Assays Used to Test Donors of Whole Blood and Blood Components, Including Source Plasma and Source Leukocytes'' dated July 2007. The guidance document provides recommendations to manufacturers of HBsAg assays that are approved donor screening tests intended to screen donors of Whole Blood and blood components, including Source Plasma and Source Leukocytes for Hepatitis B, and to establishments using an HBsAg assay (See § 610.40(b) (21 CFR 610.40(b)). The document represents FDA's current thinking on minimum sensitivity for such HBsAg assays as they relate to donor testing ''to reduce adequately and appropriately the risk of transmission of communicable disease'' under § 610.40(b). Under 21 CFR 610.44, the manufacturers of HBsAg assays used to test donations must verify acceptable sensitivity and specificity of such kits by testing the kit-lots using an FDA reference panel. This guidance document recommends that all HBsAg detection assays used to test donors of Whole Blood and blood components, including Source Plasma and Source Leukocytes, have a lower limit of detection standard of 0.5ng HBsAg/mL or less.

In the **Federal Register** of April 11, 2002 (67 FR 17704), FDA announced the availability of the draft guidance entitled ''Guidance for Industry: A Modified Lot-Release Specification for Hepatitis B Surface Antigen (HBsAg) Assays Used to Test Blood, Blood Components, and Source Plasma Donations.'' FDA received a few comments on the draft guidance, and those comments were considered as the guidance was finalized. In addition, editorial changes were made to improve clarity. The recommended implementation date for the recommendations in this guidance is January 31, 2008. This guidance document finalizes the draft guidance document entitled ''Guidance for

Industry: A Modified Lot-Release Specification for Hepatitis B Surface Antigen (HBsAg) Assays Used to Test Blood, Blood Components, and Source Plasma Donations'' dated April 2002.

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the FDA'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, at any time, submit to the Division of Dockets Management written or electronic comments (see **ADDRESSES**) regarding the 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 the brackets in the heading of this document. A copy of the guidance and received comments are available for public examination 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 guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: August 2, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–15472 Filed 8–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2001D–0286]

Guidance for Industry: Class II Special Controls Guidance Document: In Vitro Human Immunodeficiency Virus Drug Resistance Genotype Assay; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Class II Special Controls Guidance Document: In Vitro HIV Drug Resistance Genotype Assay,'' dated August 2007. The guidance document provides a means by which in vitro human immunodeficiency virus (HIV) drug resistance genotype assays may comply with special controls for class II devices. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule classifying the in vitro HIV drug resistance genotype assay into class II (special controls). The guidance announced in this notice finalizes the draft guidance entitled ''Guidance for Industry: Premarket Notifications [510(k)s] for In Vitro HIV Drug Resistance Genotype Assays: Special Controls'' dated August 2001.

DATES: Submit written or electronic comments on agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to 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. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the 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*.

FOR FURTHER INFORMATION CONTACT: Nathaniel L. Geary, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Class II Special Controls Guidance Document: In Vitro HIV Drug Resistance Genotype Assay,'' dated August 2007. This guidance document was developed as a special control to support classification of the in vitro HIV drug resistance genotype assay from class III to class II (special controls). Also, it is intended for use in detecting HIV genomic mutations that confer resistance to specific antiretroviral drugs as an aid in monitoring and treating HIV infection.

In the **Federal Register** of August 29, 2001 (66 FR 45682), FDA announced the availability of the draft guidance entitled ''Guidance for Industry: Premarket Notifications [510(k)s] for In Vitro HIV Drug Resistance Genotype Assays: Special Controls'' dated August 2001. FDA received several comments on the draft guidance and those comments were considered as the guidance was finalized. The guidance announced in this notice finalizes the draft guidance entitled ''Guidance for Industry: Premarket Notifications [510(k)s] for In Vitro HIV Drug Resistance Genotype Assays: Special Controls'' dated August 2001.

II. Significance of the Guidance

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents 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.

III. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E (regulations governing premarket notification submissions) have been approved under OMB control number 0910–0120.

IV. Comments

Interested persons may, at any time, submit written or electronic comments to the Division of Dockets Management (see **ADDRESSES**) regarding this 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 the brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/cber/guidelines.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: August 2, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–15477 Filed 8–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revised information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the continued use of FEMA Form 95–22, Application for Admission, that is used to select participants for the U.S. Fire Administration (USFA) Executive Fire Officer Program (EFOP).

SUPPLEMENTARY INFORMATION: Public Law 93–498, the Fire Prevention and Control Act of 1974, created the National Fire Academy (NFA) which provides for courses and programs to train fire service personnel. Since 1985 USFA/NFA has sponsored and offered the EFOP, a professional development program for senior and executive level fire officers. The standard application form (FEMA Form 75–5, approved under OMB No. 1660–0005), used for all USFA/NFA courses, does not provide the sufficient information to select the most qualified applicants for the program. FEMA Form 95–22 will require a brief essay for questions specific to EFOP functions.

Collection of Information

Title: National Fire Academy Executive Fire Officer Program Application Form.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0021.

Form Numbers: FEMA Form 95–22, Application for Admission.

Abstract: The EFOP annually receives more applications from qualified applicants than there are program slots available. Additional information is required to objectively evaluate the applicant's writing capability, professional accomplishments, and analytical ability. This information along with supporting documentation are used to select the most qualified participants for the EFOP.

Affected Public: Individuals and households, and State, local or tribal governments.

Estimated Total Annual Burden Hours: 800 hours.

ANNUAL HOUR BURDEN

Data collection activity/instrument	No. of respondents (A)	Frequency of responses (B)	Hour burden per response (C)	Annual responses (D) = (A×B)	Total annual burden hours (C×D)
FEMA Form 95–22	400	1	1	400	400
Additional Documentation: Letter of Intent, Resume, Letter of Recommendation, Diploma Photocopy, Organizational Chart	400	1	1	400	400
Total	400				800

Estimated Cost: Therefore; the estimated cost to respondents using wage rate categories is estimated to be $55,616.00 and the cost for postage and mailing to respondents is estimated to be $1,960.00 annually. The annual cost to respondents is estimated to total $57,576.00. The annual cost to the government for spending time reviewing FEMA Form 95–22 and additional documentation is estimated to be $1,836.00.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments must be submitted on or before October 9, 2007.

ADDRESSES: Interested persons should submit written comments to Chief, Records Management and Privacy, Information Resources Management Branch, Information Technology Services Division, Federal Emergency Management Agency, 500 C. Street, SW., Room 609, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Contact Chuck Burkell, (301) 447–1072 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov*.

Dated: July 31, 2007.

John A. Sharetts-Sullivan,

Director, Office of Records Management, Office of Management Directorate, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–15430 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the Mission Assignment (MA) form that is used to record requests for Federal assistance by State and Federal entities to FEMA, and the Action Request (AR) form which is used to request Federal assistance.

SUPPLEMENTARY INFORMATION: The MA form is necessary to support the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93–288, as amended, 42 U.S.C. 5121 *et seq.*, and its implementing regulations in 44 CFR part 206. Specifically, 44 CFR 206.7 provides for FEMA to issue mission assignments for disaster work performed by other Federal agencies. A written request for Federal assistance may be submitted on an Action Request form (AR). The AR form is the working document requesting federal assistance. The mission assignments are directives provided by FEMA to another agency to perform specific work in disaster operations on a reimbursable basis and are defined in 44 CFR 206.2(a)(18). The MA form is used to record a request for Federal assistance by States and Federal entities to FEMA, and may become the official FEMA obligating document when a mission assignment to another Federal agency results from the request. The MA form contains information that is used by FEMA management to evaluate requests for assistance from States, other Federal agencies and internal FEMA organizations. The requirement that requests for assistance to be made in writing and approved by the requesting State can be found in 44 CFR 206.8. Requirements for program and finance officials to sign for the approval of funds from the President's Disaster Relief Fund are found in standard Federal financial regulations regarding financial operations and separation of duties.

Collection of Information

Title: Request for Federal Assistance Form—How to Process Mission Assignments in Federal Disaster Operations.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0047.

Form Numbers: FEMA Form 90–129, Mission Assignment (MA), and FEMA Form 90–136, Action Request (AR).

Abstract: The MA form is used to record a request for Federal assistance by States and Federal entities to FEMA, and may become the official FEMA obligating document if a mission assignment to another Federal agency results from the request. Mission assignments are directives provided by FEMA to another agency to perform specific work in disaster operations, on a reimbursable basis and are defined in the 44 CFR 206.2(a)(18) and to record Federal approving signatures.

A written request for Federal assistance may be submitted on an Action Request (AR) form. The AR form is the working document requesting Federal assistance.

Affected Public: State, local or tribal governments and Federal Government.

Estimated Total Annual Burden Hours: 1,739 hours.

Data collection activity/instrument	No. of respondents	Frequency of responses	Hour burden per response	Annual responses	Total annual burden hours
		*Number of responses × 35 disasters per year			
	A	B	C	D = A × B	E = C × D
FEMA Form 90–129, Mission Assignment Form	56	*35 × 2 = 70	3 minutes (0.05)	3,920	196
FEMA Form 90–136, Action Request Form	56	*35 × 1 = 35	20 minutes (0.33)	1,960	647
Training	56	1	8 hours	448	896
Total			8 hours 23 minutes	6,328	1,739

Estimated Cost: Cost to respondent is estimated to be approximately $61,195.41 annually.

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. Comments should be received on or before October 9, 2007.

ADDRESSES: Interested persons should submit written comments to Chief, Records Management and Privacy, Office of Management Directorate, Information Technology Services Division, Information Resources Management Branch, Federal Emergency Management Agency, Department of Homeland Security, 500 C. Street, SW., Room 609, Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Bob Power, Branch Chief, Operations Branch at 202–646–7596 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail at *FEMA-Information-collections@dhs.gov*.

Dated: July 31, 2007.

John A. Sharetts-Sullivan,

Chief, Records Management and Privacy, Office of Management Directorate, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–15440 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1708–DR]

Missouri; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Missouri (FEMA–1708–DR), dated June 11, 2007, and related determinations.

DATES: *Effective Date:* July 25, 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 Missouri 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 June 11, 2007.

Clinton County for Individual Assistance (already designated for Public Assistance.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–15423 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1711–DR]

Kansas; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Kansas (FEMA–1711–DR), dated July 2, 2007, and related determinations.

DATES: *Effective Date:* July 24, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Kansas is hereby amended to include the following 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.

Edwards and Pawnee Counties for Individual Assistance.

Harper County for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs; 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–15447 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1711–DR]

Kansas; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Kansas (FEMA–1711–DR), dated July 2, 2007, and related determinations.

DATES: *Effective Date:* July 25, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 25, 2007.

(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. E7–15473 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1714–DR]

Nebraska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–1714–DR), dated July 24, 2007, and related determinations.

DATES: *Effective Date:* July 24, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 24, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and

Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Nebraska resulting from severe storms and flooding during the period of May 28 to June 2, 2007, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program also will be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Lee H. Rosenberg, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Nebraska to have been affected adversely by this declared major disaster:

Buffalo, Custer, Dawson, Frontier, Greeley, Hayes, Hitchcock, Howard, Kearney, Lincoln, Logan, Loup, Madison, Valley, and Wheeler Counties for Public Assistance.

All counties within the State of Nebraska are eligible to apply for assistance under the Hazard Mitigation Grant 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. E7–15469 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1712–DR]

Oklahoma; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oklahoma (FEMA–1712–DR), dated July 7, 2007, and related determinations.

DATES: *Effective Date:* July 25, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 25, 2007.

(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. E7–15466 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1712–DR]

Oklahoma; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–1712-DR), dated July 7, 2007, and related determinations.

DATES: *Effective Date:* July 24, 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 Oklahoma 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 7, 2007.

Nowata County for emergency protective measures [Category B], limited to direct Federal assistance under the Public Assistance program (already designated for Individual 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. E7–15468 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1709–DR]

Texas; Amendment No. 6 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 Texas (FEMA–1709–DR), dated June 29, 2007, and related determinations.

DATES: *Effective Date:* July 25, 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 Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 29, 2007.

Cherokee, Runnels, Smith, and Travis Counties for Individual Assistance.

Brown, Comanche, Hamilton, and Llano Counties for Individual Assistance (already designated for Public Assistance, including direct Federal assistance.)

Hunt, Kaufman, Lamar, McCulloch, Menard, and Stephens Counties for Public Assistance, including direct Federal assistance.

Victoria and Williamson Counties for Public Assistance, including direct Federal assistance (already designated for Individual 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. E7–15449 Filed 8–7–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Issuance of Final Determination Concerning Printer Cartridges

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that the Bureau of Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of certain printer cartridges which may be offered to the United States Government under an undesignated government procurement contract. CBP has concluded that, based upon the facts presented, the operations performed at the United States facility do not result in a substantial transformation of the goods. Therefore, the goods will not be considered to be products of the United States.

DATES: The final determination was issued on August 2, 2007. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of August 8, 2007.

FOR FURTHER INFORMATION CONTACT: Gerry O'Brien, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade (202–572–8792).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on August 2, 2007, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain printer cartridges which may be offered to the United States Government under an undesignated government procurement contract. This final determination, in HQ H009107, was issued at the request of Nukote International, Inc. under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18).

In the final determination, CBP concluded that, based upon the facts presented, the operations performed at the United States facility do not result in a substantial transformation of the goods. Therefore, the goods will not be considered to be products of the United States.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: August 2, 2007.

Sandra L. Bell,

Executive Director, Office of Regulations and Rulings, Office of International Trade.

HQ H009107

August 2, 2007.

MAR–2–05 OT:RR:CTF:VS H009107 GOB

CATEGORY: Marking.

G. Matthew Koehl, Esq., Kirkpatrick & Lockhart Preston Gates Ellis LLP., 1735 New York Avenue NW., Suite 500, Washington, DC 20006–5221.

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. 2511); Subpart B, Part 177, CBP Regulations; Country of Origin of Printer Cartridges

Dear Mr. Koehl:

This is in response to your letter of March 26, 2007, requesting a final determination on behalf of Nukote International, Inc. (''Nukote''), pursuant to subpart B of Part 177, Customs and Border Protection (''CBP'') Regulations (19 CFR 177.21 *et seq.*). Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of certain laser printer cartridge models. We note that Nukote is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and is entitled to request this final determination.

FACTS

You request a final determination with respect to three manufacturing process scenarios and resulting end products. The first scenario involves laser toner cartridges for color laser printers, including both color and monochrome (black) cartridges. The second scenario involves monochrome (black) laser toner cartridges for conventional laser printers with an electronic chip. The third scenario involves monochrome (black) laser toner cartridges for conventional laser printers without an electronic chip.

You describe the first process as follows. Nukote collects empty toner cartridges from end users at collection sites in the United States and, to a substantially lesser extent, in Canada, Singapore, the United Kingdom, Hong Kong and China. Nukote also purchases used printer cartridges from United States-

based brokers. These used printer cartridges were originally manufactured at various locations in different countries. Nukote has no process for identifying the country of origin of the empty cartridges.

Nukote then sends the cartridges to a foreign country, where they are sorted to remove units which cannot be remanufactured. This process identifies cartridge type and printer type, and removes damaged and broken parts and units that cannot be processed. The cartridges which can be remanufactured are then shipped to a different foreign facility, where Nukote has direct management and operational responsibility and where the operations performed are based on proprietary specifications developed by Nukote. At this facility, the used cartridges are split open, disassembled and separated into three sub-assemblies—the developer section, the toner hopper, and the waste hopper. The original doctor blade is cleaned and the original primary charge roller is sandblasted and recoated. The drum is removed from the waste hopper, which, along with the toner hopper, is scraped to remove plastic flash and residual foam seal material, and then blown out to remove residual toner from the original manufacturer. New foam seals are installed on the toner hopper and waste hopper units. New waste hopper drums, recovery blades and wiper blades are also installed. After being rebuilt with a clean blade, roller and gears, the developer section is temporarily assembled with a ''host'' toner section (the ''host'' hopper is used repeatedly for this test; it is not a part of an operating toner cartridge) and the rebuilt waste hopper. The temporarily-assembled unit is inserted in a printer which has been ''hot-wired'' to bypass the need for an electronic chip, which has not been installed. The cartridge then undergoes a test print to check that the seals do not leak and are capable of producing acceptable quality print. This mechanical test does not evaluate whether the cartridge will operate on its own in a printer. It could not do so, as the cartridge has not been charged with toner and the electronic chip has not been installed; without the chip, the cartridge is not operable, as it cannot communicate with the printer. The ''host'' hopper is then removed and the three main sub-assembly components (the developer section, the toner hopper, and the waste hopper) are prepared for shipment to Nukote's Rochester facility.

Final assembly of the printer cartridges occurs at Nukote's Rochester, New York facility. You state that the substantial majority of the operations at this facility are performed by skilled Nukote quality control and technical operations staff, which must complete a minimum of three to four weeks of training in order to become certified to engage in this activity. These operations consist of the following: (1) Incoming Quality Inspection. You state that the goods arrive without the electronic chip and toner that are necessary for the printer cartridge to perform any useful function. (2) Filling and Sealing. The toner hopper is filled with new chemical toner and the hopper is sealed with a plug. The toner in the first manufacturing process scenario is either of U.S. or foreign origin. (3) Mechanical Assembly. The waste hopper, developer section and toner hopper are assembled with screws, springs and clips. (4) Testing. Nukote ''process tests'' ten percent of the units for print quality and leakage. All of this testing is performed by a Nukote quality control technician and/or quality engineer. Nukote also ''life tests'' one to two percent of the units. During this process, all seals, clips, blades, PCRs, and rollers are visually inspected for cleanliness and proper assembly. (5) Inspection. One hundred percent of the units are visually inspected against a defined inspection criteria. (6) External Cleaning. The exterior of the units is cleaned by a pneumatic air line, a toner dust cloth and a dust collection device. (7) Installation of a Computer Chip. A custom-engineered and IP-protected chip, developed and manufactured in the United States, is manually installed in each unit. The chip enables the printer software to recognize the correct laser cartridge and permits the printer to tabulate the page count and toner volume level. The cartridge is non-functional without this chip. (8) Advance Preparation for Shipment. A shipping protector, lot control tag and shipping seals are applied. (9) Packaging for Shipment. The unit is placed in a shipping bag, protective endcaps are installed, an instruction sheet is added, a customer label is applied, and the unit is sealed in a customer-specific box. (10) Skidding and Shipment. The units are placed on a skid and sent to the shipping warehouse for movement to a distribution center in Tennessee. The cost of U.S. origin components for this scenario will vary from approximately 21% to 74%, depending on whether the toner is of U.S. or foreign origin.

The second process scenario involves conventional monochrome printer cartridges with computer chips. This process is substantially the same as the first process, with the following exceptions. The disassembly process at the foreign facility is slightly less complex because the cartridge itself is less complex than a chemical toner color cartridge. The toner is always of U.S. origin and is much less expensive than the toner for the color cartridge. The cost of the drum is considerably less than in the first scenario. The cost of U.S. origin components will range from approximately 69% to 76%, depending on whether certain components are of U.S. or foreign origin. As in the first scenario, a custom-engineered and IP-protected chip, developed and manufactured in the United States, is manually installed in each unit. The chip enables the printer software to recognize the correct laser cartridge and permits the printer to tabulate the page count and toner volume level.

The third manufacturing process scenario is different from the second only in that there is no computer chip in the third scenario. The cost of U.S. origin components will range from approximately 60% to 68%, depending on whether certain components are of U.S. or foreign origin. As in the second scenario, the toner is always of U.S. origin.

Issue

What is the country of origin of the subject laser printer cartridge models for the purpose of U.S. Government procurement?

Law and Analysis

Pursuant to Subpart B of Part 177, 19 CFR 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 CFR 177.22(a).

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an integral part of the new article. *Belcrest Linens* v. *United States,* 573 F. Supp. 1149 (Ct. Int'l Trade 1983), *aff'd,* 741 F.2d 1368 (Fed. Cir. 1984). Assembly operations that are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation. *See,* C.S.D. 80–111, C.S.D. 85–25, C.S.D. 89–110, C.S.D. 89–118, C.S.D. 90–51, and C.S.D. 90–97. In C.S.D. 85–25, 19 Cust. Bull. 844 (1985), CBP held that for purposes of the Generalized System of Preferences (''GSP''), the assembly of a large number of fabricated components onto a printed circuit board in a process involving a considerable amount of time and skill resulted in a substantial transformation. In that case, in excess of 50 discrete fabricated components (such as resistors, capacitors, diodes, integrated circuits, sockets, and connectors) were assembled. Whether an operation is complex and meaningful depends on the nature of the operation, including the number of components assembled, number of different operations, time, skill level required, attention to detail, quality control, the value added to the article, and the overall employment generated by the manufacturing process.

In order to determine whether a substantial transformation occurs when components of various origins are assembled into completed products, CBP considers the totality of the circumstances and makes such determinations on a case-by-case basis. The country of origin of the item's components, extent of the processing that occurs within a country, and whether such processing renders a product with a new name, character, or use are primary considerations in such cases. Additionally, factors such as the resources expended on product design and development, extent and nature of post-

assembly inspection and testing procedures, and worker skill required during the actual manufacturing process will be considered when determining whether a substantial transformation has occurred. No one factor is determinative.

Nukote collects empty toner cartridges from end users at collection sites in the United States and, to a substantially lesser extent, in Canada, Singapore, the United Kingdom, Hong Kong and China. Nukote also purchases used printer cartridges from United States-based brokers. These used printer cartridges were originally manufactured at various locations in different countries. The cartridges are sorted at one foreign location and are then processed at a second foreign location and subsequently in the United States.

At the second foreign location, the cartridges are split open, disassembled, and separated into three sub-assemblies. Worn components of the sub-assemblies are replaced and made operational again. This work constitutes disassembly of the used cartridges, as well as certain preparation for the processing which will occur in the United States. At this point the goods are tested. It is claimed that the sub-assemblies are not functional without the chip which is later installed in the United States (at least in the two scenarios where the chip is involved).

The processing which occurs at Nukote's Rochester, New York facility includes inspection, filling and sealing, mechanical assembly, testing, cleaning, installation of a computer chip, preparation and packaging for shipment, and shipment. We do not believe these operations are complex enough to result in a substantial transformation of the sub-assemblies. The sub-assemblies are essentially made functional again at the foreign facility. While the chip which makes the cartridge work (in two of the three scenarios) is inserted in the United States, we find that the bringing together of the sub-assemblies in the United States does not result in a substantial transformation of the goods. For example, these operations in the United States are not as significant as those in NY G87305, where the cartridges were completely disassembled; salvageable parts were sorted into bins, cleaned, and reconditioned; major components, including the OPC drum and toner were replaced; and other new components were added.

In HQ 561232, dated April 20, 2004, CBP considered the steps necessary to create a fully functional FM tuner, including adjustments to the oscillator coil, two filter coils, and the demodulator coil, selecting and installing two resistors, and enclosing the item in a metal case. CBP held that ''while these additional operations are required to create a fully functional product, and are of a certain complexity requiring technical skill, they do not change the essential character of the PCBA [printed circuit board assembly], which at this stage of production has the characteristics of the imported FM tuner but has not quite achieved full functionality.'' Therefore, CBP held that there was not a second substantial transformation in the Philippines. We believe that HQ 561232 is relevant here as the imported sub-assemblies possess the characteristics of the printer cartridge but, as imported, have not achieved full functionality.

Holding

The operations performed at Nukote's Rochester, New York facility do not result in a substantial transformation of the cartridges. Therefore, the cartridges will not be considered to be products of the United States.

Sincerely,

Sandra L. Bell,

Executive Director, Office of Regulations and Rulings, Office of International Trade.

[FR Doc. E7–15484 Filed 8–7–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5117–N–63]

Notice of Submission of Proposed Information Collection to OMB; Assessment of FHA Lender Customer Satisfaction-Survey of Businesses

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.

HUD has recently undertaken efforts to modernize programs and processes in order to maintain a strong lending position with underserved and underserved borrowers. This information collection will serve to evaluate the level of satisfaction customers have with these new initiatives. The sample will consist of 1,000 FHA originating lenders with a production level of at least 28 loans for FY 2005.

DATES: *Comments Due Date:* September 7, 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–NEW) 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: Assessment of FHA Lender Customer Satisfaction-Survey of Businesses.

OMB Approval Number: 2502–NEW.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use:

HUD has recently undertaken efforts to modernize programs and processes in order to maintain a strong lending position with underserved and underserved borrowers. This information collection will serve to evaluate the level of satisfaction customers have with these new initiatives. The sample will consist of 1,000 FHA originating lenders with a production level of at least 28 loans for FY 2005.

Frequency of Submission: On occasion, annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	668	0.81	....	0.25	....	136

Total Estimated Burden Hours: 136.

Status: New collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 3, 2007.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E7–15448 Filed 8–7–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein.

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
150941	Leon E. Houser	72 FR 25328; May 4, 2007	July 6, 2007.
151316	Kevin Dahm	72 FR 25328; May 4, 2007	July 6, 2007.
151317	Anthony A. Casagrande	72 FR 25328; May 4, 2007	July 12, 2007.
152688	Daniel A. Hoffler	72 FR 31090; June 5, 2007	July 17, 2007.
152993	Casey P. Brooks	72 FR 31090; June 5, 2007	July 17, 2007.
152239	Danny Z. Donaldson	72 FR 31090; June 5, 2007	July 17, 2007.
152748	Ritchie G. Studer	72 FR 31090; June 5, 2007	July 17, 2007.

Dated: July 20, 2007.

Lisa J. Lierheimer,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7–15383 Filed 8–7–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–330–1430–DSG–07–0002; IDI–34902]

Notice of Realty Action; Noncompetitive Lease of Public Land, Custer and Lemhi Counties, ID

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) has examined and determined that two parcels of public land comprising 9.6 acres, more or less, located in Custer and Lemhi Counties, Idaho are suitable for a renewable, direct (non-competitive), 20-year agricultural use lease to The Nature Conservancy (TNC) pursuant to Section 302 (b) of The Federal Land Policy Management Act of 1976 (43 U.S.C. 1732 (b)), and the implementing regulations at 43 CFR part 2920, as amended. This action will resolve an historic encroachment occurring on public lands. The encroachment dating back to on or before 1976 was originally attributed to parties from whom TNC purchased property (adjacent to the subject parcels) in 2003. Rent for the use was determined by Department of the Interior appraisal to be BLM minimum annual lease fee of $250.00. Rent may be re-appraised annually, or at an interval not to exceed every 5 years to remain consistent with market trends.

DATES: Interested parties may submit comments to the BLM Challis Field Office Manager, at the below address. Comments must be received by not later than September 24, 2007. Only written comments will be accepted.

ADDRESSES: Address all written comments concerning this Notice to David Rosenkrance, BLM Challis Field Manager, 801 Blue Mountain Road, Challis, Idaho 83226–9304. 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.

FOR FURTHER INFORMATION CONTACT: Tim Vanek, Realty Specialist at the above address or call (208) 879–6218.

SUPPLEMENTARY INFORMATION: The following described public land in Custer and Lemhi Counties, Idaho has been determined to be suitable for lease for the purpose of agricultural harvest (alfalfa hay). The BLM has determined that resource values will not be affected by the leasing of this parcel of public land. The proposed action complies with the BLM Challis Resource Management Plan (RMP) (1999). Compliance can be found under: Decision Land Tenure and Access under Goal 4 (Eliminate unauthorized use of public lands). As provided in 43 CFR 2920.5–4(b), land use authorizations may be offered on a negotiated, non-

competitive basis, when, in the judgment of the authorized officer, equities, such as prior use of the lands, exist; if no competitive interest exists; or, where competitive bidding would represent unfair competitive and economic disadvantage to the originator of the unique land use concept that is compatible with the public interest. Based on past use of the subject parcels in the form of alfalfa hay cultivation, it is the authorized officer's discretion to offer the proposed agricultural on a non-competitive basis. Furthermore, it is the authorized officer's decision to offer the proposed agricultural lease to *The Nature Conservancy* on a non-competitive basis because an improvement consisting of a portion of an irrigation pivot owned by TNC exists on the public land in support of hay production. Because of these points, it is the opinion of the authorized officer no competitive interests exist, or competitive bidding would represent unfair competitive and economic disadvantage to TNC.

Therefore, the BLM will accept for processing, an application to be filed by *The Nature Conservancy,* or its duly qualified designee, for a non-competitive lease of the above described lands, to be used, occupied, and developed as stated above. The non-competitive bid shall not be for less than fair market value. That is to say, rental value which has been based on the fair market value of the land, is acceptable to the BLM after taking into account a current, independent appraisal of, among other considerations, the highest and best use of the lands. The BLM will estimate the costs of processing the lease application. Before the BLM begins to process the application, the lease applicant must pay the full amount of the estimated costs to the United States. If a lease is not granted, the lease applicant must pay to the United States, in addition to the estimated costs, the reasonable costs incurred by the BLM in processing the lease in excess of the estimated costs. Rent has been determined by the BLM. If and when a lease is granted, rent must be made paid annually or otherwise in advance, and periodically thereafter. If a lease is granted, the lessee shall reimburse the United States for all reasonable administrative and other costs incurred by the United States in processing the lease application and for monitoring construction, operation, maintenance and rehabilitation of the land and facilities authorized. The reimbursement of costs shall be in accordance with the provisions of 43 CFR 2920.6.

The lease application must include a reference to this notice and comply in all respects with the regulations pertaining to land use authorization applications at 43 CFR 2920.5–2 and 2920.5–5(b).

If authorized, the lease would be subject to provisions of the Federal Land Policy Management Act of 1976, and all applicable regulations of the Secretary of the Interior, including but not limited to 43 CFR part 2920, and to valid existing rights.

The parcels are described as follows:

Boise Meridian

T. 15 N., R. 21 E., sec. 22, (contained within) NE¼NW¼ and NW¼SE¼NW¼; sec. 28, (contained within) NW¼NE¼.

The areas described contain 9.6 acres, more or less, in Custer and Lemhi Counties.

The United States (Lessor) shall reserve all leasable, locatable, and salable mineral resources and deposits in the subject parcel together with the right to prospect for, mine, and remove the same under applicable laws and regulations. The lease, when issued, will contain a covenant requiring TNC assign in the name of the Lessor that amount of water applied to the subject parcel during the use of the subject parcel by TNC. In the event the application of water to the public land ceases, this assignment shall terminate and full water right shall revert back to the sole ownership of TNC.

Comments must be received by the BLM Challis Field Manager at the address stated above, on or before the date stated above. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. Any adverse comments will be reviewed by the BLM Idaho Falls District Manager, who may sustain, vacate or modify this realty action. In the absence of any objections, or adverse comments, this proposed realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2920.4)

Joe Kraayenbrink,

Idaho Falls District Manager.

[FR Doc. E7–15358 Filed 8–7–07; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a reinstatement of an information collection (1010–0081).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), MMS is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR 282, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur.

DATES: Submit written comments by October 9, 2007.

ADDRESSES: You may submit comments by any of the following methods listed below. Please use the Information Collection Number 1010–0081 as an identifier in your message.

- E-mail MMS at *rules.comments@mms.gov.* Identify with Information Collection Number 1010–0081 in the subject line.
- Fax: 703–787–1093. Identify with Information Collection Number 1010–0081.
- Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Attention: Cheryl Blundon; 381 Elden Street, MS–4024; Herndon, Virginia 20170–4817. Please reference ''Information Collection 1010–0081'' in your comments.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Regulations and Standards Branch at (703) 787–1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations of the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 282, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur.

OMB Control Number: 1010–0081.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1334 and 43 U.S.C. 1337(k)), authorizes the Secretary of the Interior (Secretary) to implement regulations to grant to the qualified persons, offering the highest cash bonus on a basis of competitive bidding, leases of any mineral other than oil, gas, and sulphur. This applies to any area of the OCS not then under

lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease. This regulation governs mining operations within the OCS for minerals other than oil, gas and sulphur and establishes a comprehensive leasing and regulatory program for such minerals. These regulations have been designed to (1) Recognize the differences between the OCS activities associated with oil, gas, and sulphur discovery and development and those associated with the discovery and development of other minerals; (2) facilitate participation by States directly affected by OCS mining activities; (3) provide opportunities for consultation and coordination with other OCS users and uses; (4) balance development with environmental protection; (5) insure a fair return to the public; (6) preserve and maintain free enterprise competition; and (7) encourage the development of new technology.

Regulations at 30 CFR 282 implement these statutory requirements. However, there has been no activity in the OCS for minerals other than oil, gas and sulphur for many years and no information collected since we allowed the OMB approval to expire in 1991. Nevertheless, because these are regulatory requirements, the potential exists for information to be collected and we are requesting that OMB reinstate this collection of information.

We use the information required by 30 CFR 282 to determine if lessees are complying with the regulations that implement the mining operations program for minerals other than oil, gas, and sulphur. Specifically, MMS uses the information:

- To ensure that operations for the production of minerals other than oil, gas, and sulphur in the OCS are conducted in a manner that will result in orderly resource recovery, development, and the protection of the human, marine, and coastal environments.
- To ensure that adequate measures will be taken during operations to prevent waste, conserve the natural resources of the OCS, and to protect the environment, human life, and correlative rights.
- To determine if suspensions of activities are in the national interest, to facilitate proper development of a lease including reasonable time to develop a mine and construct its supporting facilities, or to allow for the construction or negotiation for use of transportation facilities.
- To identify and evaluate the cause(s) of a hazard(s) generating a suspension, the potential damage from a hazard(s) and the measures available to mitigate the potential for damage.
- For technical and environmental evaluations which provide a basis for MMS to make informed decisions to approve, disapprove, or require modification of the proposed activities.

We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2), and 30 CFR 282.5, 282.6, and 282.7 and applicable sections of 30 CFR parts 280 and 281. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: Monthly; on occasion.

Estimated Number and Description of Respondents: As there are no active respondents, we estimated the potential annual number of respondents to be one. Respondents are OCS lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The previous OMB inventory included 201 annual burden hours for the collection of information. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 282	Reporting requirement	Hour burden
Subpart A—General		
4(b); 12(b)(2)(ii); 12(f)(l), (2); 13(d), (e)(2); 21; 22; 25; 26; 28.	Submit delineation plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications.	40
4(c); 12(c)(2)(ii); 12(f)(l), (2); 13(d), (e)(2); 21; 23; 25; 26; 28.	Submit testing delineation plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications.	40
4(d); 12(d)(2)(ii); 12(f)(1), (2); 13(d), (e)(2); 21; 24; 25; 26; 28.	Submit mining delineation plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications.	40
5	Request non-disclosure of G&G info	10
Subpart B—Jurisdiction and Responsibilities of Director		
11(c); 12(c)	Apply for right-of-use and easement	30
11(d); 12(d)	Request consolidation of two or more OCS mineral leases or portions	1
12(f)(1), (h); 20(g), (h)	Request approval of operations or departure from operating requirements. (Burden included with applicable operation).	0
13(b), (f)(2); 31	Request suspension or temporary prohibition or production or operations	2
13(e)(1)	Submit site-specific study plan and results. (Since this has never been done, we do not know the cost of such a study).	8
		$100,000
14	Submit "green" response copy of Form MMS–1832 indicating date violations (INCs) corrected.	1
Subpart C—Obligations and Responsibilities of Lessees		
20(a), (g); 29(i)	Make available all mineral resource or environmental data and information; submit reports and maintain records. (Burden included with applicable operation).	0
20(b) thru (e)	Submit designation of payor, operator, or local representative; submit changes	1
21(d)	Notify MMS of preliminary activities	1
27(b)	Request use of new or alternative technologies, techniques, etc	1

Citation 30 CFR 282	Reporting requirement	Hour burden
27(c)	Notify MMS of death or serious injury; fire, exploration, or other hazardous event; submit report.	1
27(d)(2)	Request reimbursement for furnishing food, quarters, and transportation for MMS representatives (OCS Lands Act specifies reimbursement; no requests received in many years; minimal burden).	2
27(e)	Identify vessels, platforms, structures, etc. with signs	1
27(f)(2)	Log all drill holes susceptible to logging; submit copies of logs to MMS	3
27(h)(3), (4)	Mark equipment; record items lost overboard; notify MMS	1
29(a)	Submit monthly report of minerals produced	1
29(b), (c)	Submit quarterly status and final report on exploration and/or testing activities	5
29(d)	Submit results of environmental monitoring activities	5
29(e)	Submit marked and certified maps annually or as required	1
29(f)	Maintain rock, minerals, and core samples for 5 years and make available upon request.	1
29(g)	Maintain original data and information and navigation tapes as long as lease is in effect and make available upon request.	1
29(h)	Maintain hard mineral records and make available upon request	1
Subpart D—Payments		
40	Submit surety or personal bond	2
Subpart E—Appeals		
50; 15	File an appeal. (Burden exempt under 5 CFR 1320.4(a)(2), (c))	0

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There is one non-hour cost burden associated with 282.13(e)(1), a site specific study. Since this has not been done to date, we estimated that the cost of such study would cost industry at least $100,000 to comply with the requirement.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency '' * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * * ''.

Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the ''non-hour cost'' burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. *You should not include estimates for equipment or services purchased:* (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Procedures: 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.

MMS Information Collection Clearance Officer: Arlene Bajusz, (202) 208–7744.

Dated: August 1, 2007.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E7–15387 Filed 8–7–07; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–07–015]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission

TIME AND DATE: August 20, 2007 at 2 p.m.

PLACE: Room 101, 500 E. Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agenda for Future Meetings: None.

2. Minutes.

3. Ratification List.

4. Inv. Nos. 701–TA–448 and 731–TA–1117 (Preliminary)(Certain Off-the-Road Tires from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before August 27, 2007).

5. Outstanding Action Jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By Order of the Commission.

Issued: August 3, 2007.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E7–15503 Filed 8–7–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

August 2, 2007.

The Department of Labor has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). Copies of the ICRs, announced herein with applicable supporting documentation; including inter alia a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: John Kraemer, OMB Desk Officer for the Mine Safety and Health Administration (MSHA), Office of Management and Budget, 725 17th Street, NW., Room 10235, Washington, DC 20503, Telephone: 202–395–4816/Fax: 202–395–6974 (these are not a toll-free numbers), E-mail: *John_Kraemer@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title: Hazardous Conditions Complaints.

OMB Number: 1219–0014.

Number of Respondents: 1,358.

Estimated Total Annual Burden Hours: 272.

Affected Public: Private Sector: Business or other for-profit.

Description: In order to ensure optimum occupational safety conditions, miners or representatives of miners may submit a written or oral notification of an alleged violation of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91–173) or an alleged violation of a mandatory standard contained in Title 30 of the U.S. Code of Regulations or of an imminent danger. Such notification requires MSHA to make an immediate inspection.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title: Ventilation Plan and Main Fan Maintenance Record.

OMB Number: 1219–0016.

Number of Respondents: 247.

Estimated Total Annual Burden Hours: 5,942.

Affected Public: Private Sector: Business or other for-profit.

Description: The information collected pursuant to 30 CFR 57.8520 is used to: (a) Assure that each operator of an underground metal and nonmetal mine routinely plans, reviews, and updates the mine's ventilation system; (b) insure the availability of accurate and current ventilation information; and (c) provide MSHA with the opportunity to alert the mine operator to potential hazards. With respect to 30 CFR 57.8525, the information is maintained by the mine operator for his or her use. Ventilation personnel may use the information when called upon to solve a problem. MSHA uses the information to determine whether the fans have been adequately maintained in compliance with the standard.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title: Slope and Shaft Sinking Plans.

OMB Number: 1219–0019.

Number of Respondents: 65.

Estimated Total Annual Burden Hours: 1,300.

Affected Public: Private Sector: Business or other for-profit.

Description: Plans are submitted for approval to the District Manager in whose district the mine is located. Once approved, plans are used by MSHA to determine that the equipment and methods used by the mine operator to provide a safe working environment for their employees is as stated in the approved plan.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title: Safety Defects; Examination, Correction and Records.

OMB Number: 1219–0089.

Number of Respondents: 12,557.

Estimated Total Annual Burden Hours: 1,223,104.

Affected Public: Private Sector: Business or other for-profit.

Description: The records are used by industry management and maintenance personnel to ensure that defects are not overlooked, that repairs are made, and to monitor when and how often maintenance is performed on certain equipment, machinery, and tools. Additionally, the inspection records denote any hazards that were discovered and how the hazards or unsafe conditions were abated. Federal mine inspectors use the records to ensure that unsafe conditions are identified and corrected.

Agency: Mine Safety and Health Administration.

Type of Review: Extension without change of currently approved collection.

Title: Diesel Particulate Matter Exposure of Underground Coal Miners.

OMB Number: 1219–0124.

Number of Respondents: 165.

Estimated Total Annual Burden Hours: 623.

Affected Public: Private Sector: Business or other for-profit.

Description: The Mine Safety and Health Administration's standards and regulations for diesel-powered equipment in underground coal mines serve to protect coal miners who work on and around diesel-powered equipment. The internal combustion

engines that power diesel equipment expose miners to fire and explosion hazards in the confined environment of an underground coal mine, which contains combustible coal dust and highly explosive methane gas.

Darrin A, King,

Acting Departmental Clearance Officer.

[FR Doc. E7–15367 Filed 8–7–07; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

August 2, 2007.

The Department of Labor has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). Copies of the ICR, announced herein with applicable supporting documentation; including inter alia a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number) / e-mail: *king.darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Brian Harris-Kojetin, OMB Desk Officer for the Bureau of Labor Statistics (BLS), Office of Management and Budget, 725 17th Street, NW., Room 10235, Washington, DC 20503, Telephone: 202–395–4816 / Fax: 202–395–6974 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the applicable OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.

Type of Review: Revision of currently approved collection.

Title: National Longitudinal Survey of Youth 1997.

OMB Number: 1220–0157.

Number of Respondents: 7,600.

Estimated Total Annual Burden Hours: 7,674.

Affected Public: Individuals or households.

Description: The information obtained in this survey will be used by the Department of Labor, other government agencies, academic researchers, the news media, and the general public to understand the employment experiences and school-to-work transitions of men and women born in the years 1980 to 1984.

Darrin A. King,

Acting Departmental Clearance Officer.

[FR Doc. E7–15368 Filed 8–7–07; 8:45 am]

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Solicitation for Grant Applications (SGA) for Community-Based Job Training Grants

Announcement Type: Notice of Solicitation for Grant Applications.

Funding Opportunity Number: SGA/DFA PY 07–01.

Catalog of Federal Assistance Number: 17.269.

DATES: The closing date for receipt of applications under this announcement is October 10, 2007. Applications must be received at the address below no later than 4 p.m. (Eastern Time). Application and submission information is explained in detail in Part IV of this SGA. Virtual Prospective Applicant Conferences will be held for this grant competition on August 14 and 15, 2007 at 1 p.m. Eastern Time. Additional information and links to registration for these Virtual Prospective Applicant Conferences will be posted on ETA's Web site at *www.doleta.gov/business/Community-BasedJobTrainingGrants.cfm.*

SUMMARY: The Employment and Training Administration (ETA), U.S. Department of Labor (DOL), announces the availability of approximately $125 million in grant funds for Community-Based Job Training Grants.

Community-Based Job Training Grants will be awarded through a competitive process to support workforce training for high-growth/high-demand industries through the national system of community and technical colleges. Funds will be awarded to individual community and technical colleges, community college districts, state community college systems, and One-Stop Career Centers to support or engage in a combination of capacity building and training activities for the purpose of building the capacity of community colleges to train individuals for careers in high-growth/high-demand industries in the local and/or regional economies. This Solicitation contains an exception for rural areas and other communities that are educationally underserved due to their lack of access to community or technical colleges.

In awarding Community-Based Job Training Grants, every effort will be made to fairly distribute grants across rural and urban areas and across the different geographic regions of the United States. It is anticipated that individual awards will range from $500,000 to $2 million.

This Solicitation provides background information and describes the application submission requirements, outlines the process that eligible entities must use to apply for funds covered by this Solicitation, and details how grantees will be selected.

ADDRESSES: Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Eric Luetkenhaus, Reference SGA/DFA PY 07–01, 200 Constitution Avenue, NW., Room N–4716, Washington, DC 20210. Telefacsimile (FAX) applications will not be accepted. Information about applying online can be found in Section IV(C) of this document. Applicants are advised that mail delivery in the Washington area may be delayed due to mail decontamination procedures. Hand delivered proposals will be received at the above address.

SUPPLEMENTARY INFORMATION: This solicitation consists of eight parts:

- Part I is the funding opportunity description that includes background information on the topics of:

Globalization, regional innovation, economic competitiveness, and talent development; the Employment and Training Administration's solutions-based approaches to workforce investment strategies; and a description of the critical elements of Community-Based Job Training Grants.

- Part II describes the size and nature of the anticipated awards.
- Part III describes eligibility information and other grant specifications.
- Part IV provides information on the application and submission process.
- Part V describes the criteria against which applications will be reviewed and evaluated, and explains the proposal review process.
- Part VI provides award administration information.
- Part VII contains DOL agency contact information.
- Part VIII lists additional resources of interest to applicants.

I. Funding Opportunity Description

The Community-Based Job Training Grants (CBJTGs) are designed to support workforce training for high-growth/high-demand industries through the national system of community and technical colleges. The primary purposes of these grants are to build the capacity of community colleges to provide training and to train workers to develop the skills required to succeed in local or regional (i) industries and occupations that are expected to experience high-growth and (ii) industries where demand for qualified workers is outstripping the supply. Part A provides an overview of globalization, regional innovation and economic competitiveness and ETA's transformational vision of talent development in a regional economy; Part B; describes ETA's solutions-based approaches to workforce investment strategies; and Part C describes the critical elements of CBJTGs.

A. Background

1. Globalization, Regional Innovation and Economic Competitiveness

The world is now witnessing one of the greatest economic transformations in history. Revolutions in technology and information have ushered in the globalization of the economic marketplace. Globalization is marked by tremendous advances in communications, travel, and trade—allowing individuals instant access to commerce from almost anywhere in the world. At the same time, American businesses now compete not only with companies across the street, but also with companies around the globe.

Global competition is typically seen as a national challenge. In reality, regions are where companies, workers, researchers, entrepreneurs and governments come together to create a competitive advantage in the global marketplace. That advantage stems from the ability to transform new ideas and new knowledge into advanced, high quality products or services—in other words, to innovate.

Regions that are successful in creating a competitive advantage demonstrate the ability to organize ''innovation assets''—people, institutions, capital and infrastructure—to generate growth and prosperity in the region's economy. These regions are successful because they have connected three key elements: Workforce skills and lifelong learning; learning strategies, investments and entrepreneurial strategies; and regional infrastructure and economic development strategies.

In the new global economy, a region's ability to develop, attract, and retain a well-educated and skilled workforce is a key factor in our nation's economic competitiveness. A region may possess a strong infrastructure and the investment resources for success, but without the talented men and women to use those elements for economic growth, they are meaningless. Talent can also drive investment and infrastructure because investment capital is smart money and will follow talent, while infrastructure can be built to support a growing economy.

2. Talent Development In the Global Economy

Each year the federal government invests billions of dollars in a state and local workforce investment network to assist businesses in recruiting, training, and retaining a skilled workforce. This network is called the workforce investment system and consists of state and local workforce investment boards, state workforce agencies, and One-Stop Career Centers and their cooperating partners.

In this 21st century globally competitive economy, it is becoming increasingly important that the workforce system act as a strategic partner in regional economic development. As the leader in regional talent development, the workforce system aligns workforce investment dollars with regional economic growth goals by focusing on workforce and lifelong learning strategies that are demanded by employers and based on an understanding of future job growth in emerging, high-growth and economically vital industries and sectors of the American economy. Through this strategic alignment, the workforce system helps to ward off and respond to economic shocks, creating more stable and rewarding employment opportunities for the workforce. In addition, the system serves as a galvanizing partner by bringing together entities that can grow talent as well as leverage that talent base in attracting industry investment to the local or regional economy.

To maximize the impact of talent development activities, workforce investment boards must partner with a strong team composed of individuals and organizations necessary to transform the regional economy, including: Employers; educators at all levels, including community colleges; economic development entities; local, regional, and state government; the philanthropic community; faith-based and community organizations; research institutions; and other civic leaders with a stake in economic growth and talent development.

B. Solutions-Based Approaches To Workforce Investment Strategies: A Key Component For Regional Innovation and Talent Development

Within the context of these strategic partnerships, the workforce system should take a solutions-based approach to workforce development, focusing on systemic solutions that address short-term challenges while contributing to long-term talent development and economic growth. Partners should work collaboratively to:

(1) Identify the regional economy.
(2) Form the Core Leadership Group.
(3) Conduct a SWOT Analysis.
(4) Identify a Shared Regional Identity and Vision for the Regional Economy.
(5) Devise Strategies in Support of the Shared Vision.
(6) Leverage resources and implement.

Please note, this process is not linear—the steps may occur and reoccur depending on regional circumstances. The goal of this process is to ensure that workforce system resources help workers get education and training that aligns with regional industry-identified needs and job opportunities, and that these needs reflect economic development priorities in the region.

The Employment and Training Administration (ETA) has modeled the role of strategic partnerships in demand-driven workforce investment through the President's High Growth Job Training Initiative (HGJTI). Through the HGJTI, ETA identified high-growth, high-demand industries; evaluated their skill needs; and funded local and national partnership-based

demonstration projects that provide workforce solutions to ensure that individuals can gain the skills to get good jobs with career pathways in rapidly expanding or transforming industries.

The foundation of the HGJTI has been partnerships between the publicly funded workforce investment system, business and industry representatives, and the continuum of education. These partnerships engage each partner in its area of strength. Industry representatives and employers define workforce challenges facing the industry and identify the competencies and skills required for the industry's workforce. Education and training providers, such as community colleges, assist in developing competency models and curricula and train new and incumbent workers. The workforce investment system compiles and analyzes local labor market information, accesses human capital (e.g. youth, unemployed, underemployed, and dislocated workers), provides funding to support training for qualified individuals, and connects trained workers to good jobs.

The Community-Based Job Training Grants (CBJTGs) continue the work of the HGJTI by incorporating its focus on high-growth, high-demand industries and its emphasis on the role of strategic partnerships in workforce development while addressing the critical capacity constraints of community colleges.

Businesses in high growth, high demand industries face increasing difficulties in finding workers with the right skills. According to the Bureau of Labor Statistics, ninety percent of the fastest growing jobs in the United States require some level of education or training beyond high school. The accessibility and affordability of community college training, combined with the adaptability of community college curricula to changing skill needs, make community colleges a vital training resource for many U.S. workers. Furthermore, community colleges are closely connected to local and regional labor markets, making them well-positioned to prepare workers for good jobs with good wages in their regional economy.

However, community college leaders and industry executives report that many community colleges are unable to meet the demand for training in their region because of critical capacity constraints. These capacity constraints occur when community colleges lack sufficient resources to support training facilities and equipment, curriculum development, faculty appointments, clinical experiences, and/or other elements that are necessary to provide either the volume or quality of training that industry requires. Despite rising application rates, the reality of current state and local budgets often prevent community colleges from funding the programs, faculty, and student services needed to be responsive to regional workforce demands.

The CBJTGs build on the work of the High Growth Initiative by highlighting the critical role community colleges play as partners in a demand-driven workforce investment system, and by supporting community efforts to link training initiatives to the skill demands of local and regional employers. As a result, CBJTG activities will lead to an increased number of high-growth/high-demand firms being supported by regional workforce and education systems, and more individuals being trained and employed in high-growth/high-demand sectors.

Recognizing the growing need for regional economic competitiveness in the global economy, ETA has continued to evolve its strategies for supporting strategic workforce development. In February 2006, ETA launched the Workforce Innovation in Regional Economic Development (WIRED) Initiative, focusing on the role of talent development in driving regional economic competitiveness, leading to increased job growth and new opportunities for American workers. To optimize innovation and successful regional economic transformation, the WIRED framework brings together all the key players in a region to leverage their collective public and private sector assets and resources, and to devise strategies that focus on infrastructure, investment, and talent development.

The WIRED strategic framework supports regions in incorporating demand-driven talent and skills development into their larger economic strategies and integrating workforce development, economic development, and education efforts into a comprehensive system that is both flexible and responsive to the needs of business and workers. More information and tools to help implement a WIRED strategic framework can be found at *www.doleta.gov/WIRED.*

C. Critical Elements of Community-Based Job Training Grants

It is ETA's expectation that CBJTGs will contain at least seven critical elements. These elements consist of: (1) A focus on skill and competency needs of high-growth/high-demand industries that are Locally Defined in the Context of the Regional Economy; (2) strategic partnerships; (3) industry-driven capacity building and training efforts; (4) leveraged resources; (5) replication of successful models for broad distribution; (6) clear and specific outcomes; and (7) integration with regional economic and talent development strategies. These characteristics are reflected in the evaluation criteria in Part V and are described in further detail below.

1. Focus on Skill and Competency Needs of High-Growth/High-Demand Industries as Locally Defined in the Context of the Regional Economy

The Workforce Investment Act of 1998 (Pub. L. 105–220) (WIA) emphasizes a workforce system driven by the needs of local employers. In order for America to remain competitive in the global economy, it is essential that ETA target its investments to support employers in high-growth/high-demand industries. Community colleges, Workforce Investment Boards, and One-Stop Career Centers play a vital role in this effort by understanding the workforce needs of these industries and providing training and other services to address those needs.

A high-growth/high-demand industry meets one or more of the following criteria: (1) Is projected to add substantial numbers of new jobs to the economy; (2) has a significant impact on the economy overall; (3) impacts the growth of other industries; (4) is being transformed by technology and innovation requiring new skill sets for workers; or (5) is a new and emerging business that is projected to grow. CBJTGs will support industry demand for training in local or regional high-growth/high-demand industries. Regions are typically defined as geographically contiguous areas and can include multiple counties and cities and cross state lines. A range of factors contribute to the formation of a region, including economic interdependence (such as a common industry or industries) and shared assets (such as human capital, research and development entities, educational institutions, and airports and other types of infrastructure). ETA encourages applicants to define local high-growth industries in the context of their regional economy by illustrating how the industry is aligned with and fits into the region's economic development activities.

2. Strategic Partnerships

ETA believes that strategic partnerships between community colleges; the workforce investment system, including One-Stop Career Centers; business and industry; and the continuum of education, including the

K–12 system, adult education, and four-year colleges and universities, need to be in place in order to implement effective demand-driven training and capacity building strategies. These strategic partnerships may have a local, regional, or statewide focus, and may include a consortium of partners or cross-industry representatives. Specific requirements for strategic partnerships are outlined in Section III(C)(1) and in the exception detailed in Section III(C)(5). These strategic partnerships should focus broadly on the workforce challenges of one or more high-growth, high-demand industries and work collaboratively to identify and implement solutions to those challenges. Solutions should include, among others, strategies to increase the capacity of community colleges to educate and train more workers with industry-defined skills and competencies. Therefore, the investment in community college capacity building would be one of many strategies and solutions that evolve from the partnership. While ETA welcomes applications from newly formed strategic partnerships, applicants are advised that grant funds may not be used for partnership development.

In order to maximize the long-term success of the proposed solution and to keep pace with the rapid changes in the economy and the nature of the skills and competencies necessary for work in these industries, these partnerships need to be substantial and sustained. ETA encourages partners to plan for the partnership's sustainability beyond the CBJTG investment period to enable ongoing assessment of industry workforce needs and collaborative development of solutions on a continual basis.

Within the context of the broader strategic partnership and as it relates to this grant, each collaborative partner should have clearly defined roles. These roles must be verified through a letter of commitment submitted by each partner. The letter of commitment must detail the role the partner will play in the project, including specific responsibilities and resources committed, if appropriate. The exact nature of these roles may vary depending on the issue areas being addressed and the scope and nature of the activities undertaken. However, ETA expects that each collaborative partner will, at a minimum, contribute in the following ways:

a. Employers must be actively engaged in the project and should participate fully in grant activities including: Defining the program strategy and goals; identifying needed skills and competencies; designing training approaches and curricula; implementing the program; contributing financial support; and, where appropriate, hiring qualified training graduates.

b. Education and training providers, including K–12 (elementary, middle, and high schools, as well as career and technical high schools), adult education, community and technical colleges, four-year colleges and universities, and other training entities, are important foundational partners to ensure the project's activities are tied to the broader continuum of education in the region. These entities assist in developing and implementing industry-driven workforce education strategies in partnerships with employers including competency models, curricula, and new learning methodologies, including technology-based learning.

c. The workforce investment system, which may include State and Local Workforce Investment Boards, State Workforce Agencies, and One-Stop Career Centers and their cooperating partners, as such terms are defined under the Workforce Investment Act, may play a number of roles, including: Identifying and assessing candidates for training; working collaboratively to leverage WIA investments; referring qualified candidates to the community college for enrollment in training programs; providing access to wrap-around supportive services, when appropriate; and connecting qualified training graduates to employers that have existing job openings. Additionally, the workforce investment system in general, and One-Stop Career Centers in particular, have substantive experience in tracking the outcomes of program participants. One-Stop Career Centers may coordinate, provide support, or manage the tracking of training recipients for the performance management aspect of the CBJTG.

Partnerships with faith-based and community organizations, while not required, are also encouraged. These organizations may provide a variety of grant services, such as case management, mentoring, and English language acquisition, among others. Faith-based and community-based organizations can also provide comprehensive supportive services, when appropriate.

3. Industry-Driven Capacity Building and Training Efforts

Under CBJTGs, community colleges, or other entities as specified in the exception detailed in Section III(C)(5), must develop and implement a combination of capacity building and training activities that target skills and competencies demanded by local high-growth/high-demand industries as defined in the context of the region's economy. Applicants are not limited in the strategies and approaches they may employ to implement college capacity building and training strategies, provided the activities meet the following requirements:

a. *Training.* Training activities must: (1) Be provided by a community or technical college, except as specified in Section III(C)(5) of this Solicitation; (2) occur within the context of workforce education that supports long-term career growth, such as an articulated career ladder/lattice; and (3) result in college credit or other credentials that are industry-recognized and indicate a level of mastery and competence in a given field or function. Please note, when using credentials, CBJTGs must follow the definition of certificate and/or credential found in Attachment B to TEGL 17–05 on Common Measures, found at: *http://wdr.doleta.gov/directives/attach/TEGL17–05_AttachB.pdf.*

The credential awarded to participants upon completion should be based on the type of training provided through the grant and the requirements of the targeted occupation, and should be selected based on consultations with industry partners. For example:

i. Customized and short-term training should result in a performance-based certification or credential. This certification may be developed jointly by employers and the community college, based on defined knowledge and skill requirements for specific high-demand occupations/functions. Performance-based certifications may also be based on industry-recognized curriculum and standards.

ii. Training in information technology, allied health professions, and other fields with established professional standards and examinations should result in certification.

iii. In states where licensure is required for the specific occupation targeted by the training, the credentialing requirement should be set accordingly.

iv. In some instances, training provided under CBJTGs may lead to a degree after the grant program is over. In these instances, the credential required will be the college credit for each course leading to an Associate's or Applied Associate's degree.

b. *Capacity Building.* CBJTG applicants are encouraged to broadly assess their capacity to meet the training needs of the targeted high-growth/high-demand industry or industries.

Proposed capacity building strategies are expected to address significant barriers which impede the ability of the community college, or other entity as specified in the exception detailed in Section III(C)(5), to meet local and regional industry demand for workforce training as well as increase the capacity of the college to provide training resulting in an increase in the pipeline of skilled workers ready for employment or promotion in the regional economy. These strategies should not simply address isolated deficits, but rather provide a comprehensive solution to identified capacity challenges as they relate to the industry or industries of focus. Additionally, to avoid duplication, applicants are encouraged to align and leverage their proposed capacity building activities with existing curricula, competency models and other frameworks developed by existing HGJTI and CBJT grantees.

Examples of capacity building activities include, but are not limited to:

i. The development or adaptation of competency models and curricula to support training;

ii. The development of innovative curricula, teaching methods and instructional design to maximize the impact of the initiative in meeting the skills needs of employers;

iii. Innovative strategies to ensure availability of qualified and certified instructors;

iv. Procurement of equipment and simulation equipment necessary to train to industry-demanded skills;

v. Support for clinical experiences required for certification or licensure; or

vi. Development of technology-based distance learning curricula and programs to promote better access to education and training programs.

Capacity building activities must meet two criteria: (1) The proposed capacity building efforts must be directly linked to the specific training supported under the grant; and (2) grantees must use their grant funds in a manner consistent with the regulations and policies governing use of funds under Section 171(d) of WIA, which broadly allows the funds to be utilized to test an array of approaches to the provision of training services and supports the development and replication of effective training strategies. Applicants are strongly encouraged to review Section 171(d) of WIA and to review allowable types of capacity building activities under federal funds. In addition, OMB Circular A–21 provides guidance to educational institutions on allowable costs. Grantees may not utilize federal funds on unallowable activities, even if those activities are written in a successful application, and any such activities will need to be removed from a grant statement of work.

In their capacity building and training activities, ETA encourages CBJTG applicants, particularly those serving rural areas and other areas that are educationally underserved due to lack of access to community colleges, to look at technology-based distance learning options when building their capacity to provide training. Technology-Based Learning (TBL) is transforming the way people learn and can increase the geographic reach of training. TBL can be defined as the learning of content via all electronic technology, including the Internet, intranets, satellite broadcasts, audio and video tape, video and audio conference, Internet conferencing, chat rooms, bulletin boards, Web casts, computer-based instruction and CD-ROM. It encompasses related terms, such as online learning, Web-based learning, computer-based learning and e-learning. For example, a college may convert industry-specific curricula typically offered in traditional classroom settings to technology-based learning (e-learning or online) or develop technology-based learning training programs so that dislocated workers, incumbent workers, and/or new job entrants can access training 24 hours a day and seven days a week.

4. Leveraged Resources

Projects funded through CBJTGs should leverage resources from key entities in the strategic partnership. Leveraging resources in the context of strategic partnerships accomplishes three goals: (1) It allows for the strategic pursuit of resources; (2) it increases stakeholder investment in the project at all levels including design and implementation phases; and (3) it broadens the impact of the project itself. Applicants are encouraged to leverage significant resources from key partners and other organizations to maximize the impact of the project on the community.

Leveraged resources include both federal and non-federal funds and may come from many sources. Businesses, faith-based and community organizations, economic development entities, education systems, and philanthropic foundations often invest resources to support workforce development. In addition, other federal, state, and local government programs may have resources available that can be integrated into the proposed project. Examples of such programs include other Department of Labor programs such as registered apprenticeship, as well as non-DOL One-Stop partner programs such as Vocational Rehabilitation, Adult Education, and Department of Education Pell Grants. Faith-based and community organizations may provide resources such as supportive services, mentoring, tutoring, and volunteers—all of which are important for grantees to leverage when assisting certain individuals targeted by these funds. For applicants who choose to leverage resources, please include the following information: (1) The total amount leveraged from federal sources; (2) the total amount leveraged from non-federal sources; (3) the partners contributing the resources; and (4) the projected activities, broken out by the source of the leveraged resource (federal or non-federal), to be implemented utilizing these resources.

ETA encourages CBJTG applicants and their strategic partners to be entrepreneurial as they seek out, utilize, and sustain these resources, whether they are in-kind or cash contributions, when creating capacity building and training strategies to effectively address the workforce challenges identified by industry.

ETA also encourages applicants to integrate WIA funding at the state and local level into their proposed project. Integrating WIA funds ensures that the full spectrum of assets available from the workforce system is leveraged to support capacity building and training activities. The wide variety of WIA programs and activities provide both breadth and depth to the proposed solution offered to both businesses and individuals. The use of WIA funds also serves to embed the solutions-based approach into the local or regional workforce investment system, which strengthens the system's ability to become more demand-driven.

ETA will award 5 bonus points to applications that demonstrate the integration of WIA training funds into grant activities, such as covering tuition costs for eligible new or incumbent workers. Examples of WIA training funds include Individual Training Accounts, customized training, and Career Advancement Accounts. Individual Training Accounts (ITAs) are training funds that can be used by individuals who have been determined eligible by their local One-Stop Career Center(s) to receive Workforce Investment Act (WIA) funded training. Customized training, defined under the Workforce Investment Act and 20 CFR 663.715, is designed to meet the special requirements of an employer; is conducted with a commitment by the employer to employ, or continue to employ, an individual on successful completion of the training; and has the

employer providing not less than 50% of the cost of the training.

Career Advancement Accounts (CAAs) have been proposed in the President's Fiscal Year 2008 budget and are currently being piloted in eight states: Georgia, Indiana, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wyoming. CAAs are self-managed accounts an individual would apply for at a One-Stop Career Center that would enable the individual to gain the education and training needed to successfully enter, navigate, and advance in 21st century jobs.

5. Replication of Successful Models for Broad Distribution

CBJTGs are intended to drive the community college and workforce investment systems to be more responsive to the workforce demands of industry by making the products, models, and effective approaches that result from CBJTG investments available to both systems. To that end, grantees will develop the foundations and outcomes of CBJTG projects, including the learning and achievements resulting from the projects, into solutions-based models that can be shared with, and implemented by, other community colleges, the workforce system, and industry leaders.

ETA is currently pursuing an aggressive national dissemination strategy for grant products that focuses on widely distributing grantee tools, models, and products through a network of stakeholders including education and industry partners, and the public workforce system. The products and tools developed through the CBJTGs, including curriculum, competency models, distance learning tools, career awareness and outreach materials, research, case studies, career lattices, creation of industry skill centers, and Web sites, will be part of this dissemination strategy. CDs with available products will be developed and distributed to appropriate education, workforce, and business and industry association partners. All of these products will also be available online at *www.Workforce3One.org.* CBJT grantees are required to submit to ETA products developed with grant funding; these products will be included in ETA's dissemination strategy.

Workforce[3] One offers the public workforce system, employers, economic development professionals, and education professionals an innovative knowledge network designed to create and support demand-driven communities, one that responds directly to business needs and prepares workers for good jobs in the fastest growing careers. By supporting replicable projects that can be implemented in multiple areas and industries, ETA is able to maximize its investment by expanding the grant's impact beyond the initial grant site and helping additional businesses and workers in other regions.

6. Clear and Specific Outcomes

The CBJTGs are fundamentally results-oriented. Grants are expected to generate clear and specific outcomes that are appropriate to the nature of the solution and size of the project; that are achievable by the partnership during the life of the grant; and that indicate progress towards meeting the workforce challenges identified by the partnership. Because CBJT grantees are expected to invest in customized strategies to address local and regional workforce and skills shortages, ETA recognizes that specific outcomes will vary from project to project based on the specific activities proposed by applicants. CBJTG applicants must demonstrate the effectiveness of the proposed training activities by creating appropriate outcome projections for the project, which will be considered baseline performance measures for the grant if awarded. Additionally, applicants should note that CBJT grantees must report to ETA, on a quarterly basis, their progress towards meeting the projected capacity building and training outcomes listed in their applications.

a. *Training Outcomes:* Training outcomes must include those tracked by the Common Measures, which are uniform evaluation metrics for job training and employment programs. The Common Measures are an integral part of ETA's performance accountability system. Applicants must include projected outcome numbers to be achieved during the life of the grant for each of the Common Measures. The Common Measures for adults include entered employment, job retention, and average earnings. For youth, the Common Measures include placement in employment or education, attainment of a degree or certificate, and literacy and numeracy gains. A detailed description of ETA's policy on the Common Measures can be found in the Training and Employment Guidance Letter (TEGL) No. 17–05 (*http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2195*). A basic list of Common Measures is provided as attachment A to the TEGL (*http://wdr.doleta.gov/directives/attach/TEGL17-05_AttachA.pdf*). Applicants are strongly encouraged to review these documents prior to submitting applications under this Solicitation.

In addition to Common Measures, grantees will be required to report the number and types of credentials awarded to trainees, if appropriate, and the number of individuals placed in employment related to training. Applications must include projections of the number and type of credentials to be awarded and, if appropriate, the number of individuals placed in employment related to training. Please note that the Common Measures provide only part of the information necessary to measure CBJTGs successes effectively. CBJTG recipients may also have additional outcome measures appropriate to their project.

On a quarterly basis, ETA will collect data from CBJT grantees on spending, program activities, participants, and all outcomes necessary to convey the full and accurate information on the performance of grantees and the program in general to policymakers and stakeholders. Applicants should note that proposals are evaluated based on outcomes, per the evaluation criteria in Section V(4)(A). Therefore, all outcomes and outcome projections provided in the application will become part of the project's statement of work as the baseline goals for the grant, should the application be funded. It is not ETA's intent to renegotiate performance outcomes after grant awards are made.

Please note, ETA has published in the **Federal Register** a report format for Grantees under the High Growth Job Training Initiative and Community-Based Job Training Grants entitled: ''High Growth and Community-Based Job Training Grants: General Quarterly Reporting Forms & Instructions.'' This report format contains all of the above referenced outcomes, as well as other outcome categories, and was open for viewing and public comment through July 30, 2007. To view the entire proposed reporting package, including a link to the **Federal Register**, visit: *http://www.doleta.gov/OMBCN/OMB_1205–0NEW_20070530.cfm*. ETA strongly encourages applicants to review the proposed report format to ensure that they will be able to track and report on the information required.

b. *Capacity Building Outcomes:* Grantees will be required to report, on a quarterly basis, the status of all capacity building activities under the grant; how the activity is linked to the specific training supported under the grant; and, if appropriate, the impact of the capacity building activity, including the exact methodology with operational parameters of how the impact measure is calculated. An example of a capacity building activity where it is appropriate to report impact is for teacher

professional development/train-the-trainer activities, in which there are no employment related outcomes for those being trained; however, the impact of the grant activities has a far greater effect than on those just being trained. In this example, a grant may train 25 college students to be volunteer after-school ''instructors'' and the impact would be a total of 500 high school students because, over the three year period under the grant, each ''instructor'' taught one class with 20 high school students. Another area where it is appropriate to report impact is career awareness activities. Some capacity building activities, such as equipment purchases and faculty hires, may not have impact measures; therefore they do not require reports on impact numbers or methodology.

Please note that capacity building outcomes and impacts of the proposed project must satisfactorily address the industry-identified workforce need and the capacity constraints identified by the community college, or other entity as specified in the exception detailed in Section III(C)(5).

7. Integration with Regional Economic and Talent Development Strategies

Today's global economy requires new workforce development strategies that build on demand-driven approaches to propel economic growth. Successful workforce investment leads to the creation of new jobs by attracting new businesses and industries, and expanding existing companies in communities through a talent-rich workforce.

Maintaining America's competitive position in the global economy requires a workforce with postsecondary education credentials and the capacity to work in a high-technology environment while creatively and collaboratively adapting as new technologies and business process innovations evolve. To keep pace with change, workers require lifelong learning opportunities. Rather than simply training the workforce for today's jobs, community colleges, the workforce investment system, and other entities in the continuum of education must operate as a talent development system, meeting industry's present needs while also collaborating with the region's economic development system to identify and support emerging industries. The goal is to ensure the availability of an educated and prepared workforce that is able to compete in the global economy by attracting and sustaining industry's investment in regional economies.

While Community-Based Job Training Grants assist individual community colleges in building their capacity to provide training in high-growth/high-demand industry sectors of the economy, they also play a vital role in the development of a regional talent development system. Therefore, the capacity building and training activities occurring under CBJTGs should be aligned with, and integrated into, regional talent and economic development strategies. A regional approach under CBJTGs ensures that the full range of assets, resources, knowledge, and leadership are at the table to implement a solution that will address the critical capacity constraints faced by the community college while supporting talent development in the regional economy.

To demonstrate that their projects are aligned with and integrated into regional talent and economic development strategies, applicants should describe how their capacity building and training solution are part of or complement existing regional approaches under regional talent and economic development plans and initiatives or is the catalyst for bringing partners together to begin the analysis and strategic planning in their region. Additionally, applicants should demonstrate alignment with regional talent and economic development strategies by integrating regional partnerships into their proposed capacity building and training activities. In addition to the partners required under this Solicitation, applicants can demonstrate connection to regional talent and economic development activities through broader and deeper partnerships with regional business leadership and organizations, such as chambers of commerce; economic development organizations at the regional level; the philanthropic community; seed and venture capital organizations or individuals; investor networks; entrepreneurs; faith and community-based organizations; and other regional entities. Finally, for applicants leveraging resources, applicants should demonstrate that the funds leveraged come from regional partners or from existing or planned talent development efforts within the region.

II. Award Information

A. Award Amount

ETA intends to fund approximately seventy-five (75) grants ranging from $500,000 to $2 million through this competition. However, this does not preclude ETA from funding grants at either a lower or higher amount, or funding a smaller or larger number of projects, based on the type and the number of quality submissions. Applicants are encouraged to submit budgets for quality projects at whatever funding level is appropriate to their project. Nevertheless, applicants should recognize that the funds available through this SGA are designed to complement additional leveraged resources rather than be the sole source of funds for the proposal.

B. Period of Performance

The period of grant performance will be up to 36 months from the date of execution of the grant documents. This performance period shall include all necessary implementation and start-up activities, participant follow-up for performance outcomes, and grant close-out activities. A timeline clearly detailing these required grant activities and their expected completion dates must be included in the grant application. ETA may elect to exercise its option to award no-cost extensions to grants for an additional period, based on the success of the program and other relevant factors, if the grantee applies for, and provides a significant justification for, such an extension.

III. Eligibility Information and Other Grant Specifications

A. Eligible Applicants

In order to be eligible for consideration under this solicitation, the applicant must be either: (1) An individual Community or Technical College, (2) a Community College District, (3) a state Community College System, or (4) a One-Stop Career Center in partnership with its Local Workforce Investment Board. For educationally underserved communities without access to community or technical colleges, there are other eligible applicants; please see Section III(C)(5) . Requirements for each of these applicant types are provided below.

1. Community or Technical College applicants must demonstrate that they are a public, accredited institution of higher education that predominantly awards Associate's Degrees. This definition includes tribally controlled colleges and universities. Private for-profit and private not-for-profit institutions of higher education are not eligible to apply under this Solicitation. For the purposes of this paragraph, an ''Institution of Higher Education'' is defined as an entity that has its own Federal Tax Identification Number and has direct control of its funds. Entities that do not meet the above criteria may

be eligible to apply under the exception in Section III(A)(5).

2. Community College District applicants must demonstrate that they are an education district organized by the state to define the community in which the college operates. Community College District applications must specify one or more community college(s) within the district where capacity building and training activities will occur under the grant.

3. State Community College System applicants must demonstrate that their office represents the management and supervision of a unified statewide system of community and technical colleges. State system applications must specify one or more community college(s) within the state where capacity building and training activities will occur under the grant.

4. One-Stop Career Centers, as established under Section 121 of the Workforce Investment Act of 1998 (Pub. L. 105–220). The eligible applicant for One-Stop Career Centers must be the One-Stop Operator, as defined under Section 121 of the Workforce Investment Act of 1998 (Pub. L. 105–220), on behalf of the One-Stop Career Center. The applicant must: (1) Have a letter of concurrence from the Workforce Investment Board; (2) demonstrate that the proposed activities are consistent with the state strategic Workforce Investment Act plan; and (3) demonstrate that the Local Workforce Investment Board, or its designated fiscal agent, will serve as the fiscal agent for the grant by clearly providing the legal name and EIN of the fiscal agent. The Workforce Investment Board's support and involvement in the project should be detailed in the letter of concurrence, which should also address the above requirements (2) and (3). Applications from One-Stop Career Centers without a letter of concurrence from their Workforce Investment Board will be considered non-responsive and will not be reviewed. One-Stop Career Center applications must specify one or more community college(s) where all capacity building and training activities will occur under the grant. One-Stop Career Center applicants should clearly note in the Abstract that they are applying under Section III(A)4, of the SGA. Additionally, in the abstract, One-Stop Career Center applicants should note that they are the One-Stop Career Center operator and provide the name of the One-Stop Career Center.

B. Cost Sharing or Matching

Cost sharing, matching, or cost participation is not required for eligibility; however, applicants are encouraged to leverage the resources of the partnership whenever possible. Five bonus points are available for applications that demonstrate that WIA training funds are integrated into grant activities.

C. Other Grant Specifications

1. *Demonstrated Partnerships.* To be considered for funding under this SGA, the applicant must demonstrate that the proposed project will be implemented by a strategic partnership that includes at least one entity from each of the following categories: (1) The Workforce Investment System, which may include State and Local Workforce Investment Boards, State Workforce Agencies, and One-Stop Career Centers and their partners; (2) an individual community or technical college; (3) employers and industry-related organizations such as associations and unions; and (4) the continuum of education, including the K–12 public education system, adult education, four-year colleges and universities, and other training providers. Please note that some applicants applying under the exception may not have a community college partner. In these cases, the applicant should substitute the training provider as the required community college partner. Please see Section III(C)(5) for more details. The strategic partnership may be a legally organized partnership, joint venture, or a more informal collaboration. Please note, while at least one entity from each category is required, ETA strongly encourages as many partners as necessary from each category to fully represent the community and the entire continuum of education.

2. *Required Capacity Building and Training Activities.* To be considered for funding under this SGA, proposed grant activities must include a combination of capacity building and training activities at the community college, or other entities as specified in the exception detailed in Section III(C)(5), that target skills and competencies demanded by local high-growth/high-demand industries that are defined in the context of the regional economy. In all applications, at least 50 percent of the proposed budget must be for tuition and related training costs for a substantive number of students enrolled in the grant training program. Related training costs include, but are not limited to, books, supplies, tools, and uniforms. Grantees are strongly encouraged to leverage other resources to cover the tuition costs for the students trained with grant funds to expand the number of individuals trained with the grant. Possible sources of leveraged resources for tuition include, but are not limited to, Pell Grants, student loans, and employer tuition reimbursement. Grantees may charge tuition and related training costs to students enrolled in the training program whose tuition is not covered by the grant; however, the leveraging of resources described above is strongly encouraged. Grantees must track and report performance outcomes on any individuals trained using grant dollars, either in whole or in part. Where grant dollars are combined with other leveraged resources to cover tuition for an individual being trained, that individual must be tracked for purposes of performance as well.

Proposed capacity building activities must address barriers that impede the ability of the community college, or other entities specified in the exception detailed in Section III(C)(5), to meet local and regional industry demand for workforce training and must be directly linked to the specific training supported under the grant. Applicants may propose a cross-cutting capacity building and training strategy that will support training in more than one high-growth/high-demand industry if the applicant can demonstrate that skill needs in the identified industries are shared. Applicants that wish to propose training programs in two or more high-growth industries that do not share skill needs should do so through separate applications.

3. *Participants Eligible to Receive Training.* Generally, the scope of potential trainees is very broad. WIA Sec. 171(d) authorizes demonstration programs to serve dislocated workers, incumbent workers, and new entrants to the workforce. This authorization supports a broad range of training for a variety of populations, including: Incumbent workers who need new skills for jobs in demand at higher levels of the career ladder or because the skill needs for their current jobs have changed; untapped labor pools such as immigrant workers, individuals with limited English proficiency, individuals with disabilities, veterans, Indian and Native Americans, older workers, youth, etc; or entry level workers who need basic skills and/or specific occupational skill training. The identification of targeted and qualified trainees should be part of the larger project planning process undertaken by the required partnership and should relate to the workforce challenge that is being addressed by the training.

4. *Training Providers.* Community and technical colleges are the required training providers under Community-Based Job Training Grants, regardless of the applicant, with the exception of

rural areas and other educationally underserved communities with no reasonable access to community colleges (please see Section III(C)(5) below for more information on this exception). ETA encourages applicants to be creative in integrating partner resources and expertise into the training plan. For example, a business partner may provide a qualified instructor to the community college; the community college may provide on-site training for workers to take advantage of business-loaned equipment; the training may be provided jointly; or the training may utilize technology-based distance learning alternatives as well as blended learning, which combines self-paced and instructor-led interactions.

5. *Exception to Eligible Applicants and Training Provider Requirements for Rural and Other Educationally Underserved Areas with No Access to Community Colleges.* ETA recognizes that some communities, particularly those in rural areas, may lack access to community and technical college training where physical college facilities are not reasonably close and technology-based and distance learning options are limited or not available. Educationally underserved communities that lack this access may submit proposals under the parameters detailed in this exception. In such cases, the applicant will be required to clearly state it is applying under this exception and must fully demonstrate as part of its statement of need that community college training is not reasonably available within commuting distance of the community in which grant activities will take place and that there are no viable technology-based or distance learning options available. Applicants may use mileage, population, and access to classrooms, Internet and other technology, public transportation and other services, as factors to support their demonstration of the lack of access to and availability of community college training. Please note that applications submitted under the exception must still meet all other requirements set forth in this Solicitation. Applicants must clearly note in the abstract that they are applying under this exception.

Under this exception, the additional eligible applicants and requirements on training are listed below.

a. Public, accredited Institutions of Higher Education that award certificates and both two-year and four-year degrees, and satellite campuses of such Institutions, are eligible to apply under this exception. However, the emphasis for capacity building and training activities under the grant must be at the certificate or two-year Associate's Degree level. The public institution of higher education applicant is also required to be the training provider for applications submitted under this exception and will serve as a substitute for the required community college training provider detailed in Section III(C)(4);

b. Alternate Educational Entities that are governmental or not-for-profit organizations that directly deliver, or broker for delivery, post-secondary education opportunities in educationally underserved communities that lack access to community colleges are eligible to apply under this exception. Alternate Educational Entity applicants must demonstrate that: (1) The emphasis for capacity building and training activities under the grant must be at the certificate or two-year Associates Degree level; (2) the training is offered in partnership with a community college outside the underserved area and is acceptable for credit at or a credential from the partner community college; and (3) a component of the capacity building activities supports the partnering community college for the purposes of enhancing the training services provided by that college to the underserved area. Additionally, applications must specify one or more community college(s) where capacity building and training activities will occur under the grant.

6. *Veterans Priority.* The Jobs for Veterans Act (Pub. L. 107–288) provides priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole or in part, by the Department of Labor. In circumstances where a Community-Based Job Training Grant recipient must choose between two equally qualified candidates for training, one of whom is a veteran, the Jobs for Veterans Act requires that CBJTG recipients give the veteran priority of service by admitting him or her into the program. Please note that, to obtain priority of service, a veteran must meet the program's eligibility requirements. ETA Training and Employment Guidance Letter (TEGL) No. 5–03 (September 16, 2003) provides general guidance on the scope of the Job for Veterans Act and its effect on current employment and training programs. TEGL No. 5–03, along with additional guidance, is available at the ''Jobs for Veterans Priority of Service'' Web site: *http://www.doleta.gov/programs/vets.*

7. *Re-designation of One-Stop Operators.* If at any time the applicant One-Stop Operator changes, then DOL and the WIB will modify the application or grant on behalf of the One-Stop Career Center, for the purpose of designating a new One-Stop Operator.

IV. Application and Submission Information

A. Address To Request Application Package

This SGA contains all of the information and links to forms needed to apply for grant funding.

B. Content and Form of Application Submission

The proposal must consist of two (2) separate and distinct parts, Parts I and II. Applications that fail to adhere to the instructions in this section will be considered non-responsive and may not be given further consideration. Applicants who wish to apply do not need to submit a Letter of Intent. The completed application package is all that is required.

Part I of the proposal is the Cost Proposal and must include the following three items:

- The Standard Form (SF) 424, ''Application for Federal Assistance'' (available at *http://www.doleta.gov/sga/forms.cfm*). The SF 424 must clearly identify the applicant and be signed by an individual with authority to enter into a grant agreement. Upon confirmation of an award, the individual signing the SF 424 on behalf of the applicant will be considered the Authorized Representative of the applicant.
- All applicants for federal grant and funding opportunities are required to have a Data Universal Numbering System (DUNS) number provided by Dun and Bradstreet. See Office of Management and Budget (OMB) Notice of Final Policy Issuance, 68 FR 38402 (June 27, 2003). Applicants must supply their DUNS number on the SF 424. The DUNS number is a nine-digit identification number that uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access this Web site, *www.dunandbradstreet.com,* or call 1–866–705–5711.
- The SF 424A Budget Information Form (available at *http://www.doleta.gov/sga/forms.cfm.*) In preparing the Budget Information Form, the applicant must provide a concise narrative explanation to support the request. The budget narrative should include: (1) The total amount leveraged from federal sources; (2) the total amount leveraged from non-federal sources; (3) the partners contributing the

resources; (4) the projected activities to be implemented utilizing leveraged resources, broken out by the source of the leveraged resource (federal or non-federal); (5) the amount of grant funds to be spent on tuition and related training costs (*Note:* At least 50% of the proposed budget must be for tuition and related training costs for a substantive number of students enrolled in the grant training program); and (6) cost per-participant. In applications submitted by Community College Districts, State Community College Systems, One-Stop Career Centers, and alternate educational entities, the budget narrative should also break out the portion of the budget going to the applicant as well as the funds going to the community college for capacity building and training.

Please note that applicants that fail to provide either the SF 424, SF 424A or the budget narrative will be removed from consideration prior to the technical review process. If the proposal calls for integrating WIA or other federal funds or includes other leveraged resources, these funds should not be listed on the SF 424 or SF 424A Budget Information Form, but should be described in the budget narrative and in Part II of the proposal. The amount of DOL funding requested for the entire period of performance (up to 36 months) should be shown together on the SF 424 and SF 424A Budget Information Form. Please do not show only one year of funding on your SF 424 or SF424A. Applicants are also encouraged, but not required, to submit OMB Survey N. 1890–0014: Survey on Ensuring Equal Opportunity for Applicants, which can be found at *http://www.doleta.gov/sga/forms.cfm.*

Part II of the application is the Technical Proposal, which demonstrates the applicant's capabilities to plan and implement the CBJTG in accordance with the provisions of this solicitation. The Technical Proposal is limited to twenty (20) double-spaced, single-sided, 8.5 inch x 11 inch pages with 12 point text font and one-inch margins. Applicants should number the Technical Proposal beginning with page number one. Any pages over the 20 page limit will not be reviewed. In addition, in attachments which may not exceed ten (10) pages, the applicant may provide resumes, a list of staff positions to be funded by the grant, statistical information, general letters of support, and other related material. The required letters of commitment from partners must be submitted as additional attachments and will not count against the allowable 10-page limit on attachments. Please note that applicants should not send letters of commitment or support separately to ETA because letters are tracked through a different system and will not be attached to the application for review. Additionally, the applicant must reference grant partners by organizational name in the text of the Technical Proposal. Except for the discussion of any leveraged resource to address the evaluation criteria, no cost data or reference to prices should be included in the Technical Proposal. In addition, the following information is required:

- A table of contents listing the application sections; and
- A one- to two-page time line outlining project activities and an anticipated schedule for deliverables.
- A one- to two-page abstract summarizing the proposed project and applicant profile information including: Applicant name, project title, industry focus, partnership members, proposed training and capacity building activities, funding level requested, the amount of leveraged resources, the target group(s), and a project description as described in the evaluation criteria section at Section V(A) of this Solicitation. The abstract should also clearly note whether the application is being submitted by a One-Stop Career Center as mentioned in Section III(A)4 or under the exception detailed in Section III(C)(5). If the application is being submitted by a One-Stop Career Center, the applicant should note that they are the One-Stop Career Center operator and provide the name of the One-Stop Career Center.
- A one- to three-page listing of all projected training, employment, and capacity building outcomes that includes the following:
  - For training outcomes list the projected numbers for all training activities, including but not limited to:
  - Total enrollment in training program;
  - Increase in enrollment attributed to grant (number of additional students);
  - The number of individuals trained using grant dollars, including individuals trained as a result of leveraging of resources (e.g., training is paid in whole or in part through sources other than the grant or tuition, including Pell Grants, student loans, employer tuition reimbursement, and Workforce Investment Act training resources such as customized training, ITAs, or pilot CAAs);
  - The number of individuals trained without use of grant dollars, such as those who pay tuition.
  - For those trained using grant dollars or leveraged resources, provide projections for:
    - —Entered employment;
    - —Employment retention;
    - —Average earnings;
    - —Entered employment in industry related to training;
    - —Number receiving promotions and/or wage gains;
    - —Number receiving credentials; and
    - —For youth, literacy and/or numeracy gains.
  - For capacity building outcomes, include:
  - All products to be developed during the grant period.
    - —List the capacity building product (including, but not limited to, curriculum and course materials, competency models and career ladders, outreach materials, reports and databases, and program management and implementation tools);
    - —The projected date the product will be completed; and
    - —The estimated number of individuals impacted or affected during the grant period.

Please note that the abstract, summary of outcomes, table of contents, and time line are not included in the Technical Proposal page limitation, but have their own page limitations, listed above. Applications that do not provide Part II of the application may be removed from consideration prior to the technical review process.

Applications may be submitted electronically on www.grants.gov *or* in hard-copy via U.S. mail, professional overnight delivery service, or hand delivery. These processes are described in further detail in Section IV(C). Applicants submitting proposals in hard-copy must submit an original signed application (including the SF 424) and one (1) ''copy-ready'' version free of bindings, staples or protruding tabs to ease in the reproduction of the proposal by DOL. Applicants submitting proposals in hard-copy are also requested, though not required, to provide an electronic copy of the proposal on CD–ROM.

B. Submission Date, Times, and Addresses

The closing date for receipt of applications under this Solicitation is October 10, 2007. Applications must be received at the address below or successfully submitted through grants.gov no later than 4 p.m. (Eastern Time). Applications sent by e-mail, telegram, or facsimile (fax) will not be

accepted. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

ETA will post Frequently Asked Questions (FAQs) and host Virtual Prospective Applicant Conferences for this grant competition. The FAQs, as well as registration information for the Prospective Applicant Conferences will be posted on ETA's Web site at: *www.doleta.gov/business/Community-BasedJobTrainingGrants.cfm* and *www.workforce3one.org*. Please check these pages for updates periodically during the Solicitation.

Mailed applications must be addressed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Eric Luetkenhaus, Reference SGA/DFA PY 07–01, 200 Constitution Avenue, NW., Room N–4716, Washington, DC 20210. Applicants are advised that mail delivery in the Washington area may be delayed due to mail decontamination procedures. Hand delivered proposals will be received at the above address.

Applicants may apply online through Grants.gov (*http://www.grants.gov*). It is strongly recommended that applicants applying online for the first time via Grants.gov immediately initiate and complete the ''Get Registered'' registration steps at *http://www.grants.gov/applicants/get_registered.jsp*. These steps may take multiple days or weeks to complete, and this time should be factored into plans for electronic application submission in order to avoid unexpected delays that could result in the rejection of an application. If submitting electronically through Grants.gov, the components of the application must be saved as either .doc, .xls or .pdf files.

Late Applications: Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made, was properly addressed, and: (a) Was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., an application required to be received by the 20th of the month must be post marked by the 15th of that month) or (b) was sent by professional overnight delivery service or submitted on Grants.gov to the addressee not later than one working day prior to the date specified for receipt of applications. It is highly recommended that online submissions be completed one working day prior to the date specified for receipt of applications to ensure that the applicant still has the option to submit by professional overnight delivery service in the event of any electronic submission problems. Applicants take a significant risk by waiting to the last day to submit by grants.gov. ''Post marked'' means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service. Therefore, applicants should request the postal clerk to place a legible hand cancellation ''bull's eye'' postmark on both the receipt and the package. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness. Evidence of timely submission by a professional overnight delivery service must be demonstrated by equally reliable evidence created by the delivery service provider indicating the time and place of receipt.

C. Intergovernmental Review

This funding opportunity is not subject to Executive Order (EO) 12372, ''Intergovernmental Review of Federal Programs.''

D. Funding Restrictions

Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, e.g., Educational Institution—OMB Circular A–21. Disallowed costs are those charges to a grant that the grantor agency or its representative determines not to be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant. Applicants will not be entitled to reimbursement of pre-award costs.

Limitations on Cost Per-Participant. Because the costs of training may vary considerably depending on the skills and competencies required in different occupations in different industries, flexibility will be provided on cost per-participant. However, applications for funding will be reviewed to determine if the cost of the training is appropriate and will produce the outcomes identified. Applicants should demonstrate that the proposed cost per-participant is aligned with existing price structures for similar training in the local area or other areas with similar characteristics, if available, or with the community college's, or other entity's as specified in the exception detailed in Section III(C)(5), existing price structures for the type of program offered.

Indirect Costs. As specified in OMB Circular Cost Principles, indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular cost objective. In order to utilize grant funds for indirect costs incurred, the applicant must obtain an Indirect Cost Rate Agreement with its Federal Cognizant Agency either before or shortly after the grant award.

Administrative Costs. Under the CBJTGs, an entity that receives a grant to carry out a project or program may not use more than 5 percent of the amount of the grant to pay administrative costs associated with the program or project. Administrative costs could be both direct and indirect costs and are defined at 20 CFR 667.220. Administrative costs do not need to be identified separately from program costs on the SF 424A Budget Information Form. They should be discussed in the budget narrative and tracked through the grantee's accounting system. Although there will be administrative costs associated with the managing of the partnership as it relates to specific grant activity, the primary use of funding should be to support the actual capacity building and training activity(ies). To claim any administrative costs that are also indirect costs, the applicant must obtain an indirect cost rate agreement from its federal cognizant agency as specified above.

Use of Funds for Supportive Services. Use of grant funds for supportive services, such as transportation and childcare, is not an allowable cost under this Solicitation for Grant Applications, including funds provided through stipends for such purposes.

Use of Stipends. The provision of stipends to training enrollees for the purposes of wage replacement is not an allowable cost under this Solicitation for Grant Applications.

Salary and Bonus Limitations. In compliance with Public Law 109–234 and Public Law 110–5, none of the funds appropriated in Public Law 109–149, Public Law 110–5, or prior Acts under the heading 'Employment and Training' that are available for expenditure on or after June 15, 2006, shall be used by a recipient or sub-recipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under section 101 of Public Law 109–149. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A–133. See Training and Employment Guidance Letter number 5–06 for further

clarification: *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262.*

Legal Rules Pertaining to Inherently Religious Activities by Organizations that Receive Federal Financial Assistance. The government is generally prohibited from providing direct financial assistance for inherently religious activities (please see 29 CFR part 2, subpart D). These grants may not be used for religious instruction, worship, prayer, proselytizing or other inherently religious activities. Neutral, non-religious criteria that neither favors nor disfavors religion will be employed in the selection of grant recipients and must be employed by grantees in the selection of sub-recipients.

ETA Intellectual Property Rights. Applicants should note that grantees must agree to provide USDOL/ETA a paid-up, nonexclusive and irrevocable license to reproduce, publish, or otherwise use for federal purposes all products developed or for which ownership was purchased under an award, including but not limited to curricula, training models, technical assistance products, and any related materials, and to authorize them to do so. Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise.

E. Withdrawal of Applications

Applications may be withdrawn by written notice at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal.

V. Application Review Information

A. Evaluation Criteria

This section identifies and describes the criteria that will be used to evaluate proposals for a Community-Based Job Training Grant. These criteria and point values are:

Criterion	Points
1. Statement of Need	10
2. Linkages to Key Partners	20
3. Training and Capacity Building Plan	25
4. Outcomes, Benefits, and Impact	30
5. Program Management and Organization Capacity	10
6. Integration with and Regional Economic and Talent Development Strategies	5
7. Bonus: Integration of Workforce Investment Act training funds	5
Total Possible Points	105

1. Statement of Need (10 Points)

Applicants must demonstrate a clear and specific need for the federal investment in the proposed activities by: (a) Identifying the industry or industries of focus; (b) establishing that the identified industry satisfies ETA's criteria for a high-growth/high-demand industry in the local or regional economy as described in Section I(C)(1) of this solicitation; (c) providing evidence of industry demand for training in the local or regional economy; and (d) describing in detail the capacity challenges the community college(s), or other entity as specified in the exception detailed in Section III(C)(5), faces that limit its ability to provide sufficient quantity or quality of training to meet the identified industry's demand.

Applicants may draw from a variety of resources for supporting data, including: Traditional labor market information, such as projections; industry data from trade or industry associations, Chambers of Commerce, or direct information from the local employers or industry; information on the local and regional economy from economic development agencies; and other transactional data, such as job vacancies.

In addition to the above, applicants applying under the exception detailed in Section III(C)(5) must also demonstrate that community college training is not reasonably available within commuting distance of the community in which grant activities will take place and that there are no viable technology-based or distance learning options available. Applicants may wish to use mileage, population, and access to classrooms, Internet and other technology, public transportation and other services, in their demonstration of community college training not being reasonably available in their community.

2. Linkages to Key Partners (20 Points)

The applicant must demonstrate that the proposed project will be implemented by a strategic partnership that includes at least one entity from each of four categories: (1) The workforce investment system, which may include State and Local Workforce Investment Boards, State Workforce Agencies, and One-Stop Career Centers and their partners, as such terms are defined under WIA; (2) community and technical colleges; (3) employers and industry-related organizations such as associations and unions; and (4) the continuum of education, including the K–12 public education system. Please note, some applications submitted under the exception outlined in Section III(C)(5) may have a substitution for the community college partner. Please see Section III(C)(5) for more details.

The applicant must identify the partners by organizational name and category, explain the meaningful role each partner will play in the project, and document the resources leveraged from each partner. Collaborating partners must verify their role through a letter of commitment detailing the roles, responsibilities, and resources the partner will commit to the project. The letters of commitment must be attached to the proposal. Applicants must also identify resources leveraged from other organizations, including other workforce investment system partners.

ETA encourages, and will be looking for, applications that go beyond the minimum level of partnership and demonstrate broader, substantive and sustainable partnerships. Scoring on this criterion will be based on the following factors:

- *Evidence of Required Partners (5 points):* The applicant must identify and provide evidence that the partnership contains each of the required partner entities. Applications that do not have each of the four required entities represented in the partnership will not receive any points for this factor.
- *Comprehensiveness of the Partnership (7 points):* The applicant must explain the meaningful role each partner will play in the project. Points for this factor will be awarded based on: (1) The degree to which each partner, including all required partners, plays a committed role, either financial or non-financial, in the proposed project; (2) the breadth and depth of each partners contribution, their knowledge and experience concerning grant activities, and their ability to impact the success of the project; and (3) evidence, including letters of commitment from required partners, that key partners have expressed a clear dedication to the project and understand their area of responsibility. Applications that do not have each of the four required entities represented in the partnership cannot receive full points for this factor.
- *Partnership Management (8 points):* Points for this factor will be awarded based on: (1) The evidence of a plan for interaction between partners at each stage of the project, from planning to execution; (2) the evidence that the capacity challenge to be addressed by the grant was identified in the context of the strategic partnership; (3) demonstrated ability of the lead partner to successfully manage partnerships; (4) the ability of the partnership to manage

all aspects and stages of the project and to coordinate individual activities with the partnership as a whole; (5) the robustness of the applicant's plan for sustaining the partnership beyond the funding period, and (6) evidence that the partnership has the capacity to achieve the outcomes of the proposed project.

3. Training and Capacity Building Plan (25 Points)

The applicant must describe its proposed capacity building and training strategies in full. Scoring on this criterion will be based on:

• *Effective, Innovative Training and Capacity Building Strategies (15 points):* The applicant must provide evidence that: (1) The proposed project will address identified industry workforce or skills shortages and identified capacity constraints at the community college level or in the community if the application is submitted under the exception detailed in Section III(C)(5); (2) there is a demonstrated link between the proposed project and the identified industry workforce challenge or skills shortages and identified capacity constraints at the community college level or in the community, if the application is submitted under the exception detailed in Section III(C)(5); (3) the proposed project clearly integrates industry-driven capacity building and training activities; (4) proposed capacity building solutions are broad-based and include an appropriate range of activities; (5) the proposed capacity building activities increase the capacity of the college to provide training by increasing their enrollment numbers, thereby increasing the pipeline of skilled workers ready for employment or promotion in the regional economy; (6) proposed training activities occur within the context of a continuum of education and training that supports long-term career growth, such as an articulated career ladder/lattice; (7) proposed training activities lead to appropriate college credit or credentialing; and (8) at least 50% of the proposed budget is for tuition and related training costs, which include but are not limited to books, supplies, tools, and uniforms, for a substantive number of students enrolled in the grant training program.

• *Implementation Strategy (10 points):* Applicants can earn up to 10 points based on evidence that the applicant has a clear understanding of the tasks required to successfully meet the objectives of the grant. Factors considered in evaluating this evidence include: (1) The existence of a work plan that is responsive to the applicant's statement of need and includes specific goals, objectives, activities, implementation strategies, and a timeline; (2) the feasibility and reasonableness of the timeline for accomplishing all necessary implementation activities, including start-up, capacity building and training activities, participant follow-up for performance outcomes, and grant closeout activities; (3) whether the budget line items are consistent with and tied to work plan objectives; (4) the extent to which the budget is justified with respect to the adequacy and reasonableness of the resources requested; (5) the extent to which the proposed cost-per-participant is aligned with existing price structures for similar training; and (6) the presence of a robust outreach strategy that includes the dissemination of information regarding the project to others who would benefit most, and, if appropriate, recruitment of eligible participants.

4. Outcomes, Benefits, and Impact (30 Points)

Applicants must demonstrate an outcome-based approach to managing and operating their CBJTG. This should be achieved by fully describing the measures that will be used to evaluate the success and impact of the project, and highlight the benefits and impact of the outcomes and products on the larger capacity constraint(s) described in the statement of need. Scoring on this criterion will be based on the following factors:

a. *Description of Outcomes (20 points):* Applicants may earn up to 20 points for indicating the appropriate outcomes that will be tracked as detailed below. Additionally, the description of outcomes must include: (1) Projected outcomes, to be used as baseline numbers for tracking progress, in the categories of total enrollment in training program, increase in enrollment attributed to grant (number of additional students), completion of training, entered employment in an industry related to training, and ETA's Common Measures, which include entered employment, employment, and average earnings for adults; and placement in employment or education, degree or certificate attainment, and literacy and numeracy gains for youth; and (2) the methods proposed to collect and validate outcome data in a timely and accurate manner.

b. *Training (10 points):* Applicants must track training outcome measures that are consistent with ETA's Common Measures, including employment placement numbers, employment retention, and average earnings for adults; and placement in employment or education, degree or certificate attainment, and literacy and numeracy gains for youth. Other outcome measures that must be tracked include the number of individuals awarded credentials or degrees; the number of individuals trained using grant dollars, including individuals trained as a result of leveraging of resources (e.g. training is paid in whole or in part through sources other than the grant or tuition, including Pell Grants, student loans, employer tuition reimbursement, and Workforce Investment Act training resources such as customized training, ITAs, or pilot CAAs); the number of individuals trained without use of grant dollars, such as those who pay tuition; the number of individuals employed in training-related occupation; the number of individuals that received a promotion or wage gain as a result of training; and other outcome measures specific to the proposed training project. Applicants must also identify the credential that participants will earn as a result of the proposed training, and the employer-, industry-, or state-defined standards associated with the credential. If the credential targeted by the training project is a certificate or performance-based certification, applicants should either (a) demonstrate employer engagement in the curriculum development process, or (b) indicate that the certification will translate into concrete job opportunities with an employer.

c. *Capacity Building (10 points):* Applicants must clearly describe all products, models, curricula, etc. that will be developed or acquired with federal funds through the grant and indicate the impact of the capacity building activity (e.g. the number of participants or entities who will benefit from the proposed activities). Applicants must describe the impact measure associated with the capacity building activity, if applicable, and the exact methodology of the impact measure, including any important operational parameters.

d. *Appropriateness of Outcomes (10 points):* Applicants may earn up to 10 points based on three factors: (1) The extent to which the expected project outcomes are clearly identified and measurable, realistic and consistent with the objectives of the project; (2) the ability of the applicant to achieve the stated outcomes within the timeframe of the grant; (3) the appropriateness of the outcomes with respect to the extent of the community college's identified capacity challenges and the requested level of funding.

5. Program Management and Organization Capacity (10 Points)

To satisfy this criterion, applicants must describe their proposed project management structure including, where appropriate, the identification of a proposed project manager, and discuss the proposed staffing pattern and the qualifications and experience of key staff members. Applicants should also provide evidence of the use of data systems to track outcomes in a timely and accurate manner. The applicant should include a description of organizational capacity and the organization's track record in projects similar to that described in the proposal and/or related activities of the primary partners.

Scoring under this criterion will be based on the extent to which applicants provide evidence of the following:

- The time commitment of the proposed staff is sufficient to ensure proper direction, management, and timely completion of the project;
- The roles and contribution of staff, consultants, and collaborative organizations are clearly defined and linked to specific objectives and tasks;
- The background, experience, and other qualifications of the staff are sufficient to carry out their designated roles; and
- The applicant organization has significant capacity to accomplish the goals and outcomes of the project, including the ability to collect and manage data in a way that allows consistent, accurate, and expedient reporting.

6. Integration With Regional Economic and Talent Development Strategies (5 Points)

Scoring on this criterion will be based on the applicant's ability to demonstrate that their CBJTG project is aligned with and integrated into their region's talent development and economic development strategy. Applicants may receive up to 5 points by:

- Summarizing the region's strategic vision and workforce education strategies in support of talent development and economic growth; and
- Either describing how their capacity building and training solution is part of or complements existing approaches under regional talent development and economic development plans and initiatives; or describing how their CBJTG project is a catalyst for bringing partners together to begin the analysis and strategic planning in their region.
- Describing any regional partnerships that are part of their capacity building and training plans and detail how the partnerships are broader and deeper in scope than the local partnerships in place for the proposed capacity building and training activity. Regional partners may include regional business leadership and organizations, such as chambers of commerce; economic development entities at the regional level; the philanthropic community; seed and venture capital organizations or individuals; investor networks; entrepreneurs; and faith and community-based organizations.
- For applicants leveraging resources, describing how the funds leveraged come from regional partners or from existing or planned talent development efforts within the region.

7. Integration of Workforce Investment Act Training Funds (5 Points).

ETA will award 5 bonus points to applications that demonstrate with evidence the integration of WIA training funds into grant activities. Examples of WIA training funds include, but are not limited to, Individual Training Accounts, customized training, and Career Advancement Accounts, as applicable.

To receive 5 bonus points, applicants must provide a detailed description of the role of Workforce Investment Act training resources in the CBJTG project that includes: (1) The type of WIA training funds leveraged; (2) the dollar amount leveraged; (3) the workforce system partner involved; (4) the role of the resources in the project; and (5) the impact of the Workforce Investment Act training funds. An example of 5-point description is: ''The One Stop Career Center will leverage from its WIA resources $*x* in ITA's for our CBJTG project The impact will be that the One-Stop Career Center will assess and refer a minimum of *x* candidates for training and provide them with ITA's for training under the CBJTG.'' This information should also be included in the letter of commitment from the workforce system partner. No bonus points will be awarded to applicants for simply stating that WIA funds will be integrated into the project.

B. Review and Selection Process

Applications for the Community-Based Job Training Grants will be accepted after the publication of this announcement until the closing date. A technical review panel will make a careful evaluation of applications against the criteria set forth in Section V(A) of this Solicitation. These criteria are based on the policy goals, priorities, and emphases set forth in this SGA. Up to 105 points may be awarded to an application, based on the required information described in Section V(A) of this Solicitation. The ranked scores will serve as the primary basis for selection of applications for funding, in conjunction with other factors such as urban, rural, and geographic balance; industry balance; the availability of funds; and which proposals are most advantageous to the Government. The panel results are advisory in nature and not binding on the Grant Officer, who may consider any information that comes to his attention. DOL may elect to award the grant(s) with or without prior discussions with the applicants. Should a grant be awarded without discussions, the award will be based on the applicant's signature on the SF 424, which constitutes a binding offer.

VI. Award Administration Information

A. Award Notices

All award notifications will be posted on the ETA Homepage (*http://www.doleta.gov*). Applicants selected for award will be contacted directly before the grant's execution. Applicants not selected for award will be notified by mail.

B. Administrative and National Policy Requirements

1. Administrative Program Requirements

All grantees will be subject to all applicable Federal laws, regulations, and the applicable OMB Circulars. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

a. Workforce Investment Act—20 Code of Federal Regulations (CFR) Part 667. (General Fiscal and Administrative Rules).

b. Non-Profit Organizations—OMB Circulars A–122 (Cost Principles) and 29 CFR Part 95 (Administrative Requirements).

c. Educational Institutions—OMB Circulars A–21 (Cost Principles) and 29 CFR Part 95 (Administrative Requirements).

d. State and Local Governments—OMB Circulars A–87 (Cost Principles) and 29 CFR Part 97 (Administrative Requirements).

e. Profit Making Commercial Firms—Federal Acquisition Regulation (FAR)—48 CFR Part 31 (Cost Principles), and 29 CFR Part 95 (Administrative Requirements).

f. All entities must comply with 29 CFR Parts 93 and 98, and, where applicable, 29 CFR Parts 96 and 99.

g. The following administrative standards and provisions may also be applicable:

i. 29 CFR part 2, subpart D—Equal Treatment in Department of Labor Programs for Religious Organizations, Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries;

ii. 29 CFR part 30—Equal Employment Opportunity in Apprenticeship and Training;

iii. 29 CFR part 31—Nondiscrimination in Federally Assisted Programs of the Department of Labor—Effectuation of Title VI of the Civil Rights Act of 1964;

iv. 29 CFR part 32—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance;

v. 29 CFR part 33—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor;

vi. 29 CFR part 35—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor;

vii. 29 CFR part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;

vii. 29 CFR part 37—Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998.

In accordance with Section 18 of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65) (2 U.S.C. 1611) non-profit entities incorporated under Internal Revenue Service Code section 501(c) (4) that engage in lobbying activities are not eligible to receive Federal funds and grants.

Note: Except as specifically provided in this Notice, DOL/ETA's acceptance of a proposal and an award of Federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, OMB Circulars require that an entity's procurement procedures must ensure that all procurement transactions are conducted, as much as practical, to provide open and free competition. If a proposal identifies a specific entity to provide services, the DOL/ETA's award does not provide the justification or basis to sole source the procurement, i.e., avoid competition, unless the activity is regarded as the primary work of an official partner to the application.

C. Special Program Requirements

Evaluation. DOL may require that the program or project participate in an evaluation of overall performance of CBJTGs. To measure the impact of the CBJTGs, ETA may arrange for or conduct an independent evaluation of the outcomes and benefits of the projects. Grantees must agree to make records on participants, employers and funding available, and to provide access to program operating personnel and participants, as specified by the evaluator(s) under the direction of ETA, including after the expiration date of the grant.

D. Reporting

The grantee is required to provide the reports and documents listed below:

Quarterly Financial Reports. A Quarterly Financial Status Report (SF 269) is required until such time as all funds have been expended or the grant period has expired. Quarterly reports are due 30 days after the end of each calendar year quarter. Grantees must use ETA's On-Line Electronic Reporting System.

Quarterly Progress Reports. The grantee must submit a quarterly progress report to the designated Federal Project Officer within 30 days after the end of each calendar year quarter. Two copies are to be submitted providing a detailed account of activities undertaken during that quarter. DOL may require additional data elements to be collected and reported on either a regular basis or special request basis. Grantees must agree to meet DOL reporting requirements. The quarterly progress report should be in narrative form and should include:

1. General Grant Information, including a summary of grant activities and a status update on leveraged resources and strategic partner activities;

2. A Grant Timeline that includes the progress of grant activities, the key deliverables for each quarter, and the products available each quarter;

3. Grant Outcomes, including information on all capacity building, training, employer, and grant deliverable outcomes as well as the anticipated impact of these outcomes on the community college, industry partners, and the broader community; and dissemination activities and events for grant deliverables. Training outcomes will include quarterly and cumulative reports on the projected outcomes that include, but are not limited to: enrollment, number completed training, number of certificates awarded, ETA's Common Measures, including entered employment, employment retention, and average earnings; number entered into employment related to training; and number receiving wage gains and promotions.

4. Highlights of Promising Approaches and Success Stories; and

5. Description of Technical Assistance Needs.

Final Report. A draft final report must be submitted no later than 60 days prior to the expiration date of the grant. This report must summarize project activities, employment outcomes, and related results of the training project, and should thoroughly document capacity building and training approaches. The final report should also include copies of all deliverables, e.g. curricula and competency models. After responding to DOL questions and comments on the draft report, three copies of the final report must be submitted no later than the grant expiration date. Grantees must agree to use a designated format specified by DOL for preparing the final report.

VII. Agency Contacts

For further information regarding this SGA, please contact Melissa Abdullah, Grants Management Specialist, Division of Federal Assistance, at (202) 693–3346 (Please note this is not a toll-free number). Applicants should fax all technical questions to (202) 693–2705 and must specifically address the fax to the attention of Melissa Abdullah and should include SGA/DFA PY 07–01, a contact name, fax and phone number, and e-mail address. This announcement is being made available on the ETA Web site at *http://www.doleta.gov/sga/sga.cfm*, at *http://www.grants.gov*, as well as the **Federal Register**.

VIII. Additional Resources and Other Information

Resources for the Applicant

DOL maintains a number of web-based resources that may be of assistance to applicants.

- The Web site for the Employment and Training Administration (*http://www.doleta.gov*) is a valuable source for background information on the President's High Growth Job Training Initiative.
- Short descriptions of previously funded Community-Based Job Training Grants can be found at *http://www.doleta.gov/BRG/CBJTGrants/.*
- The Workforce³ One Web site, www.workforce3one.org, is a valuable resource for information about demand-driven projects of the workforce investment system, educators, employers, and economic development representatives. Additionally, current High Growth and Community-Based Job Training Grantees are posting their deliverables on this Web site.
- America's Service Locator (*www.servicelocator.org*) provides a directory of the nation's One-Stop Career Centers.

• Career Voyages (*www.careervoyages*), a Web site targeted at youth, parents, counselors, and career changers, provides information about career opportunities in high-growth/high-demand industries.

• Applicants are encouraged to review ''Help with Solicitation for Grant Applications'' (*http://www.dol.gov/cfbci/sgabrochure.htm).*

• For a basic understanding of the grants process and basic responsibilities of receiving Federal grant support, please see ''Guidance for Faith-Based and Community Organizations on Partnering with the Federal Government'' (*http://www.whitehouse.gov/government/fbci/guidance/index.html*).

Other Information

OMB Information Collection No.: 1205–0458.

Expires: September 30, 2009.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. Public reporting burden for this collection of information is estimated to average 20 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimated or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, the OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503. Please do not return the completed application to the OMB. Send it to the sponsoring agency as specified in this solicitation.

This information is being collected for the purpose of awarding a grant. The information collected through this ''Solicitation for Grant Applications'' will be used by the Department of Labor to ensure that grants are awarded to the applicant best suited to perform the functions of the grant. Submission of this information is required in order for the applicant to be considered for award of this grant. Unless otherwise specifically noted in this announcement, information submitted in the respondent's application is not considered to be confidential.

Signed at Washington, DC, this 1st day of August, 2007.

Eric D. Luetkenhaus,

Grant Officer, Employment and Training Administration.

[FR Doc. E7–15362 Filed 8–7–07; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), 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)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection to evaluate the impact of the Big Read audio guide distribution to public libraries. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below on or before October 5, 2007. The NEA is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Sunil Iyengar, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Room 616, Washington, DC 20506–0001, telephone (202) 682–5424 (this is not a toll-free number), fax (202) 682–5677.

Murray Welsh,

Director, Administrative Services, National Endowment for the Arts.

[FR Doc. E7–15364 Filed 8–7–07; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410]

Nine Mile Point Nuclear Station, LLC; Notice of Withdrawal of Application for; Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Nine Mile Point Nuclear Station, LLC (the licensee) to withdraw its application dated August 11, 2006, for a proposed amendment to Renewed Facility Operating License No. NPF–69 for the Nine Mile Point Nuclear Station, Unit No. 2, located in Oswego County, New York.

The proposed amendment would have modified Technical Specification 3.3.2.1, ''Control Rod Block Instrumentation,'' to change the number of startups allowed with the rod worth minimizer inoperable from one per calendar year to two per operating cycle.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 26, 2006 (71 FR 56192). However, by letter dated July 17, 2007, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 11, 2006, and the licensee's letter dated July 17, 2007, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet

at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 30th day of July 2007.

For the Nuclear Regulatory Commission.

Douglas V. Pickett,

Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E7–15460 Filed 8–7–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Seeks Qualified Candidates for the Advisory Committee on Reactor Safeguards

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Request for résumés.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) seeks qualified candidates for the Advisory Committee on Reactor Safeguards (ACRS). Submit résumés to: Ms. Angelina Chapeton, Administrative Assistant, ACRS/ACNW&M, Mail Stop T2E–26, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or e-mail *AHC@NRC.GOV*.

SUPPLEMENTARY INFORMATION: The ACRS is a part-time advisory group which is statutorily mandated by the Atomic Energy Act of 1954, as amended. ACRS provides independent expert advice on matters related to the safety of existing and proposed nuclear power plants and on the adequacy of proposed reactor safety standards. Of primary importance are the safety issues associated with the operation of 104 commercial nuclear power plants in the United States and regulatory initiatives, including risk-informed and performance-based regulations, license renewal, power uprates, and the use of mixed oxide and high burnup fuels. An increased emphasis is being given to safety issues associated with new reactor designs and technologies, including passive system reliability and thermal hydraulic phenomena, use of digital instrumentation and control, international codes and standards used in multinational design certifications, material and structural engineering, and nuclear analysis and reactor core performance. The ACRS also has some involvement in security matters related to the integration of safety and security of commercial reactors. This work involves technical issues associated with consequence analyses and the assessment of effective mitigation strategies. See NRC Web site at *http://www.nrc.gov/about-nrc/regulatory/advisory/acrs.html* for additional information about ACRS.

Criteria used to evaluate candidates include education and experience, demonstrated skills in nuclear reactor safety matters, the ability to solve complex technical problems, and the ability to work collegially on a board, panel, or committee. The Commission, in selecting its Committee members, considers the need for a specific expertise to accomplish the work expected to be before the ACRS. ACRS Committee members are appointed for four-year terms and normally serve no more than three terms. The Commission hopes to fill three vacancies as a result of this request. For these positions, the expertise must be at least 10 years of experience in one or more of the areas of Materials Engineering, Digital Instrumentation and Control, or plant Operations. Candidates with pertinent graduate level experience will be given additional consideration. Consistent with the requirements of the Federal Advisory Committee Act, the Commission seeks candidates with diverse backgrounds, so that the membership on the Committee will be fairly balanced in terms of the points of view represented and functions to be performed by the Committee.

Candidates will undergo a through security background check to obtain the security clearance that is mandatory for all ACRS members. The security background check will involve the completion and submission of paperwork to NRC. Candidates for ACRS appointments may be involved in or have financial interests related to NRC-regulated aspects of the nuclear industry. Because conflict-of-interest considerations may restrict the participation of a candidate in ACRS activities, the degree and nature of any such restriction on an individual's activities as a member will be considered in the selection process. Each qualified candidate's financial interests must be reconciled with applicable Federal and NRC rules and regulations prior to final appointment. This might require divestiture of securities or discontinuance of certain contracts or grants. Information regarding these restrictions will be provided upon request.

A résumé describing the educational and professional background of the candidate, including any special accomplishments, publications, and professional references should be provided. Candidates should provide their current address, telephone number, and e-mail address. All candidates will receive careful consideration. Appointment will be made without regard to factors such as race, color, religion, national origin, sex, age, or disabilities.

Candidates must be citizens of the United States and be able to devote approximately 100 days per year to Committee business. Résumés will be accepted until November 30, 2007.

Dated: August 2, 2007.

Kenneth R. Hart,

Acting Secretary of the Commission.

[FR Doc. E7–15509 Filed 8–7–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[EA–07–098; Dockets: 50–89 and 50–163]

In the Matter of General Atomics; TRIGA Mark I and Mark F; Order Imposing Fingerprinting and Criminal History Records Check; Requirements for Unescorted Access to the General Atomics' Research and Test Reactors (Effective Immediately)

General Atomics (GA or the licensee) holds two licenses, R–38 and R–67, for TRIGA reactors, that are classified as research and test reactors (RTRs), issued in accordance with the Atomic Energy Act (AEA) of 1954, as amended, by the U.S. Nuclear Regulatory Commission (NRC or the Commission). On August 8, 2005, the Energy Policy Act of 2005 (EPAct) was enacted. Section 652 of the EPAct amended section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check of any person who is permitted unescorted access to a utilization facility, which includes the GA RTRs.

Prior to September 11, 2001, the Commission established physical protection requirements applicable to RTRs, which included storing and using special nuclear material in controlled access areas, monitoring the controlled access areas for unauthorized activities, and ensuring a response to all unauthorized activities.

Subsequent to the terrorist events of September 11, 2001, the NRC took various actions to ensure the acceptability of individuals for unescorted access to RTRs. RTRs were advised to consider taking additional

precautions including observation of activities within their facility. Licensee's precautions were evaluated at specific RTR sites during the remainder of 2001. From 2002 through 2004, RTRs implemented compensatory measures (CMs), which included site-specific background investigations or checks. Additionally, in January 2003, NRC sent the names of, and information on, all individuals with unescorted access at RTRs to U.S. intelligence agencies for review. This review found no issues. Individuals with unescorted access since January 2003 have undergone site-specific background investigations or checks, which were implemented as part of CMs implemented at RTRs in response to NRC initiatives.

The RTR site-specific background investigations and checks were established using a graded approach, considering the specific configuration, uses and radiological risk of each facility, to provide acceptable protection of the special nuclear material and any associated radioactive materials. The background investigations and checks, at a minimum, verify identity, nationality, immigration status (if applicable), and determine whether the individual demonstrates a pattern of trustworthy and reliable behavior through facility-specific verification of various aspects of the person's background. This verification includes consideration of educational, military, employment and criminal histories. With regard to criminal history, some of the RTR facilities use FBI fingerprint-based criminal history records checks, while others use either State fingerprint-based criminal history records checks or criminal history records checks which do not include fingerprints. These background investigations or checks, through a combination of various elements, have provided additional assurance for the protection of the specific facility from insider threats.

Further, RTRs are required by Order dated September 29, 2006, to have FBI fingerprint-based identification and criminal history records checks for persons that are allowed access to Safeguards Information (SGI).[1] These individuals are allowed access to the details of security plans or procedures at the specific facility and, as such, have actual knowledge and ability to affect facility security. This Order provides additional assurance that security information and the associated RTR facilities are adequately protected.

Previously, AEA section 149 only required fingerprinting and criminal history records checks of persons seeking unescorted access to facilities licensed under sections 103 and 104b of the AEA (i.e., power reactors). Power reactors are required by 10 CFR 73.57 to have fingerprint-based criminal history records checks performed as part of the granting of unescorted access to the facility. RTRs have not been subject to this requirement, and have only been required to limit access to authorized persons and to screen those persons for access in accordance with their security plans or procedures.

Congress left intact the Commission's authority to relieve persons by rule from the fingerprinting, identification, and criminal history records check requirements of section 149 of the AEA ''if the Commission finds that such action is consistent with its obligations to promote the common defense and security and to protect the health and safety of the public.''[2] Currently, the NRC does not have a rule that would provide relief from, or require, the implementation of AEA section 149 for fingerprinting for unescorted access to RTRs.

The NRC is planning a rulemaking to reexamine the extent of fingerprint-based criminal history records checks for unescorted access to RTRs to ensure adequate protection of the public health and safety and common defense and security. In the interim, the NRC has decided to implement this requirement, in part, prior to the completion of the rulemaking to provide acceptable, additional assurance that an individual with unescorted access to an RTR facility will not adversely impact the common defense and security or the public health and safety. Therefore, in accordance with section 149 of the AEA, as amended by the EPAct, the Commission is imposing the FBI criminal history records check requirements, as set forth in this Order, including the Attachment to this Order, on RTR licensees, including GA. These requirements will remain in effect until the Commission determines otherwise.

The AEA requires fingerprint-based criminal history records checks at utilization facilities. Section 11cc of the AEA defines a utilization facility as:

(1) Any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or

(2) any important component part especially designed for such equipment or device as determined by the Commission.

The Commission's rules, in 10 CFR 50.2, define a ''[u]tilization facility'' as ''any nuclear reactor other than one designed or used primarily for the formation of plutonium or U–233.'' Further, ''Nuclear reactor'' is defined as ''an apparatus, other than an atomic weapon, designed or used to sustain nuclear fission in a self-supporting chain reaction.'' These definitions include the GA RTRs.

For purposes of this Order, an individual who is granted ''unescorted access'' could exercise physical control over the special nuclear material possessed by the licensee, which would be of significance to the common defense and security or could adversely affect the health and safety of the public, such that the special nuclear material could be used or removed in an unauthorized manner without detection, assessment, or response by systems or persons designated to detect, assess or respond to such unauthorized use or removal. At RTRs, such individuals include those with the capability and knowledge to use the special nuclear material in the utilization facility or remove the special nuclear material from the utilization facility in an unauthorized manner without detection, assessment, and response by the physical protection system or related provisions or persons.

In addition, pursuant to 10 CFR 2.202, I find that in light of the common defense and security matters identified above, which warrant the issuance of this Order, the public health, safety, and interest require that this Order be effective immediately.

Accordingly, pursuant to sections 53, 104, 149, 161b, 161i, 161o, 182, and 186 of the AEA of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Part 50 and 10 CFR Part 73, *It is hereby ordered*, effective immediately, that General Atomics shall comply with the requirements set forth in this order.

A. General Atomics shall comply with the following requirements:

1. The Licensee shall, within twenty (20) days of the date of this Order, establish and maintain a fingerprinting program for unescorted access that

[1] ''Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information (Effective Immediately),'' (EA–06–203) dated September 29, 2006, (71 FR 59140, Oct. 6, 2006) (ML061510049).

[2] AEA § 149.b.

meets the requirements of the Attachment to this Order.

2. The Licensee shall, in writing, within twenty (20) days of the date of this Order, notify the Commission (1) of receipt and confirmation that compliance with the Order will be achieved or (2) if it is unable to comply with any of the requirements described in the Attachment, or (3) if compliance with any of the requirements is unnecessary in its specific circumstances. The notification shall provide the Licensee's justification for seeking relief from or variation of any specific requirement.

B. In accordance with the NRC's ''Order Imposing Fingerprinting and Criminal History Records Check Requirements for Access to Safeguards Information (Effective Immediately)'' (EA–06–203) issued on September 29, 2006, (71 FR 59140, October 6, 2006), only the NRC-approved reviewing official shall review results from a FBI criminal history records check. In accordance with all other applicable requirements and the evaluation of the results of the FBI criminal history records check as specified in this Order, the reviewing official shall determine whether an individual may have, or continue to have, unescorted access. No person may have access to SGI or unescorted access to any utilization facility, or radioactive material or property subject to regulation by the NRC if the NRC has determined, in accordance with its administrative review process based on fingerprinting and an FBI identification and criminal history records check, either that the person may not have access to SGI or that the person may not have unescorted access to a utilization facility, or radioactive material or property subject to regulation by the NRC.

C. Fingerprints shall be submitted and reviewed in accordance with the procedures described in the Attachment to this Order. Individuals who have been fingerprinted and granted access to SGI by the NRC-approved reviewing official in accordance with EA–06–203 (September 29, 2006), do not need to be fingerprinted again for purposes of authorizing unescorted access. In addition, individuals who have a favorably decided U.S. Government criminal history records check within the last five (5) years, or who have an active Federal security clearance have satisfied the EPAct fingerprinting requirement and need not be fingerprinted again, provided in each case that the appropriate documentation is made available to the Licensee's reviewing official. However, all other applicable requirements must be satisfied to allow any individual unescorted access to the facility.

D. The Licensee may allow any individual who currently has unescorted access, in accordance with applicable requirements, to continue to have unescorted access, pending a decision by the reviewing official (based on fingerprinting and a FBI criminal history records check) that the individual may continue to have unescorted access. The licensee shall complete implementation of the requirements of the Attachment to this Order by October 30, 2007.

Licensee responses to Condition A.2. shall be submitted to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The Director, Office of Federal and State Materials and Environmental Management Programs, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the Licensee.

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Federal and State Materials and Environmental Management Programs , U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, Office of the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Material Litigation and Enforcement at the same address, and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of possible delays in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309.

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions as specified above in section III shall be final twenty (20) days from the date of this Order without further Order or proceedings.

If an extension of time for requesting a hearing has been approved, the provisions as specified above in Section III shall be final when the extension expires, if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 1st day of August, 2007.

For The Nuclear Regulatory Commission.

George Pangburn,

Acting Director, Office of Federal and State Materials. and Environmental Management Programs.

[FR Doc. E7–15494 Filed 8–7–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft U.S. Nuclear Regulatory Commission FY 2007–FY 2012 Strategic Plan, NUREG–1614, Volume 4

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of draft NUREG–1614, Volume 4. ''U.S. Nuclear Regulatory Commission, FY 2007–FY 2012 Strategic Plan,'' dated July 2007. The comment period on the draft strategic plan ends September 7, 2007. Comments on the draft plan are to be submitted in electronic format (Microsoft Word) using e-mail to: *StratPlan@nrc.gov* or mail to Chief, Rules and Directives Branch, mail Stop T6–D59, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; or faxed to: Chief, Rules and Directives Branch at (301) 415–5144.

ADDRESSES: Draft NUREG–1614, Volume 4, is available for inspection and copying for a fee at the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland. You may also electronically access NUREG-series publications and other NRC records at NRC's Public Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections*.

A free single copy of Draft NUREG–1614, Volume 4, to the extent of availability, may be requested by writing to the Office of the Chief Information Officer, Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Printing and Graphics Branch, Washington, DC 20555–0001; facsimile: 301–415–2289; e-mail: *DISTRIBUTION@nrc.gov*.

Some publications in the NUREG series that are posted at NRC's Web site address *http://www.nrc.gov/reading-rm/doc-collections* are updated regularly and may differ from the last printed version.

FOR FURTHER INFORMATION CONTACT: George S. Smolik, Planning Team Chief, Division of Planning, Budget, and Analysis, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7339.

SUPPLEMENTARY INFORMATION: The Government Performance and Results Act (GRPA) requires that an agency's strategic plan be updated for submission to the Congress and the President every three years. The NRC is developing a new strategic plan for FY 2007–FY 2012 to replace the agency's existing strategic plan.

The NRC is seeking comments on its draft FY 2007–FY 2012 Strategic Plan (ADAMS Accession No. ML072080203). The draft Strategic Plan establishes the agency's long-term strategic direction and outcomes. It provides a foundation to guide NRC's work and to allocate NRC's resources.

The NRC's draft FY 2007–FY 2012 Strategic Plan describes the agency's mission, vision, and strategic objective, which remain unchanged. The NRC's priority continues to be, as always, to ensure the adequate protection of public health, safety, and the environment, and promoting common defense and security.

The NRC's draft Strategic Plan also reflects the changes taking place in the regulatory environment associated with the use of radioactive materials, such as the expected receipt of applications to construct and operate new nuclear power plants, and the disposal of high-level radioactive waste. Further, the draft Strategic Plan addresses how the NRC will address these challenges, such as communications, human capital, and regulatory and organizational infrastructure.

The draft Strategic Plan identifies our two strategic goals, which focus on safety and security. The agency's Safety and Security goals, as well as their associated strategic outcomes, continue to accurately describe the agency's core functions, and therefore remain essentially unchanged. This focus on safety and security ensures that the NRC remains a strong independent, stable, and predictable regulator. The draft Strategic Plan also describes the agency's Organizational Excellence Objectives of Openness, Effectiveness, Timeliness, and Management, which characterize the manner in which the agency intends to support achieving the Safety and Security goals.

The NRC encourages all interested parties to comment on the draft Strategic Plan. The comment period ends September 7, 2007. Comments on the draft plan are to be submitted in electronic format (Microsoft Word) using e-mail to: *StratPlan@nrc.gov* or mailed to Chief, Rules and Directives Branch, mail Stop T6–D59, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; or faxed to: Chief, Rules and Directives Branch at (301) 415–5144. Stakeholder feedback will be valuable in helping the Commission develop a final plan that has the benefit of the many views in the regulated civilian nuclear industry.

The final version of NUREG–1614, Volume 4, is expected to be released on or about December 31, 2007.

Dated at Rockville, Maryland, this 2nd day of August 2007.

For the Nuclear Regulatory Commission.

Leslie W. Barnett,

Director, Division of Planning, Budget, and Analysis, Office of the Chief Financial Officer.

[FR Doc. E7–15479 Filed 8–7–07; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56186; File No. SR–BSE–2006–56]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing of Amendment No. 2 to the Proposed Rule Change and Order Granting Accelerated Approval of Proposed Rule Change as Modified by Amendments No. 1 and 2 Thereto To Add to the Boston Options Exchange a New Functionality Called an Auto Auction Order

August 2, 2007.

I. Introduction

On December 15, 2006, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposal to amend the Boston Options Exchange (''BOX'') Rules to add a new functionality referred to as an Auto Auction Order (''AAO'') to make it easier for customers to participate in a price improvement auction (''Improvement Auction''). On February 1, 2007, BSE filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on February 12, 2007.[3] The Commission received one comment letter regarding the proposal.[4] BSE filed a response to the comment letter on June 8, 2007.[5] On June 8, 2007, BSE filed Amendment No. 2 to the proposed rule change.[6] This order approves the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55233 (February 2, 2007), 72 FR 6626 (''Notice'').

[4] *See* letter to Nancy M. Morris, Secretary, Commission, from Michael J. Simon, Secretary, International Securities Exchange, LLC (''ISE''), dated March 5, 2007 (''ISE Letter'').

[5] *See* letter to Nancy M. Morris, Secretary, Commission, from William Meehan, General Counsel, BSE, dated June 8, 2007 (''BSE Letter'').

[6] In Amendment No. 2, BSE amended the proposal to reflect that AAOs may be entered only for Public Customer accounts and only in a series for which the standard trading increment is greater than one cent. BSE also made corresponding technical changes to the rule text.

change, as modified by Amendments No. 1 and 2, on an accelerated basis.

II. Description of the Proposal

BSE proposes to amend the BOX Rules to add a new order functionality called an AAO that would automatically participate in any Improvement Auction (*e.g.*, Price Improvement Period (''PIP'') auction) [7] if it meets certain criteria. An AAO is a Limit Order that is submitted by an Order Flow Provider (''OFP'') [8] on behalf of a Public Customer [9] to the BOX Trading Host in one-cent increments in a series whose minimum trading increment is greater than one cent. The penny incremented limit price that is entered by the Public Customer is referred to as the ''AAO Maximum Improvement Price.'' The AAO Maximum Improvement Price is the maximum (if the order is to buy) or minimum (if the order is to sell) price at which the Public Customer is willing to trade in any Improvement Auction.

The BOX Trading Host will round AAOs to the nearest minimum trading increment (up if the order is to sell and down if the order is to buy) and place it on the BOX Book (''AAO Limit Order''). The AAO Limit Order will be processed as a standard Limit Order as described in Chapter 5, Section 14(c)(i) of the BOX Rules and will be traded in accordance with Chapter 5, Section 16 of the BOX Rules.

A. Eligibility

An AAO will be eligible to participate in any Improvement Auction that may occur when the AAO is on the opposite side of the market from the order seeking improvement and the AAO Limit Price is equal to the National Best Bid or Offer (''NBBO''). If the AAO is eligible, the BOX trading engine will automatically create a new order (the ''AAO Improvement Order'') at the end of the auction phase, but prior to any trade allocations, with the following terms:

(1) The quantity of the AAO Improvement Order will be the lesser of the remaining quantity on the BOX Book at the AAO Limit Price or the quantity of the order seeking improvement in the auction; and

(2) the price of the AAO Improvement Order will be equal to the price of the best Improvement Order, Primary Improvement Order, or unrelated order (on the same side of the market as the AAO) submitted to the Improvement Auction.

B. Trade Processing of AAO

During an Improvement Auction, if the number of contracts executed in the Improvement Auction against the AAO Improvement Order is less than the quantity of the AAO Limit Order, then, prior to the processing of any other orders in the same series on the opposite side of the market as the AAO Limit Order, the quantity of the AAO Limit Order will be decremented on the BOX Book by the size of the executed quantity of the AAO Improvement Order. Any residual quantity that remains after part of an AAO has traded (either on the BOX Book or in the Improvement Auction) will continue to be eligible to trade in any subsequent Improvement Auctions. In addition, the residual quantity will maintain its priority on the BOX Book in accordance with Chapter V, Section 16 of the BOX Rules.

Any AAO Improvement Order created by the BOX Trading Host will be assigned the time priority of the related AAO Limit Order. As such, the AAO Improvement Order is granted time priority at its relevant price level in an Improvement Auction. Any modification to the AAO Maximum Improvement Price that causes the rounded AAO Limit Price to change or any increase in the quantity of the AAO will cause a new time priority to be assigned to the AAO Limit Order on the BOX Book. Any changes to the AAO Maximum Improvement Price that do not effect the AAO Limit Price will not cause a change to the time priority of the original order.

Additionally, a new AAO received in a particular series that is on the opposite side of the market from another AAO, which is already on the BOX Book, and is marketable at the AAO Maximum Improvement Price of the other booked AAO (*e.g.*, a buy AAO is on the BOX Book with a Limit Price bid of $2.00 with an AAO Maximum Improvement Price of $2.03 and a new sell AAO is received by the BOX Trading Host with an AAO Maximum Improvement Price of $2.02), will be matched at the mid-point of the two AAO Maximum Improvement Prices, rounded to the nearest penny increment in the favor of the AAO that is already on the BOX Book.[10] The quantity of the resulting trade will be for the lesser quantity of the two AAOs.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BSE–2006–56 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–BSE–2006–56. 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 BSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BSE–2006–56 and should be submitted on or before August 29, 2007.

[7] *See* Chapter V, Section 18 of the BOX Rules.

[8] ''Order Flow Provider'' is defined as an Options Participant representing as agent Customer Orders on BOX and those non-Market Maker Participants conducting proprietary trading. *See* Chapter I, Section 1(a)(46) of the BOX Rules.

[9] ''Public Customer'' is defined a person that is not a broker or dealer in securities. *See* Chapter I, Section 1(a)(50) of the BOX Rules.

[10] The Commission notes that a non-AAO incoming order that is marketable at the AAO Limit Price will execute against the AAO at the displayed Limit Price.

IV. Discussion

After careful review of the amended proposal, the ISE Letter, and the BSE Letter, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[11] and, in particular, the requirements of section 6 of the Act.[12] Specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[13] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Significant aspects of the proposal are discussed below.

A. Order Exposure

The proposal provides that the undisplayed penny price of an AAO resting on the BOX Book can execute against the undisplayed penny price of another AAO.[14] The commenter notes that other orders in the BOX marketplace, such as market orders and limit orders that are marketable against the displayed price of an AAO, would not receive the benefit of the hidden penny price. The commenter believes that the proposal thus provides a mechanism by which participants can cross orders on BOX with no exposure to the marketplace.[15] In response, BSE has amended its proposal to limit the use of the AAO to only Public Customers.[16] The Commission believes that the amended proposal is consistent with Section 6(b)(5) of the Act.[17]

B. Priority and Price Competition

The commenter also argues that the AAO would not provide for additional price improvement opportunities, would discourage aggressive competition in the PIP, and would unfairly advantage the AAO in the PIP auction. First, the commenter contends that the AAO would not provide for any increased opportunities for price improvement in the PIP because the AAO Improvement Order would be generated at the conclusion of the three second exposure period (and thus not be broadcast to other BOX Participants) and would only match the best price provided by other BOX participants, even if the AAO contained an AAO Maximum Improvement Price that would provide additional price improvement to the PIP order.[18] Second, the commenter believes that the proposal will discourage other BOX Participants from competing aggressively for PIP orders because it provides time priority for the AAO Improvement Order in the PIP based upon the entry time of the original AAO. Third, the commenter argues that the AAO is unfairly advantaged in the PIP auction because only through use of an AAO can a participant adjust the price at which they are willing to participate in the PIP auction without other participants knowing about its interest and still maintain its initial time priority.[19]

In response, BSE argues that the AAO will provide increased price improvement opportunities because it would increase the size available at the best Improvement Order price.[20] Further, BSE argues that the AAO will encourage aggressive quoting in the PIP by incenting competitors to put forth their best price to potentially better the AAO Maximum Improvement Price and thus increase their likelihood of allocation. In addition, BSE analogizes the AAO to BOX's Customer PIP Order,[21] which also is displayed on the BOX Book at a standard increment but contains a penny price that is not broadcast to PIP participants.[22] BSE represents that the AAO functionality is being proposed to make it easier for customers to participate in an Improvement Auction, especially non-professional customers who lack the ability to monitor and adjust prices fast enough to be competitive, and who may not have access to a broker that utilizes the CPO function. BSE therefore believes that the AAO functionality will increase competition in the PIP because it will allow more new entrants. Additionally, BSE notes that since Public Customer orders already have priority status in Improvement Auctions pursuant to customer priority rules, the AAO will only incrementally increase the priority available to them.[23]

The Commission agrees that the availability of the AAO should increase the ability of Public Customers to participate in Improvement Auctions.[24] The Commission also does not believe that the possibility of undisclosed AAO penny interest will give Improvement Auction participants a disincentive to enter their best prices and may provide a further incentive to enter their best prices to increase the likelihood of participating in the execution of the order. Further, the AAO functionality provides the potential for increased size available at the best Improvement Price. The Commission therefore believes that the AAO functionality is consistent with the Act.

The Commission further notes that an AAO Limit Order would only be eligible to participate in an Improvement Auction, and thus receive time priority, when the AAO Limit Order equals the NBBO on the opposite side of the Improvement Auction order at the start of the auction. The AAO is similar to the Market Maker Prime (''MMP'') designation in the PIP, in which a market maker that has a quote at the moment the PIP commences that is equal to the NBBO on the same side as the PIP Primary Improvement Order is eligible to be designated MMP for that particular PIP auction and receive priority over other Improvement Orders in the auction.[25] The Commission believes that the proposal to give time priority to an AAO that quotes aggressively before an Improvement Order is initiated is consistent with the Act and may provide a further incentive for Public Customers to publicly display their best prices, which would benefit all options market participants.

C. Penny Pilot

The commenter argues that the Penny Pilot Program[26] is the appropriate

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] *See* proposed Chapter V, Section 14(c)(v)(F) of the BOX Rules.

[15] *See* ISE Letter, *supra* note 4, at 1–2.

[16] *See* Amendment No. 2, *supra* note 6.

[17] 15 U.S.C. 78f(b)(5).

[18] *See* ISE Letter, *supra* note 4, at 2.

[19] *See* ISE Letter, *supra* note 4, at 3. As noted above, an AAO would not lose its initial time priority if there are changes to the initial penny order price, so long as the change does not affect the displayed limit order price. *See* proposed Chapter V, Section 14(c)(v)(E) of the BOX Rules.

[20] *See* BSE Letter, *supra* note 5, at 2.

[21] *See* Securities Exchange Release No. 49068 (January 13, 2004), 69 FR 2775 (January 20, 2004).

[22] *See* BSE Letter, *supra* note 5, at 2.

[23] *See* BSE Letter, *supra* note 5, at 3.

[24] BSE represents that only a few OFPs have made CPOs available to non-professional customers due, in large part, to the constraints that are generally associated with the software development an OFP is required to undertake to handle the processing of the CPO. *See* Notice, *supra* note 3.

[25] The MMP who participates in a PIP will have partial priority over all other competing orders, including the AAO, entered into the PIP at the same limit price. *See* Chapter V, Section 19(b) of the BOX Rules.

[26] The Penny Pilot was approved by the Commission to allow BOX to permit certain option classes to be quoted in pennies on a pilot basis. *See* Securities Exchange Act Release No. 55155 (January 23, 2007), 72 FR 4741 (February 1, 2007) (SR–BSE–2006–49).

method to approach penny pricing in the options markets, rather than a mechanism that bypasses auction market principles.[27] As discussed above, with respect to the commenter's substantive arguments, the Commission believes the AAO functionality is consistent with the Act. Further, the Commission notes that the proposal, as amended, is intended to make it easier for Public Customers to participate in the PIP (or other future Improvement Auctions), which already allows trading in penny increments. In addition, pursuant to the amended proposal, AAOs may only be entered in series that are limited to quoting in standard increments greater than one cent. The Commission believes it is consistent with the Act to allow BSE to implement another initiative designed to allow limited *trading* in penny increments at the same time it participates in the Penny Pilot Program.

D. Accelerated Approval

The Commission finds good cause to approve the proposal prior to the thirtieth day after the proposal was published for comment in the **Federal Register**. The proposed rule change, as modified by Amendment No. 1, was published for full notice and comment.[28] Amendment No. 2, which limits the AAO functionality to Public Customer accounts, and in a series for which the standard trading increment is greater than one cent, modifies the proposal in response to issues raised by a commenter. For these reasons, the Commission finds good cause, consistent with section 19(b)(2) of the Act, to grant accelerated approval to the proposed rule change.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[29] that the proposed rule change (SR–BSE–2006–56), as modified by Amendments No. 1 and 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–15431 Filed 8–7–07; 8:45 am]

BILLING CODE 8010–01–P

[27] *See* ISE Letter, *supra* note 4, at 3.

[28] *See* Notice, *supra* note 3.

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56185; File No. SR–BSE–2007–39]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Clarify How the BOX Trading Host Systematically Filters All Orders Against the National Best Bid and Offer

August 2, 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 30, 2007, the Boston Stock Exchange, Inc. (''Exchange'' or ''BSE'') 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)(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 the rules of the Boston Options Exchange (''BOX'') to clarify how the BOX Trading Host systematically filters all orders against the National Best Bid and Offer (''NBBO'') to ensure that a trade-through to the detriment of the inbound order does not occur, and that the customer's interests are protected by making sure that any execution of its order on BOX is at a price at least as good as the best price available on any of the other options exchanges. The proposed rule filing also seeks to clarify how BOX currently processes such orders when the NBBO is either locked or crossed. The text of the proposed rule change is set forth below; new text is in *italics* and deleted text is in brackets.

[30] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

RULES OF THE BOSTON OPTIONS EXCHANGE FACILITY

Chapter V

Sec. 16 Execution and Price/Time Priority

(a)—No change.

(b) Filtering of BOX In-Bound Orders [to Prevent Trade-Throughs].

i. *With the exception of Improvement Orders and Primary Improvement Orders submitted during a PIP (which are processed in accordance with section 18 of this Chapter V) and Directed Orders (which are processed in accordance with section 5, subsections b and c, of Chapter VI)* [A]*a*ll inbound orders to BOX (whether on behalf of Customers, non-BOX Participant broker-dealer proprietary accounts or market makers at other exchanges) as well as inbound Principal (''P'') and Principal as Agent (''P/A'') (see Chapter XII, ''Intermarket Linkage Rules'', herein) orders received via InterMarket Linkage will be filtered by the Trading Host prior to entry on the BOX Book to ensure that these orders will not [execute at price outside the current NBBO (''trade-throughs'').]*:*

1) in the case of a sell order, execute at a price below the NBBO bid price

-or-

2) in the case of a buy order, execute at a price above the NBBO offer price.

All of the filtering rules described in this section are independent of whether the NBBO is locked or crossed or not, except where the BOX best price on the same side of the market as the inbound order has crossed, or is crossed by, the opposite side NBBO, the order will be routed, if eligible, or rejected immediately.

ii.–iv.—No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the BOX Rules to describe how the BOX Trading Host systematically filters all orders against the NBBO to ensure that a trade-through to the detriment of the inbound order does not occur. The proposal also describes how customers' interests are protected by making sure that any execution of his order on BOX is at a price at least as good as the best price available on any of the other options exchanges.

BOX's responsibility to the inbound customer or broker-dealer order is to ensure that its execution is at the best price available across all markets at that moment. Presently, BOX processes trades irrespective of whether the NBBO is locked, crossed, or ''normal.'' As a result of this practice, there is the potential to cause a trade-through. The purpose of this rule filing is to amend the BOX rules to recognize that only the price on the side of the NBBO opposite to the inbound order needs to be taken into account when filtering inbound orders, regardless of whether the NBBO is locked, crossed, or ''normal,'' and regardless of whether BOX is presently part of the NBBO on the opposite side from the order. The Exchange has obtained exemptive relief for any trade-throughs that occur as a result of this practice.[5]

The following examples illustrate BOX's proposed processing of NBBO filtering:

Example 1:

	Bid	Offer
BOX	10 @ 2.00	20 @ 2.10
NBBO	2.00	2.10

BOX Trading Host receives an order to sell 10 "at market."

Inbound sell order executed at 2.00 on BOX.

Example 2:

	Bid	Offer
BOX	10 @ 2.00	20 @ 2.10
NBBO	2.00	2.10

BOX Trading Host receives an order to sell 20 "at market."

Inbound sell order executed for 10 at 2.00 on BOX. The remaining ten are exposed[6] internally at 2.00 and, if not executed, will be routed to the exchange disseminating the best price or rejected to sender.

Example 3:

	Bid	Offer
BOX	10 @ 2.00	20 @ 2.10
NBBO	2.05	2.10

BOX Trading Host receives an order to sell 10 "at market."

Inbound sell order exposed internally at 2.05 on BOX; and if not executed, will be routed to the exchange disseminating the best price or rejected to sender.

Example 4:

	Bid	Offer
BOX	10 @ 2.00	20 @ 2.10
NBBO	2.00	2.00

BOX Trading Host receives an order to sell 10 "at market."

Inbound sell order executed at 2.00 on BOX since this is best price available nationally for a seller.

Example 5:

	Bid	Offer
BOX	10 @ 2.00	20 @ 2.10
NBBO	2.05	2.05

BOX Trading Host receives an order to sell 10 "at market."

Inbound sell order exposed internally at 2.05 on BOX; and if not executed, will be routed to the exchange disseminating the best price or rejected to sender.

Example 6:

	Bid	Offer
BOX	10 @ 2.00	20 @ 2.10
NBBO	2.00	1.95

BOX Trading Host receives an order to sell 10 "at market."

Inbound sell order executed at 2.00 on BOX since this is best price available nationally for a seller.

Example 7:

	Bid	Offer
BOX	10 @ 2.00	20 @ 2.10
NBBO	2.00	1.95

BOX Trading Host receives an order to sell 20 "at market."

Inbound sell order executed for 10 at 2.00 on BOX since this is best price available nationally for a seller. The remaining 10 are exposed internally at 2.00, and if not executed, will be routed to the exchange disseminating the best price or rejected to sender.

Example 8:

	Bid	Offer
BOX	10 @ 2.00	20 @ 2.10
NBBO	2.05	1.95

BOX Trading Host receives an order to sell 10 "at market."

Inbound sell order exposed internally at 2.05 on BOX; if not executed, will be routed to the exchange disseminating the best price or rejected to sender.

In the following example (Example 9), the BOX best price on the same side of the market as the inbound order is crossed by the opposite side NBBO. In this particular case, it is impractical to expose the inbound executable order at the opposite NBBO as in the previous examples since BOX is already showing a better offer (of 2.10 versus the NBBO exposure price of 2.15) with which nobody has traded.

In this unique circumstance (where the same side BBO on BOX is crossed by the opposite side NBBO), BOX will immediately route the order to the exchange disseminating the best price, if possible, or reject the order back to the sender.

Example 9:

	Bid	Offer
BOX	10 @ 2.00	20 @ 2.10
NBBO	2.15	2.05

BOX Trading Host receives an order to sell 10 "at market."

Inbound sell order routed immediately to the exchange disseminating the best price at 2.15 or rejected back to sender.

As illustrated by the above examples, the BOX NBBO filtering process ensures that a sell order is never executed on BOX at a price inferior to the best bid available at the other options exchanges; similarly, any order to buy an option would not be executed on BOX at price worse than the best offer available elsewhere at that moment. BOX believes that in the case of a crossed NBBO, it is in the inbound customer order's interest to execute at the best price on the opposite side of the NBBO on BOX, where possible, as this is much quicker than routing to an away exchange.

In connection with proposed rule change, the Exchange has respectfully

current rule requirement for separate firms. Such policies and procedures must, at a minimum, include information barriers that prevent the flow of non-public information between a member organization's ETF specialist on the one hand and the member organization's specialist in an associated

requested an exemption, pursuant to Rule 608(e) of Regulation NMS, from the requirement of Rule 608(c) of Regulation NMS that the Exchange comply with and enforce compliance by its members with the requirements of Section 8(c) of the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage (''the Plan'') in the limited circumstance where a trade-through occurs due to an execution when the NBBO is crossed by the disseminated market of another options exchange, or BOX's disseminated market crosses the NBBO, and BOX's price [7] on the opposite side of the market for the incoming order establishes, or is equal to, the NBBO. To the same extent and subject to the same limitations, the Exchange has requested exemptive relief from the requirement in Rule 608(c) of Regulation NMS that the Exchange comply with section 4(b) of the Plan by enforcing compliance by its members with the provisions of section 8(c) of the Plan. The Commission has granted the requested exemption.[8]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act [9] in general, and Section 6(b)(5) of the Act [10] 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 the national market system, and to protect investors and the public interest by clarifying how the BOX Trading Host systematically filters all orders against the NBBO to ensure that a trade-through to the detriment of the inbound order does not occur.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

[7] BOX's price could be either BOX's disseminated price or it could be a Participant response to the exposure of the incoming order pursuant to Chapter V, Section 16(b) of BOX Rules. Therefore, an incoming order during a crossed market must execute at a price equal to the NBBO on the opposite side of the incoming order.

[8] *See supra* note 5.

[9] 15 U.S.C. 78f(b).

[10] 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 [11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12] The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing so that the Exchange can clarify the conditions under which BOX provides automatic executions during times of crossed markets, thus allowing the maximum potential number of orders to be handled electronically on the Exchange.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[13] Waiving the delay will allow the Exchange's clarifications of the operation of the BOX Trading Host's filtering of orders against the NBBO to become operative immediately. Waiving the delay will also allow the proposal to become operative simultaneously with the trade-through exemption granted to the Exchange as of July 30, 2007,[14] the date the proposed rule change was filed. Therefore, the Commission designates the proposal operative upon filing.

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–BSE–2007–39 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–BSE–2007–39. 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–BSE–2007–39 and should be submitted on or before August 29, 2007.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). 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 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] *See supra* note 5.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–15434 Filed 8–7–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56182; File No. SR–FICC–2006–19]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Granting Approval of Proposed Rule Change Relating to Membership, Definitions, and the Electronic Pool Notification Service

August 1, 2007.

I. Introduction

On December 13, 2006, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] to restructure FICC's Government Securities Division's (''GSD'') membership standards and membership requirements, update various definitions, and make technical changes to GSD's rules and to FICC's Mortgage-Backed Securities Division's (''MBSD'') Electronic Pool Notification (''EPN'') rules. The proposed rule change was published for comment in the **Federal Register** on March 29, 2007.[3] No comment letters were received on the proposal. This order approves the proposal.

II. Description of the Proposal

A. Membership Rules

FICC is revising its rules concerning membership types, the membership application process, and the ongoing requirements of GSD members into a format that FICC believes will make such rules easier to locate and to understand by applicants and members. To accomplish this, FICC is amending current Rule 2 (retitled ''Members''), is moving much of the content of current Rule 2 into a new Rule 2A (''Initial Membership Requirements''), and is revising Rule 3 (retitled ''Ongoing Membership Requirements''). Other rules and provisions are being modified to make technical corrections where necessary and to be in harmony with analogous rules of FICC's affiliated clearing agency, the National Securities Clearing Corporation (''NSCC'').

1. Membership Types

FICC's current Rule 2 (''Comparison-Only and Netting Members'') sets forth the types of GSD memberships, eligibility requirements, application procedures, and member reporting requirements. FICC is revising Rule 2 to establish each GSD membership type: Comparison-Only Members, Netting Members, Sponsoring Members, Sponsored Members, and Funds-Only Settling Bank Members. Substantially all other provisions contained in the current Rule 2 are being moved to either new Rule 2A or revised Rule 3.

One exception to this is that FICC is deleting current Rule 2, Section 4 (''Financial Reports by Netting Applicants). FICC states that the rationale for such deletion is that FICC already advises applicants during the application process of the required financial reports depending on the category of membership for which is being applied and on the applicant entity type. In addition, FICC is setting forth in revised Rule 3 the financial reports that must be submitted by members to FICC on an ongoing basis.

FICC is also deleting section 1(f) of Rule 2, which provides that applicants that have been approved for membership must execute and deliver to FICC a membership agreement. This provision is redundant with existing Rule 2, Section 3, which will now appear in new Rule 2A, Section 7.

2. Consolidation of Membership Standards and Requirements

Prior to this rule change, the membership qualifications, financial standards, and operational requirements for each membership type were set forth in Rule 2 (''Comparison-Only and Netting Members''), Rule 3 (''Financial Responsibility, Operational Capability and Other Membership Standards of Comparison-Only and Netting Members''), and Rule 4 (''Clearing Fund, Watch List and Loss Allocation''). To consolidate this information, FICC is creating a new Rule 2A (''Initial Membership Requirements'') that will establish the initial membership eligibility requirements for all membership types and will set forth the process of membership application and evaluation. In addition, FICC is restructuring Rule 3 (''Ongoing Membership Requirements'') to contain all current GSD rule provisions regarding the continuing requirements of members.

The restructuring will encompass three substantive changes:

(a) *Immediate Placement on the Watch List.* FICC is deleting current Rule 3, Section 1(d)(iii) that automatically disqualifies an applicant from becoming a member if the applicant is subject to any action or condition, the existence of which would require the applicant to be placed on FICC's Watch List if it were already a member. FICC believes that eliminating such provision will not diminish FICC's ability to deny membership to an unworthy applicant because FICC will still retain under other sections of its rules the discretion to deny membership based on the applicant's underlying financial, operational, or character issues. Moreover, FICC's credit risk matrix enables FICC to place such applicant directly on FICC's watch list for closer monitoring.

(b) *Additional Reporting Requirements.* FICC is adding new language to proposed Rule 3, Section 2 (''Reports by Netting Members'') that will require members to provide FICC with (i) reports from their independent auditors on internal controls [in revised Rule 3, Section 2(b)(ii)] and (ii) a copy of any letter granting an extension of time by a regulatory authority to a member with respect to the submission of a report [in revised Rule 3, Section 2(h), para. 2].

(c) *Annual Audited Financial Statements.* FICC is removing the current requirement in Rule 2, Section 4(a) that audited annual financial statements submitted by netting members be ''without qualification.'' FICC believes that a qualification in an annual audited financial statement should not warrant automatic denial of membership because a qualification may not always be material. In addition, the event that triggered a qualification may have been corrected by the applicant or member by the time the applicant or member submits its financial statement for review by FICC. Going forward, FICC will analyze qualifications in GSD netting member financial statements on a case-by-case basis.

Other conforming and non-substantive changes are being made within the rules to accommodate this restructuring and to update cross-references where applicable.

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 55515 (Mar. 22, 2006), 72 FR 14839.

B. Non-Substantive Changes and Technical Corrections

1. Definition of ''Person''

FICC is amending the current definition of Person contained in GSD Rule 1 (''Definitions'') to indicate that the term will be used throughout the rules to mean a partnership, corporation, limited liability corporation, or other organization, entity, or individual.

2. Definition of ''Eligible Security''

FICC is amending the definition of Eligible Security to make clear that any security of an issuer that is on the Office of Foreign Assets and Control's (''OFAC'') Specially Designated Nationals list or a security from a country that is subject to OFAC sanctions may not be an eligible security at GSD. FICC is making the same change to the definition of Eligible Security in MBSD's Clearing and EPN rules.

3. Definition of ''Bond Market Association''

The Bond Market Association is now known as the Securities Industry and Financial Markets Association. GSD is removing the definition of and references to The Bond Market Association from its rules and is replacing it with a definition for and references to The Securities Industry and Financial Markets Association.

4. Governing Law Provision

FICC is clarifying the Governing Law provision contained in GSD's and MBSD's Clearing and EPN rules to state that the Clearing and EPN rules of GSD and MBSD are subject to New York law as applicable to contracts executed and performed in New York.

5. Insurance Company Netting Member Eligibility Requirements

FICC is removing from GSD's rules the eligibility requirements for Insurance Company Netting Members because GSD does not currently have any such members. FICC will, however, retain the definition of Insurance Company Netting Member in its rules in the event that such an entity applies for membership in the future. Appropriate eligibility requirements would be reviewed at that time and proposed as additions to the rules.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, the Commission believes the proposal is consistent with the requirements of section 17A(b)(3)(F),[4] which, among other things, requires the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are in the custody or control of the clearing agency or for which it is responsible. In addition to making the rules more logically structured, more consistent with the rules of FICC's clearing agency affiliate, and less redundant, the proposal should improve FICC's ability to responsibly administer its membership application process by providing FICC with a more flexible and risk-based approach to review applications for membership. Although FICC is eliminating certain factors that would previously have resulted in the automatic disqualification of an applicant, FICC has retained explicit rights to deny membership to an unworthy applicant based upon FICC's qualitative review, based in part on new required documentation, of an applicant's underlying financial, operational, or character issues. Accordingly, the proposed rule change is consistent with FICC's obligation to assure ability to safeguard securities and funds in its possession or control or for which it is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act[5] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–FICC–2006–19) be, and hereby is, approved.[7]

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–15371 Filed 8–7–07; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(2).

[7] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56184; File No. SR–NSCC–2007–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees Charged for Its Positions and Valuations Service

August 2, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 11, 2007, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by NSCC. NSCC filed the proposed rule change pursuant to section 19(b)(3)(A)(ii) of the Act[2] and Rule 19b–4(f)(2) thereunder[3] so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to reduce the fees that NSCC charges for its Positions and Valuations service (''POV''), which is part of the Insurance and Retirement Processing Service (''IPS'') effective July 1, 2007.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(ii).

[3] 17 CFR 240.19b–4(f)(2).

[4] The Insurance and Retirement Processing Service was formerly called the Insurance Processing Service.

[5] The Commission has modified the text of the summaries prepared by NSCC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to reduce the fees that NSCC charges for its POV service effective July 1, 2007.

The transaction fees schedule for the IPS POV service is tiered according to the numbers of transaction processed. The following chart shows the current fees and the proposed reduced fees.

POV position records	Current (items)	Proposed (items)
From 0 to 500,000 items per month	$8.00 per 1,000	$ no change.
From 500,001 to 2,000,000 items per month	$4.50 per 1,000	$4.00 per 1,000.
From 2,000,001 to 4,000,000 items per month	$3.75 per 1,000	$3.00 per 1,000.
For 4,000,001 or more items per month	$3.50 per 1,000	$2.00 per 1,000.

These fees are being reduced due to an increase in volume and revenue in NSCC's IPS over recent years which has resulted in excess revenue for these services.

The proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the rules and regulations thereunder applicable to NSCC because the proposed change provides for the equitable allocation of dues fees and other charges among NSCC members and aligns fees for services with the associated cost to deliver the service.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(f)(2)[8] thereunder because the rule establishes a due, fee, or other charge. At any time within sixty days of the filing of the proposed rule change, the Commission could have summarily abrogated such rule change if it appeared to the Commission that such action was 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–NSCC–2007–10 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–NSCC–2007–10. 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. The text of the proposed rule change is available at NSCC, the Commission's Public Reference Room, and *http://www.nscc.com/legal/2007/2007–10.pdf.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2007–10 and should be submitted on or before August 29, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

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[6] 15 U.S.C. 78q–1.

[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. 34–56183; File No. SR–NYSE–2007–42]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Rule 103B (''Specialist Stock Allocation'')

August 2, 2007.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 20, 2007, the 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, II, and III below, which Items have been substantially prepared by NYSE. NYSE filed Amendment No. 1 to the proposed rule change on July 20,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

2007. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission an amendment to Rule 103B (''Specialist Stock Allocation'') to permit specialist member organizations to trade Exchange-Traded Funds (''ETFs'') in a specialist capacity while at the same time registered as a specialist in securities which are a component thereof, subject to Exchange approval of policies and procedures demonstrably isolating information regarding the respective issues. The text of the proposed rule change is available on the Exchange's Web site (*http://www.nyse.com*), at the principal office of the Exchange, 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

When approved by the Commission on May 7, 2001,[3] section VIII of Rule 103B prohibited member organizations from applying for allocation of an ETF where such member organization was already registered as a specialist in any component security of such ETF, and conversely that where a member organization is already registered as a specialist in an ETF and a security in which it is also registered as a specialist becomes a component security of such ETF, the member organization must withdraw one or the other of such registrations or establish a separate member organization for the ETF. The Exchange explained the reason for this separation:

> This restriction is necessary to avoid the possibility of ''wash sales'' in a situation where the specialist in the ETF needs to hedge by buying or selling component stock of the ETF, and could inadvertently be trading with a proprietary bid or offer made by a specialist in the same member organization who is making a market in the component security.[4]

The rule amendment proposed a solution to the problem by providing that member organizations could conduct the ETF activities in a separate member organization. The Exchange states that, while concerns regarding wash sales in the context of ETF and component security trading remain real, the costs and expenses of maintaining two separate member organizations, both to the member organization[5] and to the Exchange,[6] are seen to strongly recommend a second resolution of this problem.

Accordingly, the Exchange is proposing to permit member organizations, subject to Exchange approval, to establish policies and procedures to isolate[7] the activities of such member organization in the trading of ETFs and any component securities in which it may be registered, thus eliminating the required redundancies and attendant expense inherent in the current rule requirement for separate firms. Such policies and procedures must, at a minimum, include information barriers that prevent the flow of non-public information between a member organization's ETF specialist on the one hand and the member organization's specialist in an associated component security on the other hand.

The Exchange states that its Division of Member Firm Regulation has a Chinese Wall examination program to evaluate the integrity of information barriers to ensure confidentiality of trading information among the various trading departments at its member firms and their approved persons and will adapt it to the review of specialist firms also trading ETFs along with component securities. These information barriers are, and will continue to be, tested and reviewed on site for breaches and weaknesses by Exchange examination staff on an annual basis and for cause, when warranted. To determine whether the firm has developed and implemented adequate information barriers between its Specialist Equity and ETF Trading Operations, examiners will review, on-site, the combined specialist firm's written policies and procedures and physical layout for adequacy. In addition, appropriate individuals both within the affected departments as well as other areas of the specialist firm will be interviewed to determine whether firm policies have been appropriately disseminated and implemented. Also, the examiners will test member organization controls and will determine, based upon their review, whether the firm's relevant information barriers and related policies and procedures are adequate to preclude the improper sharing of trading information (both equity and ETF) and whether there have been any apparent breaches of those barriers. In addition, the Exchange will periodically assess its surveillance and examination procedures to determine whether they are adequate to assure that member organizations and market participants do not engage in manipulative or improper trading. The Exchange believes that these measures will assure the adequate and appropriate surveillance of the single member organization permitted by the proposed amendments.

The isolation of trading activities acts to address the issue of ''wash sales'' in the context of ETF and component securities. The rule does not, however, prohibit usual and customary sharing of information regarding trades after the fact, and so allows appropriate risk and hedging activity, treasury management and other such similar activities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b)(5) of the Act[8] because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

[3] *See* Securities Exchange Act Release No. 44272 (May 7, 2001), 66 FR 26898 (May 15, 2001) (SR–NYSE–2001–07).

[4] *Id.* at 26900.

[5] Because of the requirement for two separate organizations, firms are required to have two broker-dealer registrations, file separate monthly financial reports, support two accounting and compliance departments, and maintain separate management and reporting structures.

[6] In 2005, the Exchange estimated that approximately 2,100 examiner hours were devoted to the examination of ETF specialists. Such numbers would be sharply reduced if member organizations were allowed, as proposed, to include such functions within the same organization, as the combination of activities in one entity instead of two would, by its nature, reduce the member organizations examined and eliminate review of duplicative functions.

[7] *See,* for example, comparable provisions of NYSE Information Memo 91–22 (June 21, 1991), the NASD/NYSE Joint Memo on Chinese Wall Policies and Procedures for procedural structures to assure the effective containment of trading information.

[8] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change; or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2007–42 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–NYSE–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–NYSE–2007–42 and should be submitted on or before August 29, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–15432 Filed 8–7–07; 8:45 am]

BILLING CODE 8010–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56178; File No. SR–OC–2007–03]

Self-Regulatory Organizations; OneChicago, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Block Trade and EFP Transaction Reporting Procedures

August 1, 2007.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–7 thereunder,[2] notice is hereby given that on July 20, 2007, OneChicago, LLC (''OneChicago'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. The Exchange has also filed the proposed rule change with the Commodity Futures Trading Commission (''CFTC''), together with a written certification under Section 5c(c) of the Commodity Exchange Act (''CEA''),[3] on July 19, 2007.

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago is proposing to amend its policies and procedures relating to the reporting of block trades and Exchange of Futures for Physical (''EFP'') transactions. The text of the proposed rule change is available on OneChicago's Web site (*http://onechicago.com*), at OneChicago'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

The Exchange has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from its members, participants, and others. 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, Proposed Rule Change

1. Purpose

OneChicago proposes to amend its Block Trade Reporting Procedures (''Block Reporting Procedures'') and its EFP Transactions: Guidelines and Reporting Procedures (''EFP Reporting Procedures'') to permit reporting of block trades and EFP transactions through the OneChicago Block & EFP Trading System (''OneChicago BETS''). In addition, OneChicago proposes to make conforming changes to OneChicago Policies: Block Trades, Pre-Execution Discussions and Cross Trades (''Block Trade Policy'').

OneChicago BETS permits authorized traders to trade and report block trades, as well as match and report EFP transactions electronically.[4] The proposed rule change would add language to the Block Reporting Procedures that would permit those

[3] 7 U.S.C. 7a–2(c).

[4] OneChicago BETS also permits electronic trading and reporting of Block Roll trades, a block trade where a trader enters into a calendar spread.

authorized to report block trades to do so through OneChicago BETS, telephonically as permitted by the Exchange, or in a form and method approved by OneChicago. In addition, the proposed rule change would amend the provision of the Block Reporting Procedures that requires the selling firm to call the OneChicago Operations Management (''OOM'') Help Desk for block trades reported telephonically by allowing the counterparty to agree to a different reporting arrangement. A similar change to the Block Reporting Procedures is proposed for the reporting of blocks that are spreads or combinations. The proposed rule change would also amend the footnote to the Block Reporting Procedures to delete ''500,'' currently the stated minimum contract size, and add a cross-reference to the minimum contract size specified in the Block Trade Policy. Under the proposed rule change, the total quantity of the legs of a spread or combination must continue to meet the minimum contract size requirement as stated in the Block Trade Policy.

The amendments to the EFP Reporting Procedures would add language to make it clear that entering into an EFP via OneChicago BETS would fulfill the requirement to complete an EFP Transaction Report in a form and manner approved by the Exchange. Under the proposed rule change, if a transaction is matched by OneChicago BETS, then the party that traded against the resting bid or offer (the ''Aggressor'') would be obligated to enter the base price into OneChicago BETS from which a futures price would be generated by adding the matched differential.[5] If the transaction is an EFP that is only reported on OneChicago BETS (*i.e.*, a Bi-lateral transaction), then either party to the transaction may enter the information into OneChicago BETS, and the counter-party trader must confirm the transaction on OneChicago BETS.

The proposed rule change would also eliminate the requirement in the EFP Reporting Procedures that the parties to the transaction exchange their respective Trade Reporter IDs and agree upon a unique trade ID to be used when recording the terms of their trade. Since the Exchange has the Trade Reporter IDs and provides a unique trade ID for each trade, it is no longer necessary to have the Trade Reporters exchange and create such IDs. Conforming language was also added to clarify that the OOM Help Desk will only compare the details on trades that are not reported through OneChicago BETS.

Conforming changes are also proposed for the Block Trade Policy. Thus, under the proposal, the buyer of a block trade could agree that the seller is not obligated to report a block trade; language requiring the OOM Help Desk to provide a trade identification and requiring traders to provide the OOM Help Desk trade identification when reporting a block trade would be deleted; and new language would be added to make clear that OOM Help Desk would only report block trades reported to them telephonically to the OneChicago trade engine.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[6] in general and section 6(b)(5) of the Act,[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change would permit electronic reporting of block trades and EFP transactions, which would promote just and equitable principles of trade and protect investors and the public interest by providing more efficient reporting of block trades and EFPs and by providing a strong audit trail.

B. Self-Regulatory Organization's Statement on Burden on Competition

OneChicago does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to section 19(b)(7)(B) of the Act,[8] the proposed rule change became effective on July 20, 2007. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be re-filed in accordance with the provisions of section 19(b)(1) of the Act.[9]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–OC–2007–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OC–2007–03. 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–OC–2007–03 and should be submitted on or before August 29, 2007.

[5] EFPs on BETS are quoted in spreads. The futures price is calculated by adding the quoted spread to the base price negotiated by the parties.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(7)(B).

[9] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon.

Deputy Secretary.

[FR Doc. E7–15384 Filed 8–7–07; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Small Business Administration Region X Regulatory Fairness Board

The U.S. Small Business Administration (SBA) Region X Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a National Regulatory Fairness Hearing on Thursday, August 23, 2007, at 2:30 p.m. The forum will take place at the Boise Metro Chamber of Commerce, 250 S. 5th Street, Basement Conference Center, Boise, ID 83701. The purpose of the meeting is for Business Organizations, Trade Associations, Chambers of Commerce and related organizations serving small business concerns to report experiences regarding unfair or excessive Federal regulatory enforcement issues affecting their members.

Anyone wishing to attend or to make a presentation must contact Tom Bergdoll, in writing or by fax in order to be placed on the agenda. Tom Bergdoll, District Director, SBA, Idaho District Office, 380 East Parkcenter Boulevard, Suite 330, Boise, ID 83706, phone (208) 334–9004, Ext. 325 and fax (202) 481–5840, e-mail: *Thomas.bergdoll@sba.gov*.

For more information, see our Web site at *http://www.sba.gov/ombudsman*.

Matthew Teague,

Committee Management Officer.

[FR Doc. E7–15406 Filed 8–7–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region VIII Regulatory Fairness Board

The U.S. Small Business Administration (SBA) Region VIII Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a National Regulatory Fairness Hearing on Tuesday, August 21, 2007, at 9:30 a.m. The forum will take place at the Montana State University Billings, College of Professional Studies and Lifelong Learning, 2804 3rd Avenue North, Billings, MT 59101. The purpose of the meeting is for Business Organizations, Trade Associations, Chambers of Commerce and related organizations serving small business concerns to report experiences regarding unfair or excessive Federal regulatory enforcement issues affecting their members.

Anyone wishing to attend or to make a presentation must contact Rena Carlson, in writing or by fax in order to be placed on the agenda. Rena Carlson, Business Development Specialist, SBA, Montana District Office, 10 West 15th Street, Suite 1100, Helena, MT 59626, phone (406) 441–1086 and fax (202) 481–4195, e-mail: *Lorena.carlson@sba.gov.*

For more information, see our Web site at *http://www.sba.gov/ombudsman.*

Matthew Teague,

Committee Management Officer.

[FR Doc. E7–15408 Filed 8–7–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–07–28901]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the U.S. Department of Transportation's (DOT) intention to request extension of a previously approved information collection.

DATES: Comments on this notice must be received by October 9, 2007.

ADDRESSES: You may submit comments (identified by DOT DMS Docket Number OST–07–28901) by any of the following methods:

- Web Site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- Hand Delivery: West Building, Ground Floor, Rm. W–12–140, 1200 New Jersey Ave., SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under Regulatory Notes.

- *Docket:* For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the West Building, Ground Floor, Rm. W–12–140, 1200 New Jersey Ave., SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ellen Shields, Business Policy Division, M–61, Office of the Senior Procurement Executive, Office of the Secretary, (202) 366–4268. Refer to OMB Control Number 2105–0531.

SUPPLEMENTARY INFORMATION:

Title: Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

OMB Control Number: 2105–0531.

Type of Request: Extension without change, of a previously approved collection.

Abstract: The requested extension of the approved control number covers the information and collection requirements imposed by the Office of Management and Budget (OMB) Circular A–110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, which the Department of Transportation codified at 49 CFR part 19. The information collected, retained and provided by the nonprofit grantees is required to ensure grantee eligibility and their conformance with Federally mandated reporting requirements. OMB provides management and oversight of the circular. OMB also provides for a standard figure of seventy burden hours per grantee annually for completion of required forms. This collection covers only those DOT programs that utilize the standard OMB forms SF 269, SF 270, SF 271, SF 272 and SF 424.

Respondents: Individuals or households and business or others for profit organizations.

[10] 17 CFR 200.30–3(a)(73).

Estimated Number of Respondents: 150.

Estimated Total Burden on Respondents: 10,500 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information collection; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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.

Issued in Washington, DC on August 1, 2007.

David J. Litman,

Senior Procurement Executive.

[FR Doc. E7–15438 Filed 8–7–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–07–28902]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the U.S. Department of Transportation's (DOT) intention to request extension of a previously approved information collection.

DATES: Comments on this notice must be received by October 9, 2007.

ADDRESSES: You may submit comments (identified by DOT DMS Docket Number OST–07–28902) by any of the following methods:

- Web Site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.
- Hand Delivery: West Building, Ground Floor, Rm. W–12–140, 1200 New Jersey Ave., SE., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading under Regulatory Notes.

- *Docket:* For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the West Building, Ground Floor, Rm. W–12–140, 1200 New Jersey Ave., SE., Washington, DC 20590–0001, between 9 am and 5 pm, Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ellen Shields, Business Policy Division, M–61, Office of the Senior Procurement Executive, Office of the Secretary, (202) 366–4268. Refer to OMB Control Number 2105–0520.

SUPPLEMENTARY INFORMATION:

Title: Uniform Administrative Requirements For Grants and Cooperative Agreements to State and Local Governments.

OMB Control Number: 2105–0520.

Type of Request: Extension without change, of a previously approved collection.

Abstract: The requested extension of the approved control number covers the information and collection requirements imposed by the Office of Management and Budget (OMB) Circular A–102, Grants and Cooperative Agreements with State and Local Governments, which the Department of Transportation codified at 49 CFR part 18. The information collected, retained and provided by the State and local government grantees is required to ensure grantee eligibility and their conformance with Federally mandated reporting requirements. OMB provides management and oversight of the circular. OMB also provides for a standard figure of seventy burden hours per grantee for completion of required forms. This collection covers only those DOT programs that utilize the standard OMB forms SF 269, SF 270, SF 271, SF 272 and SF 424.

Respondents: State and local governments receiving Federal financial assistance from the DOT.

Estimated Number of Respondents: 1,795.

Estimated Total Burden on Respondents: 125,650 hours.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information collection; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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.

Issued in Washington, DC on August 1, 2007.

David J. Litman,

Senior Procurement Executive.

[FR Doc. E7–15439 Filed 8–7–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2007–31]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: This notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 28, 2007.

ADDRESSES: You may send comments identified by Docket Number FAA–2007–28785 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.

• *Docket:* To read background documents or comments received, go to *http://dms.dot.gov* at any time or 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.

SUPPLEMENTARY INFORMATION: 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 the 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).

FOR FURTHER INFORMATION CONTACT: Tyneka Thomas (202) 267–7626 or Frances Shaver (202) 267–9681, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. This notice is published pursuant to 14 CFR 11.85.

Pamela Hamilton-Powell,

Director, Office of Rulemaking.

Petitions for Exemption

Docket No.: FAA–2007–28785.

Petitioner: United Parcel Service.

Section of 14 CFR Affected: 14 CFR 91.171.

Description of Relief Sought: United Parcel Service Company (UPS) is seeking relief from § 91.171 to the extent necessary to allow UPS to conduct domestic and international operations with its Boeing–747–400F and similarly equipped airplanes that have been subject to Maintenance Steering Group (MSG–3) analysis, by employing an approved alternative means of verifying very high frequency omnidirectional range (VOR) equipment operating compliance.

[FR Doc. E7–15388 Filed 8–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35070]

Transtar, Inc.—Control Exemption—Texas and Northern Railway Company

Transtar, Inc. (Transtar), a noncarrier, has filed a verified notice of exemption to control Texas & Northern Railway Company (T&NR), a Class III rail carrier, as a result of Transtar's acquisition of all of T&NR's issued and outstanding stock (except certain qualifying shares) [1] from a subsidiary of Transtar's parent, United States Steel Corporation (USS).

The transaction will be consummated on or after August 22, 2007.

USS, a noncarrier, owns all of the issued and outstanding stock of Transtar, which is a noncarrier holding company. Transtar in turn owns all of the issued and outstanding stock of one Class II carrier, the Elgin, Joliet and Eastern Railway Company, and the following five Class III carriers: Birmingham Southern Railroad Company; Delray Connecting Railroad Company; The Lake Terminal Railroad Company; McKeesport Connecting Railroad Company; and Union Railroad Company (collectively, the Transtar Railroads). USS acquired control of T&NR pursuant to a notice of exemption in *United States Steel Corporation—Acquisition of Control Exemption—Texas & Northern Railway Company,* STB Finance Docket No. 35027 (STB served May 25, 2007).[2] Transtar now seeks to acquire control of T&NR to consolidate all of the USS railroad subsidiaries under the mantle of Transtar. T&NR operates approximately 7.6 miles of main line track in Texas, extending from the former Lone Star Steel Company, LP facility at Lonestar, TX, and connecting with the Kansas City Southern Railway Company at the far north point of the Veals Yard. T&NR owns the Veals Yard and 32 miles of storage track. USS will cause its indirect subsidiary, LSS, to convey all of the issued and outstanding stock of T&NR, except the qualifying shares, to Transtar.

Transtar represents and warrants that: (i) T&NR does not connect with any of the Transtar Railroads; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect T&NR with any of the railroads in the Transtar corporate family; and (iii) the transaction does not involve a Class I carrier. Transtar also represents and warrants that the transaction will not result in: (i) Any adverse changes in service levels to the public; (ii) significant operational changes; or (iii) changes in the competitive balance with carriers outside the corporate family. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2) and (3).

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 interest of its employees. Because the transaction involves the control of one Class II and one or more Class III carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

If the notice contains false or misleading information, the exemption is void *ab initio.* Petition 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. Any petition to revoke must be filed on or before August 15, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35070, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on A. Bradley Cramer, Jr., United States Steel Corporation, 600 Grant Street, Room 1500, Pittsburgh, PA 15219–2800; and John A. Vuono, Vuono & Gray, LLC, 310 Grant Street, Suite 2310, Pittsburgh, PA 15219.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: August 1, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–15289 Filed 8–7–07; 8:45 am]

BILLING CODE 4915–01–P

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[1] Transtar will acquire 99.9% of the issued and outstanding stock of T&NR, with the balance of the stock, one qualifying share held by each of two directors of T&NR, as required by Texas law.

[2] USS entered into an agreement and plan of merger with Lone Star Technologies, Inc. (LST) pursuant to which USS would acquire certain of the subsidiaries of LST, including Lone Star Steel Company, LP (LSS). T&NR is a wholly owned subsidiary of LSS. The USS and LST transaction was consummated on June 14, 2007.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35043]

Four Rivers Transportation, Inc., Paducah and Louisville Railway, Inc., and Evansville Western Railway, Inc.—Corporate Family Transaction Exemption

Four Rivers Transportation, Inc. (Four Rivers), Paducah & Louisville Railway, Inc. (P&L), and Evansville Western Railway, Inc. (EVWR) (collectively, parties) have filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a transaction within a corporate family. The proposed transaction involves the restructuring of the Four Rivers corporate family.

Four Rivers, a noncarrier, currently directly owns and controls P&L and the Appalachian & Ohio Railroad, Inc. (A&O). P&L directly owns and controls EVWR. Through P&L, Four Rivers indirectly controls EVWR. P&L is a Class II rail carrier that owns and operates approximately 262 miles of rail line, all within the Commonwealth of Kentucky, and EVWR is a Class III rail carrier that operates approximately 124 miles of rail line in Illinois and Indiana. A&O is a Class III rail carrier that leases and operates over 158 miles of rail line, all located within West Virginia.[1]

The parties propose to consummate the transaction on or after August 23, 2007.

The restructuring will allow the transfer of direct control of EVWR from P&L to Four Rivers and provide a more efficient corporate structure.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval of 49 CFR 1180.2(d)(3). According to the parties, the transaction will not result in adverse changes in service levels, significant operational changes, or changes 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. Because the transaction involves the control of one Class II and one or more Class III rail carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than August 15, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35043, 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 William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20037.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: July 31, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–15318 Filed 8–7–07; 8:45 am]

BILLING CODE 4915–01–P

[1] *See Paducah & Louisville Railway, Inc.—Acquisition—CSX Transportation, Inc.,* STB Finance Docket No. 34738 (STB served Nov. 18, 2005); *Evansville Western Railway, Inc.—Acquisition and Operation Exemption—Paducah & Louisville Railway, Inc.,* STB Finance Docket No. 34738 (Sub–No. 1) (STB served Nov. 18, 2005); *Four Rivers Transportation, Inc. and Paducah & Louisville Railway, Inc.—Continuance in Control Exemption—Evansville Western Railway, Inc.,* STB Finance Docket No. 34738 (Sub–No. 2) (STB served Nov. 18, 2005); and *Four Rivers Transportation, Inc.—Control Exemption—Appalachian & Ohio Railroad, Inc.,* STB Finance Docket No. 34856 (STB served May 23, 2006).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 293X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Norfolk and Virginia Beach, VA

On July 19, 2007, Norfolk Southern Railway Company (NSR) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an approximately 15.34-mile line of railroad, extending between milepost VB–0.12 in Norfolk, VA, and milepost VB–15.46 in Virginia Beach, VA. The line traverses United States Postal Service Zip Codes 23451, 23452, 23453, 23454, 23455, 23456, 23457, 23462, 23502, 23504, 23509, and 23510, and includes the stations of Park Ave., Tidewater, Glenrock, Greenwich, Euclid, Thalia, Rosemont, Lynnhaven, Oceana Wye, London Bridge, and Oldfield.

The line does not contain federally granted rights-of-way. Any documentation in NSR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 6, 2007.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,300 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than August 28, 2007. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–290 (Sub-No. 293X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; and (2) James R. Paschall, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510–2191. Replies to the petition are due on or before August 28, 2007.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 245–0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our Web site at http://www.stb.dot.gov.

Decided: August 2, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–15504 Filed 8–7–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 31, 2007.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 7, 2007 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–2068.

Type of Review: Extension.

Title: REG–155608–02 (NPRM) Revised Regulations Concerning Section 403(b) Tax-Sheltered Annuity Contracts.

Description: The collection of information in the regulations is in § 1.403(b)–10(b)(2) of the Income Tax Regulations, requiring, in the case of certain exchanges or transfers, that the section 403(b) plan sponsor or administrator enter into an agreement to exchange certain information with vendors of section 403(b) contracts. Such information exchange is necessary to ensure compliance with tax law requirements relating to loans and hardship distributions from section 403(b) plans.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 45,000 hours.

OMB Number: 1545–1899.

Type of Review: Extension.

Title: REG–138176–02 (NPRM) Timely Mailing Treated As Timely Filing.

Description: Section 7502(a) of the Internal Revenue Code provides that a document received after the due date for filing will be treated as filed on the date of the United States postmark on the envelope containing the document if the postmark date is on or before the date for filing the document and the document is placed in the U.S. mail on or before the due date. Under I.R.C. Sec. 7502, in order for taxpayers to establish the postmark date and prima facie evidence of delivery when using registered or certified mail to file documents with the IRS, taxpayers will need to retain the sender's receipt.

Respondents: Individuals or households.

Estimated Total Burden Hours: 1,084,765 hours.

OMB Number: 1545–1430.

Type of Review: Extension.

Title: Annual Return of Withheld Federal Income Tax; Annual Record of Federal Tax Liability; and Form 945 Payment Voucher.

Form: 945; 945A.

Description: Form 945 is used to report income tax withholding on non-payroll payments including backup withholding and withholding on pensions, annuities, IRA's military retirement and gambling winnings. Form 945–A is used to report non-payroll tax liabilities. Form 945–V is used by those taxpayers who submit a payment with their return.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 2,077,017 hours.

OMB Number: 1545–1847.

Type of Review: Extension.

Title: Revenue Procedure 2004–29, Statistical Sampling in Sec. 274 Context.

Description: For taxpayers desiring to establish for purposes of Sec. 274(n)(2), (A), (C), (D), or (E) that a portion of the total amount of substantiated expenses incurred for meals and entertainment is excepted from the 50% limitation of Sec. 274(n), the revenue procedure requires that taxpayers maintain adequate documentation to support the statistical application, sample unit findings, and all aspects of the sample plan.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 3,200 hours.

OMB Number: 1545–1902.

Type of Review: Extension.

Title: REG–145987–03 (NPRM) Qualified Severance of a Trust for Generation-Skipping Transfer (GST) Tax Purposes.

Description: The collection of information in this proposed regulation is in section 26.2642–6(b)(5). This information is required by the IRS for qualified severances. This information will be used to identify the trusts being severed and the new trusts created upon severance. The collection of information is required in order to have a qualified severance. The likely respondents are individuals contributing to trusts that have skip persons as beneficiaries.

Respondents: Individuals or households.

Estimated Total Burden Hours: 12,500 hours.

OMB Number: 1545–0121.

Type of Review: Extension.

Title: Foreign Tax Credit (Individual, Estate, or Trust).

Form: 1116.

Description: Form 1116 is used by individuals (including nonresident aliens) estates or trusts who paid foreign income taxes on U.S. taxable income to compute the foreign tax credit. This information is used by the IRS to verify the foreign tax credit.

Respondents: Individuals and households.

Estimated Total Burden Hours: 22,093,974 hours.

OMB Number: 1545–1058.

Type of Review: Extension.

Title: Reporting Agent Authorization.

Form: 8655.

Description: Form 8655 allows a taxpayer to designate a reporting agent to file certain employment tax returns electronically, and to submit Federal tax deposits. This form allows IRS to disclose tax account information and to provide duplicate copies of taxpayer correspondence to authorized agents. Reporting agents are persons or organizations preparing and filing electronically the federal tax returns and/or submitting federal tax deposits. ≤

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 11,000 hours.

OMB Number: 1545–1731.

Type of Review: Extension.

Title: Revenue Procedure 2001–37, Extraterritorial Income Exclusion Elections.

Description: A taxpayer that wants to revoke its election to be treated as a domestic corporation for all purposes of the Internal Revenue Code (''Code'') must file a revocation statement with the Internal Revenue Service (''IRS''). This revenue procedure provides guidance for implementing the elections (and revocation of such elections) established under the ''FSC Repeal and Extraterritorial Income Exclusion Act of 2000.''

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 19 hours.

OMB Number: 1545–0172.

Type of Review: Extension.

Title: Depreciation and Amortization (Including Information on Listed Property).

Form: 4562.

Description: Taxpayers use Form 4562 to: (1) Claim a deduction for depreciation and/or amortization; (2) make a section 179 election to expense depreciable assets; and (3) answer questions regarding the use of automobiles and other listed property to substantiate the business use under section 274(d).

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 217,399,275 hours.

OMB Number: 1545–1357.

Type of Review: Extension.

Title: PS–78–91 (Final) Procedures for Monitoring Compliance with Low-Income Housing Credit Requirements; PS–50–92 (Final) Rules to Carry Out the Purposes of Section 42 and for Correcting.

Description: PS–78–91 The regulations require state allocation plans to provide a procedure for state and local housing credit agencies to monitor for compliance with the requirements of section 42 and report any noncompliance to the I.R.S. PS–50–92 These regulations concern the Secretary's authority to provide guidance under section 42, and provide for the correction of administrative errors and omissions related to the allocation of low-income housing credit dollar amounts and recordkeeping. REG–114664–97. The regulation amends the procedures for state and local housing credit agencies' compliance monitoring and the rules for State.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 104,899 hours.

OMB Number: 1545–0531.

Type of Review: Revision.

Title: United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.

Form: 706–NA.

Description: Under section 6018, executors must file estate tax returns for nonresident non-citizens that had property in the U.S. Executors use Form 706–NS for this purpose. IRS uses the information to determine correct tax and credits.

Respondents: Individuals or households.

Estimated Total Burden Hours: 3,584 hours.

OMB Number: 1545–2070.

Type of Review: Extension.

Title: Rev. Proc. 2007–48 Rotable Spare Parts Safe Harbor Method.

Description: The information for which the agency is requesting to collect will support a taxpayer's claim for eligibility to use the safe harbor method of accounting for rotable spare parts provided in the proposed revenue procedures. The information will be submitted as a supporting schedule for the Form 3115, Application for Change in Accounting Method.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 75 hour.

OMB Number: 1545–0020.

Type of Review: Revision.

Title: Quarterly Federal Excise Tax Return.

Form: 720.

Description: The information supplied on Form 720 is used by the IRS to determine the correct tax liability. Additionally, the data is report by the IRS to Treasury so that funds may be transferred from the general revenue funds to the appropriate trust funds.

Respondents: Businesses and other for-profits.

Estimated Total Burden Hours: 3,567,704 hour.

Clearance Officer: Glenn P. Kirkland, (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E7–15458 Filed 8–7–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Purchase of Branch Office(s) and/or Transfer of Assets/Liabilities

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice and request for comment.

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 comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507. The Office of Thrift Supervision within the Department of the Treasury will submit the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. Today, OTS is soliciting public comments on its proposal to extend this information collection.

DATES: Submit written comments on or before October 9, 2007.

ADDRESSES: Send comments, referring to the collection by title of the proposal or by OMB approval number, to Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755.

FOR FURTHER INFORMATION CONTACT: You can request additional information about this proposed information collection from Patricia Goings, Financial Analyst, Applications (202) 906–5668, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS may not conduct or sponsor an information collection, and respondents are not required to respond to an information collection, unless the information collection displays a currently valid OMB control number. As part of the approval process, we invite comments on the following information collection.

Comments should address one or more of the following points:

a. Whether the proposed collection of information is necessary for the proper performance of the functions of OTS;

b. The accuracy of OTS's estimate of the burden of the proposed information collection;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collection on respondents, including through the use of information technology.

We will summarize the comments that we receive and include them in the OTS request for OMB approval. All comments will become a matter of public record. In this notice, OTS is soliciting comments concerning the following information collection.

OMB Number: 1550–0025.

Form Number: OTS Forms 1584, 1585, and 1589.

Regulation requirement: 12 CFR 552.13 and 563.22.

Description: Information provided to OTS is evaluated to determine whether the proposed assumption of liabilities and/or transfer of assets transactions complies with applicable laws, regulations, and policy, and will not have an adverse effect on the risk exposure to the insurance fund.

Type of Review: Extension without change of currently approved collection.

Affected Public: Savings Associations.

Estimated Number of Respondents: 41.

Estimated Frequency of Response: Event-generated.

Estimated Burden Hours of Response: 24 hours.

Estimated Total Burden: 984 hours.

Clearance Officer: Ira L. Mills, (202) 906–6531, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Dated: August 3, 2007.

Deborah Dakin,

Senior Deputy Chief Counsel, Regulations and Legislation Division.

[FR Doc. 07–3878 Filed 8–7–07; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0253]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to evaluate a credit underwriter's experience.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 9, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0253'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Nonsupervised Lender's Nomination and Recommendation of Credit Underwriter, VA Form 26–8736a.

OMB Control Number: 2900–0253.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–8736a is completed by nonsupervised lender's and the lender's nominee for credit underwriting with the Department of Veterans Affairs. Lenders are authorized by VA to make automatic guaranteed loans if approved for such purposes. The lender is required to have a qualified underwriter to review loans to be closed on automatic basis and determine that the loan meets VA's credit underwriting standards. VA uses the data collected on the form to evaluate the nominee's credit underwriting experience.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 750 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,000.

Dated: July 25, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–15374 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0252]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to authorize nonsupervised lenders to close loans on an automatic basis.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 9, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0252'' in any correspondence. During the comment period, comments may be viewed online

through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Authority to Close Loans on an Automatic Basis—Nonsupervised Lenders, VA Form 26–8736.

OMB Control Number: 2900–0252.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–8736 is used by nonsupervised lenders requesting approval to close loans on an automatic basis. Automatic lending privileges eliminate the requirement for submission of loans to VA for prior approval. Lending institutions with automatic loan privileges may process and disburse such loans and subsequently report the loan to VA for issuance of guaranty. The form requests information considered crucial for VA to make acceptability determinations as to lenders who shall be approved for this privilege.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 50 hours.

Estimated Average Burden per Respondent: 25 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 120.

Dated: July 25, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–15375 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0455]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine whether proprietary education institutions receiving Federal financial assistance comply with the applicable civil rights law and regulations.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 9, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–2900–0455'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Equal Opportunity Compliance Review Report, VA Form 20–8734 and Supplement to Equal Opportunity Compliance Review Report, VA Form 20–8734a.

OMB Control Number: 2900–0455.

Type of Review: Extension of a currently approved collection.

Abstract: Executive Order 12250, Leadership and Coordination of Nondiscrimination Laws, delegated authority to the Attorney General to coordinate the implementation and enforcement by Executive agencies of various equal opportunity laws prohibiting discriminatory practices in Federal programs and programs receiving Federal financial assistance. The Order extended the delegation to cover Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973. Department of Justice issued government-wide guidelines (29 CFR 42.406) instructing funding agencies to ''provide for the collection of data and information from applicants for and recipients of Federal assistance.

VA Forms 20–8734 and 20–8734a are used by VA personnel during regularly scheduled educational compliance survey visit, as well as during investigations of equal opportunity complaints, to identify areas where there may be disparate treatment of members of protected groups. VA Form 20–8734 is used to gather information from post-secondary proprietary schools below college level. The information is used to assure that VA-funded programs comply with equal opportunity laws. VA Form 20–8734a, is used to gather information from students and instructors at post-secondary proprietary schools below college level. The information is used to assure that participants have equal access to equal treatment in VA-funded programs. If

this information were not collected, VA would be unable to carry out the civil rights enforcement responsibilities established in the Department of Justice's guidelines and VA's regulations.

Affected Public: Business or other for-profit.

Estimated Annual Burden and Average Burden Per Respondent: Based on past experience, VBA estimates that 76 interviews will be conducted with recipients using VA Form 20–8734 at an average of 1 hour and 45 minutes per interview (133 hours). This includes one hour for an interview with the principal facility official, plus 45 minutes for reviewing records and reports and touring the facility. It is estimated that 76 interviews will be conducted with students using VA Form 20–8734a at an average of 30 minutes per interview (38 hours) and with instructors at an average of 30 minutes per interview (38 hours). Interviews are also conducted with 76 students without instructors at an average time of 30 minutes (38 hours). The total burden hour is 247.

Frequency of Response: On occasion.

Estimated Number of Respondents: 228.

Dated: July 26, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–15376 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0261]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to process refunds of contributions made by program participants who disenroll from the Post Vietnam Era Veterans Education Program.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 9, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–2900–0261'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Refund of Educational Contributions (VEAP, Chapter 32, Title 38, U.S.C.), VA Form 22–5281.

OMB Control Number: 2900–0261.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans and service persons complete VA Form 22–5281 to request a refund of their contribution to the Post-Vietnam Veterans Education Program. Contribution made into the Post-Vietnam Veterans Education Program may be refunded only after the participant has disenrolled from the program. Request for refund of contribution prior to discharge or release from active duty will be refunded on the date of the participant's discharge or release from activity duty or within 60 days of receipt of notice by the Secretary of the participant's discharge or disenrollment. Refunds may be made earlier in instances of hardship or other good reasons. Participants who stop their enrollment from the program after discharge or release from active duty contributions will be refunded within 60 days of receipt of their application.

Affected Public: Individuals or households.

Estimated Annual Burden: 833 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 5,000.

Dated: July 26, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–15377 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0546]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery Administration (NCA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine gravesite availability.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 9, 2007.

ADDRESSES: Submit written comments on the collection of information through

www.Regulations.gov; or to Mechelle Powell, National Cemetery Administration (40D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or e-mail: *mechelle.powell@va.gov.* Please refer to ''OMB Control No. 2900–0546'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mechelle Powell at (202) 461–4114 or FAX (202) 273–6695.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, NCA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of NCA's functions, including whether the information will have practical utility; (2) the accuracy of NCA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Gravesite Reservation Survey (2 Year), VA Form 40–40.

OMB Control Number: 2900–0546.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 40–40 is sent biennially to individuals holding gravesite set-asides to ascertain their wish to retain the set-aside, or relinquish it. Gravesite reservation surveys are necessary as some holders become ineligible, are buried elsewhere, or simply wish to cancel a gravesite set-aside. The survey is conducted to assure that gravesite set-asides do not go unused.

Affected Public: Individuals or households, Business or other for profit.

Estimated Annual Burden: 2,750.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Biennially.

Estimated Number of Respondents: 16,500.

Dated: July 26, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–15378 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (22–0810)]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed existing collection in use without an OMB control number, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to refund national test fees.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 9, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–2900–New (22–0810)'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Refund of Educational Contributions (VEAP, Chapter 32, Title 38, U.S.C.), VA Form 22–5281.

OMB Control Number: 2900–New (22–0810).

Type of Review: Existing collection in use without an OMB control number.

Abstract: Servicemembers, veterans, and eligible dependents complete VA Form 22–0810 to request reimbursement of national test fees. VA will use the data collected to determine the claimant's eligibility for reimbursement.

Affected Public: Individuals or households.

Estimated Annual Burden: 32 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 129.

Dated: July 26, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–15379 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0111]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the

Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine release of liability and substitution of entitlement of veterans-sellers to the government on guaranteed, insured and direct loans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 9, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–2900–0111'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Statement of Purchaser or Owner Assuming Seller's Loans, VA Form 26–6382.

OMB Control Number: 2900–0111.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–6382 is completed by purchasers who are assuming veterans' guaranteed, insured, and direct home loans. The information collected is essential in the determinations for release of liability as well as for credit underwriting determinations for substitution of entitlement. If a veteran chooses to sell his or her VA guaranteed home, VA will allow a qualified purchaser to assume the veteran's loan and all the responsibility under the guaranty or insurance. In regard to substitution of entitlement cases, eligible veteran purchasers must meet all requirements of liability in addition to having available loan guaranty entitlement.

Affected Public: Individuals or households.

Estimated Annual Burden: 375 hour.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 1,500

Dated: July 24, 2007.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–15380 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0188]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine eligibility and authorize funding for various prosthetic services.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 9, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Mary Stout, Veterans Health Administration (193E1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *mary.stout@va.gov.* Please refer to ''OMB Control No. 2900–0188'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mary Stout (202) 273–8664 or FAX (202) 273–9381.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles:

a. Request to Submit Estimate, Form Letter 10–90.

b. Veterans Application for Assistance in Acquiring Home Improvement and Structural Alterations, VA Form 10–0103.

c. Application for Adaptive Equipment Motor Vehicle, VA Form 10–1394.

d. Prosthetic Authorization for Items or Services, VA Form 10–2421.

e. Prosthetic Service Card Invoice, VA Form 10–2520.

f. Prescription and Authorization for Eyeglasses, VA Form 10–2914.

OMB Control Number: 2900–0188.

Type of Review: Extension of a currently approved collection.

Abstract: The following forms are used to determine eligibility, prescribe, and authorize prosthetic devices.

a. VA Form Letter 10–90 is used to obtain the estimated price for prosthetic devices.

b. VA Form 10–0103 is used to determine eligibility/entitlement and reimbursement of individual claims for home improvement and structural alterations.

c. VA Form 10–1394 is used to determine eligibility/entitlement and reimbursement of individual claims for automotive adaptive equipment.

d. VA Form 10–2421 is used for the direct procurement of new prosthetic appliances and/or services. The form standardizes the direct procurement authorization process, eliminating the need for separate purchase orders, expedites patient treatment and improves the delivery of prosthetic services.

e. VA Form 10–2520 is used by the vendors as an invoice and billing document. The form standardizes repair/treatment invoices for prosthetic services rendered and standardizes the verification of these invoices. The veteran certifies that the repairs were necessary and satisfactory. This form is furnished to vendors upon request.

f. VA Form 10–2914 is used as a combination prescription, authorization and invoice. It allows veterans to purchase their eyeglasses directly. If the form is not used, the provisions of providing eyeglasses to eligible veterans may be delayed.

Affected Public: Business or other for profit and Individuals or households.

Estimated Total Annual Burden: 5,738 hours.

a. Form Letter 10–90—708.
b. VA Form 10–0103—583.
c. VA Form 10–1394—1,000.
d. VA Form 10–2421—67.
e. VA Form 10–2520—47.
f. VA Form 10–2914—3,333.

Estimated Average Burden per Respondent:

a. Form Letter 10–90—5 minutes.
b. VA Form 10–0103—5 minutes.
c. VA Form 10–1394—15 minutes.
d. VA Form 10–2421—4 minutes.
e. VA Form 10–2520—4 minutes.
f. VA Form 10–2914—4 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 71,200.

a. Form Letter 10–90—8,500.
b. VA Form 10–0103—7,000.
c. VA Form 10–1394—4,000.
d. VA Form 10–2421—1,000.
e. VA Form 10–2520—700.
f. VA Form 10–2914—50,000.

Dated: July 25, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–15381 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0089]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to establish a claimant's parents' dependency.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 9, 2007.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0089'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Statement of Dependency of Parent(s), VA Form 21–509.

OMB Control Number: 2900–0089.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans receiving compensation benefits based on 30 percent or higher for service-connected injuries and depends on his or her parent(s) for support complete VA Form 21–509 to report income and dependency information. Surviving parents of deceased veterans are required to establish dependency only if they are seeking death compensation. Death compensation is payable when a veteran died on active duty or due to service-connected disabilities prior to January 1, 1957, or died between May 1, 1957 and January 1, 1972 while the veteran's waiver of U.S. Government Life Insurance was in effect. The data collected will be used to determine the dependent parent(s) eligibility for benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 8,000.

Dated: July 24, 2007.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E7–15382 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives under Public Law 92–463 (Federal Advisory Committee Act) that the Executive Committee to the Department of Veterans Affairs Voluntary Service (VAVS) National Advisory Committee (NAC) will meet October 15–16, 2007, at the Rosen Centre Hotel, Orlando, Florida. The sessions will begin at 8:30 a.m. each day and end at 5 p.m. on October 15 and at

12 noon on October 16. The meeting is open to the public.

The NAC consists of 59 national organizations and advises the Secretary, through the Under Secretary of Health, on the coordination and promotion of volunteer activities within VA health care facilities. The Executive Committee consists of 19 representations from the NAC member organizations and acts as the NAC governing body during the period between NAC annual meetings.

On October 15, agenda topics will include NAC goals and objectives, the minutes of the May 2007 meeting, a Veterans Health Administration update, a VAVS update of the Voluntary Service group's progress, and emerging issues since the May 2007 NAC annual meeting. They will also include the Parke Board update, evaluations of the May 2007 annual meeting and plans for 2008 NAC annual meeting, to include workshops and plenary sessions.

On October 16, agenda topics will include 2009 NAC annual meeting planning, recommendations, from the May 2007 NAC annual meeting, subcommittee reports, standard operating procedure revisions, new business and Executive Committee appointments.

No time will be allocated at this meeting for receiving oral presentations from the public. However, interested persons may either attend or file statements with the Committee. Written statements may be field either before the meeting or within 10 days after the meeting and addressed to: Ms. Laura Balun, Designated Federal Officer, Voluntary Service Office (10C2), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Ms Balun can be contacted by phone at (202) 273–8952.

Dated: July 31, 2007.

By Direction of the Secretary.

E. Philip Riggins,

Committee Management Officer.

[FR Doc. 07–3854 Filed 8–7–07; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant an Exclusive License

AGENCY: Department of Veterans Affairs, Office of Research and Development.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs, Office of Research and Development, intends to grant Preventative Nutrient Company, Inc., Northridge, CA USA, an exclusive license to practice the following patent applications: U.S. Patent 7,144,865 issued on December 5, 2006 entitled ''Compositions and Methods for Treating Obesity''; U.S. Patent Application 5,834,032 issued on November 10, 1998 entitled ''Compositions and Methods for Treating Diabetes''; and U.S. Provisional Patent Application 60/892,785 filed on March 2, 2007 entitled ''Compositions and Methods for Treating Alzheimer's Disease.''

DATES: Comments must be received within fifteen (15) days from the date of this published Notice.

ADDRESSES: Send comments to: Amy E. Centanni, Director of Technology Transfer, Department of Veterans Affairs, Office of Research and Development, Attn: 12TT 810 Vermont Avenue, NW., Washington, DC 20420, Telephone: (202) 254–0199; Facsimile: (202) 254–0460; e-mail: *Amy.centanni@va.gov.*

Copies of the published patent applications may be obtained from the U.S. Patent and Trademark Office at *http://www.uspto.gov.*

SUPPLEMENTARY INFORMATION: It is in the public interest to so license these inventions as Preventative Nutrient Company, Inc., submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published Notice, the Department of Veterans Affairs Office of Research and Development receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Dated: August 1, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

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Part II

Department of Education

34 CFR Parts 668, 674, et al.

Federal Student Aid Programs; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 668, 674, 676, 682, 685, 690, and 691

[Docket ID ED–2007–OPE–0134]

RIN 1840–AC91

Federal Student Aid Programs

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations on Student Assistance General Provisions; Federal Perkins Loan (Perkins Loan) Program; Federal Supplemental Educational Opportunity Grant (FSEOG) Program; Federal Family Education Loan (FFEL) Program; William D. Ford Federal Direct Loan (Direct Loan) Program; Federal Pell Grant (Pell Grant) Program; and Academic Competitiveness Grant (ACG) and National Science and Mathematics Access to Retain Talent Grant (National SMART Grant) Programs. The proposed regulations would reduce administrative burden for program participants, provide benefits to students and borrowers, and protect taxpayers' interests.

DATES: We must receive your comments on or before September 7, 2007.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by e-mail. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Under ''Search Documents'' go to ''Optional Step 2'' and select ''Department of Education'' from the ''Federal Department or Agency'' drop-down menu, then click ''Submit.'' In the Docket ID column, select ED–2007–OPE–0134 to add or view public comments and to view supporting and related materials available electronically. Information on using Regulations.gov, including instructions for submitting comments, accessing documents, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.
- *Postal Mail, Commercial Delivery, or Hand Delivery.* If you mail or deliver your comments about these proposed regulations, address them to Michelle Belton, U.S. Department of Education, 1990 K Street, NW., room 8037, Washington, DC 20006–8502.

Privacy Note: The Department's policy for comments received from members of the public (including those comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing on the Federal eRulemaking Portal at *http://www.regulations.gov*. All submissions will be posted to the Federal eRulemaking Portal without change, including personal identifiers and contact information.

FOR FURTHER INFORMATION CONTACT: For information related to *General definitions* and *Defining Independent Study for Direct Assessment Programs*, Michelle Belton. Telephone: (202) 502–7821 or via Internet: *michelle.belton@ed.gov*.

For information related to *Payment periods, Treatment of Title IV grant and loan funds if a recipient does not begin attendance, Post-withdrawal disbursements of grant funds directly to a student,* and *Annual loan limit progression,* Wendy Macias. Telephone: (202) 502–7526 or via Internet: *wendy.macias@ed.gov*.

For information related to all Cash Management issues and *Single disbursement provision for Perkins Loan and the FSEOG,* John Kolotos. Telephone: (202) 502–7762 or via Internet: *john.kolotos@ed.gov*.

For information related to *Minimum period for certifying a loan,* and *Pell Grant calculations,* Brian Kerrigan. Telephone: (202) 219–7058 or via Internet: *brian.kerrigan@ed.gov*.

If you use a telecommunications device for the deaf, you may call the Federal Relay Service at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the first contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

As outlined in the section of this notice entitled ''Negotiated Rulemaking,'' significant public participation, through four public hearings and three negotiated rulemaking sessions, has occurred in developing this NPRM. Therefore, in accordance with the requirements of the Administrative Procedure Act, the Department invites you to submit comments regarding these proposed regulations within 30 days. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the programs.

During and after the comment period, you may inspect all public comments about these proposed regulations by accessing Regulations.gov. You may also inspect the comments, in person, in room 8037, 1990 K Street, NW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the first person listed under **FOR FURTHER INFORMATION CONTACT**.

Negotiated Rulemaking

Section 492 of the Higher Education Act of 1965, as amended (HEA), requires the Secretary, before publishing any proposed regulations for programs authorized by Title IV of the HEA, to obtain involvement in the development of the proposed regulations. After obtaining advice and recommendations from individuals and representatives of groups involved in the Federal student financial assistance programs, the Secretary must subject the proposed regulations to a negotiated rulemaking process. All proposed regulations that the Department publishes must conform to final agreements resulting from that process unless the Secretary reopens the process or provides a written explanation to the participants stating why the Secretary has decided to depart from the agreements. Further information on the negotiated rulemaking process can be found at:

http://www.ed.gov/policy/highered/reg/hearulemaking/2007/nr.html.

On August 18, 2006, the Department published a notice in the **Federal Register** (71 FR 47756) announcing our intent to establish up to four negotiated rulemaking committees to prepare proposed regulations. One committee would focus on issues related to the ACG and National SMART Grant programs. A second committee would address issues related to the Federal student loan programs. A third committee would address programmatic, institutional eligibility, and general provisions issues. Lastly, a fourth committee would address accreditation. The notice requested nominations of individuals for membership on the committees who could represent the interests of key stakeholder constituencies on each committee. The four committees met to develop proposed regulations over the course of several months, beginning in December 2006. This notice of proposed rulemaking (NPRM) proposes regulations relating to the programmatic, institutional eligibility, and general provisions issues that were discussed by the third committee mentioned in this paragraph (the Committee or the General Provisions Committee).

The Department developed a list of proposed regulatory changes from advice and recommendations submitted by individuals and organizations in testimony submitted to the Department in a series of four public hearings held on:

- September 19, 2006, at the University of California-Berkeley in Berkeley, California.
- October 5, 2006, at the Loyola University in Chicago, Illinois.
- November 2, 2006, at the Royal Pacific Hotel Conference Center in Orlando, Florida.
- November 8, 2006, at the U.S. Department of Education in Washington, DC.

In addition, the Department accepted written comments on possible regulatory changes submitted directly to the Department by interested parties and organizations. A summary of all comments received orally and in writing is posted as background material in the docket. Transcripts of the regional meetings can be accessed at *http://www.ed.gov/policy/highered/reg/hearulemaking/2007/hearings.html.* Staff within the Department also identified issues for discussion and negotiation.

At its first meeting, the General Provisions Committee reached agreement on its protocols and proposed agenda. These protocols provided that the non-Federal negotiators would not represent the interests of stakeholder constituencies, but would instead participate in the negotiated rulemaking process based on each Committee member's experience and expertise in the Title IV, HEA programs.

The following members made up the General Provisions Committee:

- Rebecca Thompson and Justin Klander (alternate), United States Student Association and Minnesota State College Student Association, respectively.
- Elaine Neely-Eacona and Susan Little (alternate), Kaplan Higher Education and University of Georgia, respectively.
- David Glezerman and Anne Gross (alternate), Temple University and National Association of College and University Business Officers, respectively.
- Stephen Sussman and Maureen R. Budetti (alternate), Barry University and National Association of Independent Colleges and Universities, respectively.
- Linda Michalowski and Carol Mowbray (alternate), California Community Colleges and Northern Virginia Community College, respectively.
- Kay Noah Stroud and Beverly Young (alternate), Appalachian State University and California State University, respectively.
- Stacey Ludwig and Paula Luff (alternate), Western Governors University and DePaul University, respectively.
- Steven Dill, Robert Collins (alternate), and Nancy Broff (alternate), Lincoln Education Services, Inc., Apollo Group, Inc., and Career College Association, respectively.
- Mary Ann Welch, representing National Association of State Student Grant and Aid Programs.
- Starlith Chiquita Carter and Ray Testa (alternate), National Accrediting Commission of Cosmetology Arts and Sciences and National Motion Member Schools/Regis, respectively.
- Lloyd Robertson, representing Chase EdFinance.
- Brian Kerrigan, representing U.S. Department of Education.

During the later two meetings, the General Provisions Committee reviewed and discussed drafts of proposed regulations. At the final meeting in April 2007, the General Provisions Committee reached consensus on all of the proposed regulations in this document. More information on the work of this Committee can be found at: *http://www.ed.gov.policy/highered/reg/hearulemaking/2007/gp.html.*

Significant Proposed Regulations

We discuss substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address proposed regulatory provisions that are technical or otherwise minor in effect.

General Definitions (§ 668.2)

Statute: The HEA does not include these definitions.

Current Regulations: Current § 668.2 contains definitions that are relevant to all of the Title IV, HEA Federal financial aid programs. However, separate definitions for full-time student, graduate or professional student, half-time student, three-quarter time student, and undergraduate student exist in other sections of the program regulations. Currently there is no definition for first professional degree.

Proposed Regulations: The proposed regulations would harmonize and consolidate in § 668.2 definitions for the terms, *full-time student, graduate or professional student, half-time student, three-quarter time student,* and *undergraduate student.*

The definition of *first professional degree* would be based on the definition currently used by the National Center for Educational Statistics (NCES). Under this definition a *first professional degree* would be limited to degree programs that require a level of professional skill beyond that normally required for a bachelor's degree as well as a professional license.

The definition of *full-time student* in § 668.2(b) does not adequately address students in a nonstandard term program. The proposed regulation adds the calculation that the Pell Grant Program uses to determine whether or not such students are eligible to receive a full-time award. It also adds language to clarify the Department's position concerning the status of students in correspondence programs.

The proposed regulations would move the definitions of *half-time student* and *three-quarter time* student from § 690.2(c), in the current Pell Grant regulations, to § 668.2(b). As a result, a half-time student and three-quarter time student would be defined as a student who is carrying a work load that is at least half or three-quarters, respectively, of the minimum full-time student definition contained in the regulations, rather than at least half or three-quarters, respectively, of the full-time student definition established by the institution, as it is currently defined for Title IV, HEA program loans and direct assessment programs.

The proposed regulations would move the definition of *graduate or*

professional student from § 674.2(b), in the current Perkins Loan Program regulations, to § 668.2 and rearrange the definition to highlight the Department's policy that graduate or professional students may not receive aid from undergraduate programs, such as the Pell Grant Program, while also receiving graduate or professional level aid.

The proposed definition of *undergraduate student* incorporates requirements from the definitions of *undergraduate student* currently in different program regulations. It also defines students in postbacculaureate teacher certification programs as undergraduates for purposes of the Pell Grant Program.

Upon consolidation in § 668.2(b), these definitions would be removed from the individual program regulations.

Reasons: Prior to this negotiated rulemaking, there were six definitions for half-time student, four definitions of undergraduate student, and three definitions of graduate or professional student. To eliminate this redundancy and avoid confusion, the proposed regulations consolidate these definitions in one section of the regulations.

As part of the rulemaking discussions, the Department also recommended changing the *full-time student* definition for clock hour programs by raising the required number of hours per week from 24 to 30 (this is the mathematical equivalent of 900 hours divided by 30 weeks). The Department later modified its proposal to have the clock hours per week for a full-time student be related to the weeks of instructional time associated with the academic year. For example, where 30 clock hours per week would be associated with a 30-week academic year, 35 clock hours per week would be associated with a 26-week academic year. Some non-Federal negotiators objected, arguing that the proposal would significantly increase the clock hour requirements, particularly for half-time students attending evening classes. They noted that the current requirements have been in effect for over 30 years without incident or concern. The Department withdrew its proposal.

Payment Periods (§§ 668.4, 668.22, 668.164, 682.200, 682.604, 685.301)

Payment Periods and Disbursements of Title IV Grant and Loan Funds

Statute: Section 428G(a) of the HEA requires that the interval between the first and second installment of FFEL (and, by extension, Direct Loan) payments not be less than one-half of the period of enrollment, except in the case of programs offered in semesters, quarters, or a similar division of the period of enrollment.

Current Regulations: Current regulations in § 668.4 define payment periods for Title IV, HEA program funds for three types of academic programs: (1) Programs that measure progress in credit hours and have academic terms; (2) programs that measure progress in credit hours and do not have terms; and (3) programs that measure progress in clock hours. Also, § 668.164 requires an institution to disburse Title IV, HEA program funds, except for Federal Work Study (FWS) funds, on a payment period basis. Accordingly, Pell Grant, ACG, National SMART Grant, FSEOG, Perkins Loan and some FFEL and Direct Loan funds are disbursed by the payment period. However, §§ 682.604(c) and 685.301(b) contain provisions that require an institution to disburse FFEL and Direct Loan funds on a different basis for (1) nonstandard term credit hour programs with terms that are not substantially equal in length, (2) nonterm credit hour programs, and (3) clock hour programs. A chart that illustrates the current disbursement requirements is published as Appendix A to the preamble—Current Disbursement Requirements.

Specifically, for a standard term (semester, trimester, or quarter) credit hour program or a nonstandard term credit hour program (with or without terms that are substantially equal in length), § 668.4(a) defines payment periods to be the terms. Title IV grant and loan funds are disbursed to students in these programs by the payment period—the term—except for nonstandard term credit hour programs with terms that are not substantially equal in length. For those programs, §§ 682.604(c)(7) and 685.301(b)(5) require an institution to make the second disbursement of FFEL and Direct Loan funds, respectively, at the later of (1) the calendar midpoint of the loan period, or (2) the date the student has completed half of the coursework in the loan period.

For a nonterm credit hour program, under § 668.4(b) payment periods are considered to be completed when the student has completed half of the number of credit hours and half of the number of weeks of instructional time in the academic year or program, as appropriate. Title IV grant and loan funds are disbursed to students in these programs by the payment period (i.e., a second disbursement is made when the first payment period is complete), except for FFEL and Direct Loan funds. When paying FFEL and Direct Loan funds to a student in a nonterm credit hour program, an institution may not make a second disbursement until the later of (1) the calendar midpoint of the loan period, or (2) the date that the student has completed half of the academic coursework in the loan period (§§ 682.604(c)(7) and 685.301(b)(5)). Section 668.4(b)(3) provides that, if an institution is unable to determine when a student in a nonterm credit hour program has completed half of the credit hours in a program, academic year, or remainder of a program in order to determine when a student begins a new payment period, the student is considered to begin the second payment period at the later of the date, as determined by the institution, when the student has completed half of the academic coursework in the program, academic year, or remainder of a program, or the calendar midpoint of the program, academic year, or remainder of a program.

For a clock hour program, § 668.4(c) defines the payment period as the point when a student has completed half of the clock hours in the academic year or program, as appropriate. Again, Title IV grant and loan funds are disbursed to students in these programs by the payment period, except for FFEL and Direct Loan funds. When paying FFEL and Direct Loan funds to a student in a clock hour program, an institution may not make a second disbursement until the later of (1) the calendar midpoint of the loan period, or (2) the date that the student has completed half of the clock hours in the loan period (§§ 682.604(c)(8) and 685.301(b)(6)). Section 668.164(b)(3) contains requirements that address when an institution may count excused absences as completed clock hours for purposes of determining completion of a payment period.

Currently, for the remainder of a program equal to or less than one-half of an academic year for clock hour programs and nonterm credit hour programs, the remainder of the program is the payment period (§ 668.4(b)(2)(iii) and (c)(2)(iii)).

The regulations contain a few exceptions to these disbursement regulations. Section 668.4(d) allows an institution to choose to have more than the defined two payment periods for nonterm credit hour programs and clock hour programs. In addition, the FFEL and Direct Loan regulations in §§ 682.604(c)(6)(ii) and 685.301(b)(3)(ii) require that, for a loan period that is one payment period, the loan funds must be paid in two installments, the second not being delivered until the calendar midpoint of the loan period, unless the institution is exempt under the cohort

default rate exception in § 682.604(c)(10) or § 685.301(b)(8). In addition, FSEOG, Pell Grant, ACG, and National SMART Grant regulations permit an institution to pay the grant funds for the payment period in installments to best meet the student's needs (§§ 676.16(a)(3), 690.76, and 691.76).

Proposed Regulations: By making a number of changes to the payment period definitions and disbursement requirements, these proposed regulations would, with a few exceptions, align disbursements for all Title IV grant and loan programs. A chart that illustrates the proposed disbursement requirements is published as Appendix B to the preamble—Proposed Disbursement Requirements.

Section 668.164(b) would now specify that an institution must disburse all Title IV grant and loan funds on a payment period basis, and would require, generally, that an institution disburse all Title IV grant and loan funds once each payment period. As a result, FFEL and Direct Loan funds would now be disbursed using the payment period definitions in § 668.4 for all types of programs.

To facilitate this change, several changes to the payment period definitions in § 668.4 would be necessary. First, the proposed regulations would divide nonstandard term credit hour programs into two categories. Nonstandard term credit hour programs with terms that are substantially equal in length would, along with standard term programs, continue to use the academic term as the payment period for both Title IV grant and loan funds.

Payment periods for nonstandard term credit hour programs with terms that are not substantially equal in length would be addressed in new § 668.4(b). The proposed regulations would specify two sets of payment periods for these programs: one for Title IV grant and Perkins Loan funds, and one for FFEL and Direct Loan funds. The payment periods for Title IV grant and Perkins Loan funds would be the academic term, as in current regulations. The proposed FFEL/Direct Loan payment periods are based on the current FFEL/Direct Loan disbursement requirements found in §§ 682.604(c)(7) and 685.301(b)(5). However, an institution would not be permitted to make a second disbursement until a student had successfully completed half of the coursework and half of the weeks of instructional time rather than making that disbursement at the later of the calendar midpoint, or the student's completion of half of the coursework. The definition of terms that are *substantially equal in length* (if no term in the program is more than two weeks of instructional time longer than any other term in the program) would be moved from §§ 682.604(c)(7)(ii) and 685.301(b)(5)(ii) to new § 668.4(h)(1).

The second change to § 668.4 would add a time component to the definition of payment periods for clock hour programs so that, in addition to requiring a student to complete half of the clock hours, the proposed regulations would require that a student complete half of the weeks of instructional time before a second disbursement may be made. As a result of this change and the change requiring FFEL and Direct Loan funds to be disbursed on a payment period basis, proposed § 668.4(c) would require that all Title IV grant and loan funds, including FFEL and Direct Loan funds, for students in nonterm credit hour and clock hour programs be disbursed when the student successfully completes half of the weeks of instructional time and half of the credit hours/clock hours in the academic year/program. The added time component (for clock hour programs) would be new for second disbursements of Title IV grant and Perkins Loan fund disbursements, and second disbursements of FFEL and Direct Loan funds would no longer be disbursed at the later of the calendar midpoint of the loan period, or the student's successful completion of half of the coursework/clock hours for nonterm credit hour and clock hour programs, respectively.

In addition, the proposed regulations would remove current § 668.4(d) so that an institution would no longer be permitted to choose to have more than the defined two payment periods for nonterm credit hour programs and clock hour programs. The proposed regulations would require that, for example, an institution with a clock hour program of 900 hours, must disburse funds using two 450-hour payment periods, not three 300-hour payment periods. The requirements that address when an institution may count excused absences as completed clock hours for purposes of determining completion of a payment period would be moved from § 668.164(b)(3) to new § 668.4(e).

Originally, the Department suggested changing the payment period definition for a remainder of a program equal to or less than one-half of an academic year for clock hour programs, nonterm credit hour programs, and nonstandard term credit hour programs with terms that are not substantially equal in length. Rather than treating the entire remainder of a program as the payment period, the Department suggested dividing the remainder into two payment periods to be consistent with how the HEA requires that FFEL and Direct Loan funds be disbursed. Some non-Federal negotiators felt that such a change would not be in the best interest of students who currently benefit from receiving the entire Title IV grant or Perkins Loan amount for the payment period up front. Ultimately, the Committee agreed to continue to define the payment period for a remainder of a program equal to or less than one-half of an academic year to be the remainder of the program for nonstandard term credit hour programs with terms that are not substantially equal in length, nonterm credit hour programs, and clock hour programs (see proposed §§ 668.4(b)(2)(ii) and 668.4(c)(2)(iii)).

Disbursements of FFEL and Direct Loan funds for these payment periods would still have to be made in two installments. The regulations in §§ 682.604(c)(6)(ii) and 685.301(b)(3)(ii) would continue to require that, for a loan period that is one payment period, the loan funds must be paid in two installments, unless the institution is exempt under the cohort default rate exception in § 682.604(c)(10) or § 685.301(b)(8). However, instead of requiring that the institution not deliver a second installment until the calendar midpoint of the loan period, these proposed regulations would require an institution to wait until the student has successfully completed half of the number of credit hours or clock hours, as appropriate, and half of the number of weeks of instructional time in the payment period.

Section 668.164(b) would include cross-references to this FFEL/Direct Loan exception to the requirement that an institution disburse Title IV grant and loan funds once each payment period. In addition, § 668.164(b) would include cross-references to the other existing exceptions to these regulations, whereby an institution is permitted to disburse a student's FSEOG, Pell Grant, ACG, and National SMART Grant for the payment period in installments to best meet the student's needs (§§ 676.16(a)(3), 690.76, and 691.76).

Changes would be made to the definitions of payment periods for nonterm credit hour programs, clock hour programs and, with respect to the FFEL/Direct Loan payment periods definition, for nonstandard term credit hour programs with terms that are not substantially equal in length, to require that a student successfully complete half of the credit hours or clock hours, as appropriate, to progress to the next

payment period. This same change would also be made to the requirement that, for a loan period that is one payment period, the loan funds must be paid in two installments; and the second installment may not be delivered until the student has successfully completed half of the number of credit hours or clock hours, as appropriate, and half of the number of weeks of instructional time in the payment period.

Successfully completes would be defined in § 668.4(h)(2) to have occurred when the institution considers the student to have passed the coursework associated with those hours.

Another change to the payment period definitions in § 668.4 would extend to clock hour programs the provision that addresses how to identify the end of a payment period when an institution is unable to determine when a student in a nonterm credit hour program has completed half of the credit hours in a program, academic year, or remainder of a program. In addition, the measure of time used to make the determination would be changed from the calendar midpoint to completion of half of the weeks of instructional time. Thus, under new § 668.4(c)(3), if an institution is unable to determine when a student in a nonterm credit hour program or a clock hour program has completed half of the hours in a program, academic year, or remainder of a program in order to determine when a student begins a new payment period, the student is considered to begin the second payment period at the later of (1) the date, as determined by the institution, when the student has completed half of the academic coursework in the program, academic year, or remainder of a program, or (2) the date, as determined by the institution, when the student has completed half of the number of weeks of instructional time in the program, academic year, or remainder of the program.

Finally, a new paragraph (d) would be added to § 668.4 to make clear that, when an institution qualifies for the cohort default rate exemption in § 682.604(c)(10) or § 685.301(b)(8) for a nonstandard term credit hour program, a nonterm credit hour program, or a clock hour program, the payment period for purposes of FFEL or Direct Loan funds is the loan period for those portions of the program to which the cohort default rate exemption applies. For example, if the loan period for a nonterm credit hour program is three months in length and the institution meets the cohort default rate exemption, that three-month loan period is the payment period and only one disbursement of the loan is required for that period.

Reasons: The Department seeks to align disbursements for all Title IV grant and loan programs to the extent possible. Inconsistent requirements for disbursing Title IV grant and loan funds for certain types of programs can result in a student receiving the second or subsequent disbursements of his or her grant funds or Perkins Loan funds at a different point in time than second disbursements of his or her FFEL or Direct Loan funds. Changes to the regulations that would achieve greater consistency in the timing of the disbursements of Title IV grant and loan funds are proposed to reduce this burden and confusion for institutions and students. These proposed changes include—(1) Modifying § 668.164(b) to specify that an institution must disburse all Title IV grant and loan funds on a payment period basis; (2) requiring, generally, that an institution disburse all Title IV grant and loan funds once each payment period; (3) adding a time component to the payment period definitions for clock hour programs to make the disbursements of Title IV grant and Perkins Loan funds conform with the disbursements of FFEL and Direct Loan funds, which must, by law, include a time component; (4) using weeks of instructional time as the time component for determining all Title IV grant and loan disbursements; (5) removing the institutional option to have more than two payment periods for nonterm credit hour programs and clock hour programs; and (6) extending to clock hour programs the provision that addresses how to identify the end of a payment period when an institution is unable to determine when a student in a nonterm credit hour program has completed half of the credit hours in a program, academic year, or remainder of a program.

Where these proposed regulations would deviate from this alignment, they would do so for the reasons that follow.

Traditionally, for credit hour term based programs, including nonstandard term credit hour programs with terms that are not substantially equal in length, the payment periods have been the terms. Because, under section 428G(a) of the HEA, disbursements of FFEL funds (and, by extension, Direct Loan funds) for these programs must be disbursed in two equal installments for the period of enrollment, Title IV grant and loan disbursements have not always aligned. To align them in all cases, Title IV grant and Perkins Loan funds would have to be disbursed on the same basis as FFEL and Direct Loan funds. However, the Committee agreed that inconsistency was acceptable in this case because of the benefit students receive from receiving Title IV grant and Perkins Loan funds more frequently. For this same reason, the Committee ultimately decided to define payment periods for the remainder of a program less than half of an academic year to be the remainder of the program for nonterm credit hour programs, clock hour programs, and, for FFEL and Direct Loan funds, nonstandard term credit hour programs with terms that are not substantially equal in length. Terms that are substantially equal in length would continue to be defined as they were in the FFEL and Direct Loan regulations.

To continue to allow an institution some flexibility to meet a student's individual circumstances, no change would be made to the FSEOG, Pell Grant, ACG, and National SMART Grant regulations that permit an institution to pay the grant amount for the payment period at such times and in such installments in each payment period as the institution determines will best meet the student's needs. So, although, an institution with a 900 clock hour program that currently has three 300 clock hour payment periods would be required to change to two 450 clock hour payment periods, the institution could choose to pay FSEOG, Pell Grant, ACG, or National SMART Grant funds in, for example, two installments each payment period if it determines that apportioning those funds best meets the student's needs.

New paragraph (d) would be added to § 668.4 to reflect the statutory provisions that affect disbursements for institutions that qualify for the cohort default rate exemption in § 682.604(c)(1) or § 685.301(b)(8) for a nonstandard term credit hour program, a nonterm credit hour program, or a clock hour program.

The proposed regulations would incorporate the Department's longstanding policy that a student must successfully complete half of the clock hours or credit hours, as appropriate, to progress to the next payment period for clock hour programs, for nonterm credit hour programs, and, under the FFEL/Direct Loan payment periods definition, for nonstandard term credit hour programs with terms that are not substantially equal in length. So that these requirements would be consistently applied by institutions, some non-Federal negotiators asked, and the Committee agreed, to add a definition of *successfully completes* to the proposed regulations. The proposed regulations base the definition on when the institution considers the student to

have passed the coursework associated with those hours, rather than requiring a passing grade, because not all institutions assign grades to completed coursework.

Transferring to a New Program at the Same Institution

Statute: The HEA does not specifically address the issue of payment period requirements for students transferring to a new program at the same institution.

Current Regulations: The payment period regulations in § 668.4(f) require an institution to calculate new payment periods for students who re-enter a program after 180 days or transfer to a new program at a different institution or the same institution at any time.

Proposed Regulations: The payment period requirements for students who re-enter a program after 180 days or transfer to a new program would be amended to add in new § 668.4(g)(3) guidance currently found in the Federal Student Aid (FSA) Handbook available at: *http://ifap.ed.gov/IFAPWebApp/currentSFAHandbooksPag.jsp.* The proposed regulations would permit an institution to consider a student who transfers into another program at the same institution to remain in the same payment period if four conditions are met: (1) The student is continuously enrolled at the institution; (2) the coursework in the payment period the student is transferring out of is substantially similar to the coursework the student will be taking upon beginning the new program; (3) the payment periods are substantially equal in length in weeks of instructional time and credit hours or clock hours, as applicable; and (4) there are little or no changes to the charges to the student for the payment period.

Reasons: The Committee made this change to address situations where a student's transfer to a new program at the same institution results in very little change to the student's academic circumstance—for example, a change that is really nothing more than a change in majors. The Committee believes that when this occurs it is appropriate to spare the institution the burden of withdrawing a student, performing a Return of Title IV Funds calculation to determine how much of the student's Title IV grant or loan funds he or she has earned, potentially returning Title IV grant or loan funds, and awarding Title IV, HEA program funds for the new payment period(s).

Disbursements of FFEL and Direct Loan Funds to Less Than Full-Time Students

Statute: Section 428G(a) of the HEA requires that the interval between the first and second installment of FFEL funds (and, by extension, Direct Loan funds) may not be less than one-half of the period of enrollment, except in the case of programs offered in semesters, quarters, or a similar division of the period of enrollment.

Current Regulations: Current disbursement requirements in §§ 682.604(c)(6), (7), and (8) and 685.301(b)(3), (5), and (6) use calendar time as the time component for determining when second disbursements of FFEL and Direct Loan funds are made to students in nonstandard term credit hour programs with terms that are not substantially equal in length, nonterm credit hour programs, and clock hour programs. In addition, §§ 682.200(b) and 685.102(b) require that a *period of enrollment* coincide with a bona fide academic term for which institutional charges are generally assessed, including a semester, trimester, quarter, or length of the student's program or academic year.

As a result of the use of calendar time as the time component, second disbursements of FFEL and Direct Loan funds for less than full-time students in nonstandard term credit hour programs with terms that are not substantially equal in length, nonterm credit hour programs, and clock hour programs may be made at the midpoint of the period of enrollment in calendar time, even if the student has not completed half of the hours in the period of enrollment. That is, a less than full-time student in one of these programs may receive the annual loan limit for the period of enrollment regardless of his or her enrollment status. However, the student is not eligible for another loan until he or she has completed all the credit hours or clock hours, as applicable, and the weeks in the period of enrollment.

Proposed Regulations: The proposed use of weeks of instructional time, rather than calendar time, as the time component for disbursements of Title IV grant and loan funds (see the discussion of this change under ''Payment periods and disbursements of Title IV grant and loan funds''), would affect significantly the timing of second disbursements to less than full-time students in nonterm credit hour programs, clock hour programs, and, for the FFEL/Direct Loan payment periods definition, for nonstandard term credit hour programs with terms that are not substantially equal in length.

Instead of receiving the second disbursement at the calendar midpoint of the period of enrollment (the academic year or program, as applicable), the student would receive the second disbursement after he or she completes half of the credit hours or clock hours, as applicable, and half of the weeks of instructional time in the payment period. An example of the effects of this change is published as Appendix C to the preamble—Title IV disbursements—Less-than-full-time enrollment. The example shows that, under current requirements, the student would receive the second loan disbursement at the calendar midpoint of the period of enrollment (the academic year). Under the proposed change, the student would receive the second disbursement after completion of half of the credit hours and half of the weeks of instructional time in the academic year. Because the student in the example is a half-time student, this would not occur until the student has successfully completed 24 credit hours and 30 weeks of instructional time.

A conforming change would be made to the definition of *period of enrollment* in §§ 682.200(b) and 685.102(b) to specify that a period of enrollment is measured in weeks of instructional time. By definition an academic year is measured in weeks of instructional time, so no change would be necessary to that example of a period of enrollment.

Reasons: Under the current approach, the period of time between a less than full-time student's first and second disbursement of an FFEL or Direct Loan would be relatively short compared to the period of time between the point when the student receives all of his or her first loan and when the student is eligible for a second loan. The Committee proposes that the disbursement of FFEL and Direct Loan funds be in line with our general approach that a student's award is paid in approximately equal increments over the course of the student's program—like the disbursement requirements for Perkins Loan and Title IV grant funds—as we believe it is more fiscally responsible and equitable between programs.

Return of Title IV Funds Calculated on a Payment Period Basis

Statute: Section 484B of the HEA provides that earned Title IV grant and loan funds for a student who withdraws from an institution may be calculated on a payment period or period of enrollment basis.

Current Regulations: Section 668.22(e)(5) provides that, for students

who withdraw from a nonstandard term credit hour program, nonterm credit hour, or clock hour program, an institution has the choice of calculating earned Title IV aid on either a payment period basis, as that term is defined in § 668.4, or on a period of enrollment basis. When an institution is not disbursing all types of Title IV, HEA program assistance for these programs by the same payment period (either because the regulations prohibit it or because the institution chooses to disburse this way), and it uses the payment period for a Return of Title IV Funds calculation, it must attribute any aid that should be associated with the payment period used, but that is not disbursed on that payment period, to the payment period used. Section 668.4(d) allows an institution to choose to have more than the defined two payment periods for nonterm credit hour programs and clock hour programs.

Proposed Regulations: As noted under ''Payment periods and disbursements of Title IV grant and loan funds'' these proposed regulations would remove current § 668.4(d) so that an institution would no longer be able to choose to have more than the defined two payment periods for nonterm credit hour programs and clock hour programs. As a result, payment periods for nonterm credit hour programs and clock hour programs would always be the same for all Title IV grant and loan programs.

For nonstandard term credit hour programs with terms that are not substantially equal in length, the proposed regulations would specify two sets of payment periods: One for Title IV grant and Perkins Loan funds, and one for FFEL and Direct Loan funds (again, see the discussion under ''Payment periods and disbursements of Title IV grant and loan funds''). As only one payment period may be used for determining earned Title IV grant and loan funds for a student who withdraws, the institution would have to choose, or the regulations could provide, which payment period to use. Changes to § 668.22(e)(5) would require an institution to always use the payment period during which the student withdrew that ends later, for Return of Title IV Funds calculations for a credit hour program that is measured in nonstandard terms that are not substantially equal in length, when the student receives aid under both payment period definitions. Aid that is disbursed for the payment periods that overlap the payment period that ends later would have to be attributed to the payment period that ends later.

An example of this change is published as Appendix D to the preamble—Return of Title IV Funds—Payment periods for nonstandard term credit hour programs with terms not substantially equal in length. The student in this example withdrew on the 50th day after the start of classes. The student's FFEL/Direct Loan funds were disbursed for the first FFEL/Direct Loan payment period—i.e., the first half of the academic year. The student's Pell Grant funds were disbursed for the first Pell Grant payment period—i.e., the first term, which is 10 weeks in length. The FFEL/Direct Loan payment period is the payment period during which the student withdrew that ends later, so that is the payment period that the institution would be required to use for the Return of Title IV Funds calculation under these proposed regulations. The first two Pell Grant payment periods overlap with the first FFEL/Direct Loan payment period, so aid that was disbursed or could have been disbursed for those two payment periods would be attributed to the first FFEL/Direct Loan payment period. All of the first Pell Grant payment period falls within the first FFEL/Direct Loan payment period, so all of the Pell Grant funds that were disbursed for the first payment period would be included in the calculation. The second Pell Grant payment period of six weeks overlaps with the first FFEL/Direct Loan payment period for five of those weeks. To determine the amount of Pell Grant funds that could have been disbursed that are attributable to the five weeks, the institution would take the full amount of Pell Grant funds that could have been disbursed for the second Pell Grant payment period, and multiply it by five-sixths.

If a student who withdraws from a nonstandard term credit hour program with terms that are not substantially equal in length is disbursed aid or could have been disbursed aid using only one of the two payment period definitions, that is the payment period that would be used for the calculation of earned aid, and no attribution of funds would be necessary.

Reasons: To simplify the Return of Title IV Funds calculation and ease administrative burden, we believe that institutions should use consistent FFEL/Direct Loan and Title IV grant/Perkins Loan payment periods to the extent permitted under the law and regulations. Removing the provision that allows an institution to choose to have more than the defined two payment periods for nonterm credit hour programs and clock hour programs would result in the use of the same payment period definition for Title IV grant and Perkins Loan funds and FFEL/Direct Loan funds for nonterm credit hour programs and clock hour programs. Because the payment periods would coincide for nonterm credit hour programs and clock hour programs, the calculation of a Return of Title IV Funds would be less burdensome as an institution would not have to attribute any Title IV, HEA program funds.

In the one case where an institution would not be allowed to use consistent disbursement periods, i.e., for a credit hour program that is measured in nonstandard terms that are not substantially equal in length (see the discussion under ''Payment periods and disbursements of Title IV grant and loan funds''), the Department originally suggested that § 668.22 be changed to require an institution to select and consistently use either the Title IV grants/Perkins loan payment period or the FFEL/Direct Loan payment period for the Return of Title IV Funds calculations and attribute to that payment period the aid that was disbursed or could have been disbursed for the overlapping payment periods. However, under this proposal, if the payment period that ended sooner is used and funds for the overlapping payment period that ended later had already been disbursed, an institution would have to return immediately the amount of Title IV funds attributed to a period beyond the payment period being used. Using the example in Appendix D to the preamble—Return of Title IV Funds—Payment periods for nonstandard term credit hour programs with terms not substantially equal in length, if the institution chose to use the Pell Grant payment period during which the student withdrew for the Return of Title IV Funds calculation, the funds from the FFEL/Direct Loan payment period, which ends five weeks after the Pell Grant payment period, would have to be attributed. To determine the amount of FFEL/Direct Loan funds attributable to the Pell Grant payment period, the institution would multiply the full amount of the FFEL/Direct Loan disbursement by ten-fifteenths (two-thirds). The remaining amount of the disbursed FFEL/Direct Loan would be attributed to the second Pell Grant payment period. Because the second Pell Grant payment period is after the period used in the Return of Title IV Funds calculation, all funds attributed to that period would have to be returned.

Such a result would raise issues such as how soon the institution would have to return those funds, would the institution be required to return any amount disbursed directly to the

student, or would the institution be required to help collect those funds from the student. As a result, the Department subsequently suggested requiring an institution to always use the payment period that ends later for Return of Title IV Funds calculations for a credit hour program that is measured in nonstandard terms that are not substantially equal in length. This was considered a simpler approach that would still treat students in an equitable manner. The Committee agreed with this approach.

Defining Independent Study for Direct Assessment Programs (§ 668.10)

Statute: The HEA does not include a definition of independent study.

Current Regulations: The current regulations mention independent study, but the term is not defined.

Proposed Regulations: The proposed regulations would define *independent study* as a course of study with predefined objectives where a student works with a faculty member to decide how those objectives will be met. In this context, the student and faculty member must agree on what the student will do, how the student's work will be evaluated, and the relative timeframe for completing the required work. In addition, the course of study would need to include regular and substantive interaction between the student and faculty member to assure that the student is progressing within the course or program. This definition would apply only to direct assessment programs.

Reasons: Under § 668.10(a)(3)(iii) the term *independent study* is specifically identified as an educational activity in a direct assessment program, but that term is not currently defined in the regulations. The proposed regulations address this omission.

The Department initially proposed a definition of *independent study* that would apply not only to direct assessment programs but to other courses and programs offered by institutions under other pedagogical methods. Several non-Federal negotiators were concerned about the last sentence in the proposed definition that would require ''a student to interact with a faculty member on a regular and substantive basis to assure progress with the course or program.'' The negotiators opined that it should be the sole responsibility of an institution to establish the level and frequency of the interaction between a student and a faculty member, and not left to the Department or another compliance entity to determine later that the interaction was inadequate. The Committee agreed to narrow the scope of the definition so that it would apply only to direct assessment programs.

The phrase ''regular and substantive interaction,'' which is also used in the definition of *telecommunications course* in § 600.2, is not meant to dictate a particular teaching method. Rather, it is meant to establish a general requirement that interaction about academic issues between students and faculty members take place at regular intervals.

Treatment of Title IV Grant and Loan Funds if a Recipient Does Not Begin Attendance (§§ 668.21, 682.604, and 685.303)

Statute: The HEA does not specifically address the issue of the treatment of Title IV grant and loan funds if a recipient does not begin attendance at an institution.

Current regulations: Section 668.21 prescribes the general regulations for the treatment of funds disbursed to a student who leaves the institution before beginning class. These regulations apply to all the Title IV program funds except for FFEL, Direct Loan, and FWS funds. Under these requirements, an institution must return any Perkins Loan, FSEOG, Pell Grant, ACG, and National SMART Grant funds that were disbursed to a student before the student begins attendance, even if those funds were disbursed directly to the student. There is no existing timeframe for returning these Title IV funds. A student is considered not to have begun attendance if the institution is unable to document the student's attendance at any class.

The treatment of FFEL and Direct Loan funds when a student leaves the institution before beginning class is addressed in §§ 682.604(d)(3) and (4) and 685.303(b)(3), respectively. An institution must return any loan proceeds credited to the student's account, as well as the amount paid to the institution by or on behalf of the student, not to exceed the total amount of loan funds disbursed. If any FFEL funds have been disbursed to the institution but have not been delivered to the student, the institution must return those funds in accordance with the Title IV cash management requirements in § 668.167.

Proposed regulations: Section 668.21 would be changed to consolidate all the requirements addressing the treatment of Title IV funds (except FWS) when a student does not begin attendance in a payment period or period of enrollment by moving the requirements for FFEL and Direct Loan funds from §§ 682.604 and 685.303, respectively, to § 668.21. As under current regulations, an institution would be required to return any Perkins Loan, FSEOG, Pell Grant, ACG, and National SMART Grant funds that are disbursed to a student for a payment period or period of enrollment before the student begins attendance, even if those funds were disbursed directly to the student.

The regulations for FFEL and Direct Loan funds would mirror existing requirements whereby, in addition to being required to return the amount of FFEL and Direct Loan funds credited to the student's account, an institution would be responsible for returning the amount paid to the institution by or on behalf of the student, not to exceed the total amount of loan funds disbursed. Also in accordance with current requirements, an institution would not be responsible for returning any FFEL and Direct Loan funds that are disbursed directly to a student before the student begins attendance, other than as noted above. The proposed regulations would specify that an institution must notify the lender or Secretary, as appropriate, of amounts disbursed directly to the student that are outstanding, so that the lender or Secretary can issue a 30-day demand letter to the student as required under current regulations. Institutions would not be responsible for returning loan funds that are disbursed directly to the student by the lender for a student in a study-abroad program or for a student attending a foreign school.

A new requirement would be added to require an institution to return FFEL or Direct Loan funds that it disbursed directly to a student if the institution knew that the student would not begin attendance prior to disbursing the funds directly to the student. This would apply, for example, if a student notified the institution that he or she would not be attending or if the institution expelled the student prior to directly disbursing the funds.

The proposed regulations would require an institution to return those funds as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not attend or has not begun attendance. The proposed regulations would specify when a return is considered to have been made in a timely manner. Specifically, the regulations would provide that an institution returns funds when it— (1) Deposits or transfers the funds into the bank account it maintains for Federal funds; (2) initiates an electronic funds transfer (EFT) to transfer the funds; (3) initiates an electronic transaction that instructs an FFEL lender to adjust a borrower's loan for the amount of the ''returned funds;'' or (4) issues a check.

However, if a check is used to return funds, the proposed regulations would also require that (1) the institution's records show that the check was issued no more than 30 days after the date it became aware that the student will not attend or has not begun attendance; or (2) the check must be received by an FFEL lender or the Secretary no later than 45 days after the institution became aware that the student will not attend or has not begun attendance.

The regulations would make clear that, as with the current requirements in § 668.21, these provisions apply if an institution is unable to document the student's attendance at any class. Finally, § 682.604 has been changed to clarify how to handle FFEL funds that an institution has delivered, versus those that were disbursed to the institution, but were not delivered by the institution.

Reasons: The current FFEL and Direct Loan regulations for the treatment of Title IV funds when a student does not begin attendance are complex and contain numerous cross references, making them hard to follow. By consolidating the FFEL and Direct Loan regulations with those of the other Title IV programs in this area, as well as rewriting the FFEL and Direct Loan regulations, we hope to achieve greater consistency and clarity.

The Department originally suggested changing the FFEL and Direct Loan requirements to mirror those applicable to Title IV grant and Perkins Loan funds. That is, an institution would be responsible for returning any FFEL and Direct Loan funds that were disbursed to a student before the student began attendance, even if the institution had disbursed the funds directly to the student. Some non-Federal negotiators felt, and the Department agreed, that such a change would cause institutions to reduce their potential liability by refusing to disburse FFEL and Direct Loan funds prior to the start of classes, thereby denying funds needed by students to begin classes. As a result, the Committee agreed to language that would reflect the current regulations for the treatment of FFEL and Direct Loan funds when a student does not begin attendance, with one addition. The Committee agreed that an institution should be liable for any FFEL and Direct Loan funds that the institution disbursed to a student if the institution knew that the student would not be beginning attendance because the institution should have known not to make the disbursement.

The establishment of a 30-day timeframe for the return of funds for which an institution is responsible would ensure that institutions return Title IV funds in a timely manner. Some negotiators felt that the timeframe should be consistent with the 45-day timeframe for the return of funds by an institution in accordance with the ''Return of Title IV Funds'' requirement in § 668.22, which prescribes the requirements for returning Title IV grant and loan funds when a student withdraws during a payment period or period of enrollment. The Department stated that it does not believe the additional 15 days is necessary because, unlike the Return of Title IV Funds requirements, no calculation is required to determine the amount of funds an institution must return.

The timely return requirements are the same as those currently found in § 668.173 and were added to provide consistency with the requirements applicable to returns made in accordance with the Return of Title IV Funds requirements in § 668.22 for students who withdraw during a payment period or period of enrollment.

Post-Withdrawal Disbursements of Grant Funds Directly to a Student (§ 668.22)

Statute: Section 484B(a)(4) of the HEA requires an institution to contact a borrower before making a post-withdrawal disbursement of Title IV loan funds to a student who has withdrawn, including post-withdrawal disbursements that would be disbursed directly to the student. No such statutory requirement exists for Title IV grant funds.

Current regulations: Under § 668.22(a)(5), prior to making any disbursement of Title IV loan funds, an institution is required to notify and obtain the withdrawn student's (or parent's, for a parent PLUS loan) permission to make that disbursement regardless of whether the funds are credited to the student's account or disbursed directly to the student or parent, for a parent PLUS loan. For Title IV grant funds that make up a post-withdrawal disbursement, § 668.22(a)(5) requires an institution to notify and obtain the student's permission prior to making any disbursement directly to the student. An institution is not required to obtain the student's permission prior to crediting Title IV grant funds to the student's account.

In accordance with § 668.22(a)(5)(iii)(C), if an institution receives confirmation from the student, or parent for a PLUS loan, that he or she wants the Title IV loan funds credited to the student's account or paid directly to the student or parent, the institution must make the post-withdrawal disbursement within 120 days of the date that it determined that the student withdrew.

Proposed regulations: Under proposed § 668.22, an institution would no longer be required to notify and obtain the student's permission prior to making a direct disbursement of any Title IV grant funds that make up a post-withdrawal disbursement. An institution would be required to make a direct disbursement of Title IV grant funds that make up a post-withdrawal disbursement as soon as possible, but no later than 30 days after the date of the institution's determination that the student withdrew (as defined in current § 668.22(l)(3)).

A corresponding change would make clear that, after receiving confirmation from a student, or parent in the case of a PLUS loan, that he or she wants a post-withdrawal disbursement of Title IV loan funds credited to his or her account, or disbursed directly, an institution must make the post-withdrawal disbursement as soon as possible, but no later than 120 days after the date of the institution's determination that the student withdrew (as defined in current § 668.22(l)(3)).

Reasons: Non-Federal negotiators felt, and we agreed, that permission was not necessary to disburse Title IV grant funds directly to a student as potentially harmful consequences to the student do not exist, as may be the case when a student who withdraws incurs a loan debt. We believe that 30 days from the date that the institution determines that a student withdrew is an appropriate amount of time for an institution to make a direct disbursement of a post-withdrawal disbursement of grant funds. Although an institution has 45 days to return any unearned Title IV funds for which it is responsible when a student withdraws, the administrative functions that institutions have indicated they must perform with such a return do not apply to the direct disbursement of funds to a student. Therefore, the timeframe for making a direct disbursement need not be as long.

Although the non-Federal negotiators agreed that it is implied that required institutional actions must be done as soon as possible, the Committee agreed that it was beneficial to specify this in the regulations. Prompt action is more likely to ensure that contact will be made with a student who is no longer in attendance at the institution.

Cash Management—Recovery of Unclaimed Title IV Funds (§ 668.161)

Statute: Under section 487(a) of the HEA, when an institution enters into a

program participation agreement with the Secretary the institution agrees, in part, to use the funds it receives under any Title IV, HEA program (and any interest or other earnings on those funds) solely for the purpose of that program.

Current Regulations: An institution's fiduciary responsibilities for using funds it receives under the Title IV, HEA programs are currently described in §§ 668.14(b)(1) and 668.161(b). The regulations provide that Title IV, HEA program funds are held in trust for the intended student beneficiary, the Secretary, FFEL lender, or guaranty agency and cannot be used for any other purpose.

Proposed Regulations: The proposed regulations would incorporate in § 668.164 timeframes for returning Title IV, HEA program funds that an institution attempts to disburse directly to a student or parent, but the student or parent does not receive or negotiate those funds.

If an institution issues a check but the check is not cashed or is returned as undeliverable to the institution, the proposed regulations would require the institution to send the funds back to the Secretary or FFEL lender no later than 240 days after the date the check was issued.

In cases where an institution attempts to disburse the funds by issuing a check or initiating an EFT to the student's or parent's bank account, and the check or EFT is returned as undeliverable, the proposal would allow the institution to make subsequent attempts to disburse the funds as long as those attempts are made within 45 days of the date the check or EFT were returned. If the institution makes a subsequent attempt by issuing a check, and that check is not cashed or is returned as undeliverable, the institution would be required to send the funds back to the Department or lender no later than 240 days after the date it initially attempted to disburse the funds.

In addition, the proposed regulations would make clear that Title IV, HEA program funds never escheat to a State, regardless of any State law.

Reasons: These proposed regulations would establish for the first time in regulations timeframes for returning unclaimed or undeliverable funds for two reasons. First, as a program integrity matter the Department believes that Title IV, HEA program funds should not remain outstanding for long periods, which increases the risk the funds will be used for other purposes or that the funds would escheat to the State. Second, the Department believes it increases the likelihood that a student will receive the benefit of the funds in a more timely manner; either a concerted effort is made by an institution to disburse the funds (particularly for funds that are returned undeliverable) or the funds are returned more quickly to a lender or the Department to reduce the student's loan balance.

Originally the Department proposed a 180-day timeframe for returning funds. The non-Federal negotiators noted that this timeframe would be difficult to meet since many checks are valid for 180 days. Instead, they suggested timeframes ranging from 210 days to one year or more (the 210-day timeframe would accommodate a typical 180-day check and allow for one monthly bank reconciliation to see if the check was still outstanding). The Department agreed that more time was needed and subsequently proposed a maximum 240-day timeframe. The Committee agreed to this timeframe.

With regard to a check or EFT that is returned as undeliverable, the Department originally proposed that an institution could make one more attempt. This proposal was later modified to allow as many attempts as an institution wanted to make as long as it made those attempts promptly (within 45 days after the date the check or EFT is returned).

Cash Management—Minor Prior-Year Charges (§ 668.164)

Statute: Under Part E—Need Analysis of the HEA (particularly sections 471 through 473), a student's need for most Title IV, HEA program funds is determined by subtracting the expected family contribution (EFC) and other estimated financial assistance from the student's cost of attendance. The cost of attendance is based on current year educational expenses. The EFC is the amount that can reasonably be contributed toward meeting the student's educational expenses for the academic year for which a need determination is made.

Current Regulations: Under § 668.164(d)(2), an institution may use a student's current year Title IV, HEA program funds to pay for minor prior-award year charges if the charges are less than $100, or the charges are $100 or more and the payment of those charges does not prevent the student from paying his or her current educational costs. In either case, the institution must first obtain the student's permission.

Proposed Regulations: The proposal would amend the regulations in three ways. First, the amount of prior-year charges that could be paid with current year funds would increase to not more than $200. Second, an institution would not have to obtain the student's permission to pay for prior-year charges for tuition and fees, or room or board. Finally, the provision allowing an institution to pay for prior-year charges of $100 or more (now more than $200) would be removed.

Reasons: The non-Federal negotiators recommended revising these regulations. They argued that the $100 prior-year threshold, established approximately 10 years ago, should be increased to account for inflation. In addition, they questioned the need to obtain a student's permission to pay for prior-year tuition and fees, or room or board charges since the regulations allow an institution to pay these charges for the current year without getting the student's permission. The Department agreed. However, the Department proposed to limit the payment of prior-year charges to truly minor charges (i.e., those of not more than $200) to avoid potential conflicts with the statutory intent that current year awards are used for current year educational expenses. The Committee agreed to this $200 limitation.

Cash Management—Electronic Disbursements of Title IV Funds (§§ 668.164(c) and 668.165(b)(i))

Statute: The HEA does not address the issue of electronic disbursement of Title IV funds.

Current Regulations: The current regulations in § 668.164(c) provide that an institution issues a check on the date it releases or mails the check to a student, or on the date it notifies a student that the check is available for immediate pickup. The regulations also allow an institution to make a direct payment to a student by initiating an EFT to the student's bank account or by paying the student in cash. If an institution wishes to make an EFT, it must obtain the student's authorization under § 668.165(b)(1)(i).

Proposed Regulations: The proposed regulations would modify the provisions for issuing a check and add new provisions expanding the use of EFTs to bank accounts that underlie stored-value cards and other transaction devices. In addition, § 668.165(b) would be amended to remove the requirement that an institution obtain a student's authorization to make an EFT payment and add a provision allowing an institution to issue a stored-value card or similar device.

The proposed regulations would require an institution to identify in its notice to a student the specific location at the institution where the student can

pick up his or her check. A student would have 21 days to pick up the check, after which the institution would have to mail the check to the student, initiate an EFT to the student's bank account, or return the funds to the appropriate Title IV, HEA program account.

With regard to bank accounts, an institution may not require or rely on a student to open an account. In cases where the institution opens a bank account on behalf of a student, establishes a process the student follows to open a bank account, or similarly assists the student in opening the account, the institution would need to satisfy the following provisions:

1. It must obtain written consent from the student to open the bank account.
2. It must inform the student of the terms and conditions of accepting and using the account.
3. It must not make any claims against the funds in the account unless it obtains the student's permission or the institution is correcting an error in transferring funds in accordance with banking protocols.
4. It must ensure that the student does not incur any costs in opening the account or initially receiving any type of automated teller machine (ATM) card, stored-value card, or other similar device that is used to access funds in the account.
5. It must ensure that the student has convenient access to a branch office of the bank or ATMs of the bank in which the account was opened (or ATMs of another bank) so that the student does not incur any cost in making cash withdrawals.
6. It must ensure that the debit card, stored-value card, ATM card, or other device can be widely used (the institution may not limit the use of the card or device to particular vendors).
7. It must not market or portray the account, card, or device as a credit card or subsequently convert it to a credit card.

As used in the context of these proposed regulations, ''bank account'' means a Federal Deposit Insurance Corporation (FDIC) insured account such as a checking or savings account, or a similar account that underlies a stored-value card or other transaction device.

Also, the proposed regulations would amend the provision under which an institution (with the student's permission) holds credit balance funds for a student by providing that the institution may issue a stored-value card or other similar device that enables the student to access those funds.

Reasons: The Department proposes the changes to issuing a check in response to situations where an institution notifies a student that a check is available for immediate pickup, but there is no check. Instead, the student is directed to take other actions to get his or her credit balance, and in some cases does not receive the credit balance until those actions are completed. We wish to make clear that under the current or proposed regulations, a student is not required to take any actions to obtain his her credit balance. It is the sole responsibility of the institution to pay, or make available, any Title IV credit balance within the 14-day regulatory timeframes.

To address this situation, the Department initially proposed to the non-Federal negotiators that a check is issued on the date it is mailed, or handed over, to the student. The non-Federal negotiators argued that this approach was too limiting and would unnecessarily force institutions to mail checks to students who intended to pick up their checks or to students who did not update their mailing address. A compromise was reached under which the check pickup provision would be maintained, but if the student did not pick up the check within 21 days the institution would have to immediately disburse the credit balance funds some other way or return the funds.

With regard to expanding the use of EFTs for making direct payments to students, the proposal generally mirrors the guidance published in the Department's Dear Colleague Letter GEN–05–16 of October 17, 2005, questions and answers 18 through 21, by identifying certain provisions that an institution must satisfy when it makes an EFT to a student's bank account. The Dear Colleague Letter is available at *http://ifap.ed.gov/dpcletters/GEN0516.html*. However, under the proposal these provisions would apply only to an institution that is purposefully and actively involved in opening bank accounts for or on behalf of students, or facilitating the opening of such bank accounts, including accounts underlying transaction devices. An institution that merely recommends a bank where a student might open an account, or simply invites banks to its campus to present their services to students and where students can open bank accounts, would not be subject to these provisions.

Finally, in response to questions from the non-Federal negotiators relating to school-issued smart cards, or similar transaction devices, the proposal would allow the use of such cards where an institution already has the student's permission to hold Title IV credit balance funds on his or her behalf.

Cash Management—Late Disbursements (§ 668.164(g))

Statute: The HEA does not specifically address the issue of late disbursements.

Current Regulations: Section 668.164(g) allows a student who is no longer eligible to receive Title IV, HEA program funds to qualify for those funds if certain conditions are satisfied. If a student qualifies, an institution has 120 days from the date the student becomes ineligible to disburse the funds to the student. In cases where the institution does not disburse the funds within the 120-day period, and the reason the funds were not disbursed was not the student's fault, the institution may request approval from the Secretary to disburse the funds.

Proposed Regulations: The proposed regulations would extend from 120 to 180 days the period within which an institution would be allowed to make a late disbursement, but would eliminate an institution's ability to request funds after that period expires.

Reasons: We believe the current provision allowing an institution to request a late disbursement after 120 days is not always in keeping with the institution's fiduciary responsibilities to (1) promptly identify students who should have but did not receive their funds either while they were eligible or within four months after they ceased to be eligible, and (2) make disbursements to students in a timely manner. However, we recognize that in some cases, despite the best efforts of an institution, more time may be needed to resolve a complicated situation before a disbursement can be made.

The Department initially proposed to maintain the current 120-day late disbursement period but eliminate any subsequent requests. Some non-Federal negotiators argued that the post 120-day late disbursement provision benefited students who did everything they were asked to do and should be maintained in its current form or as part of some type of appeal procedure. Other non-Federal negotiators believed that the 120-day period afforded institutions adequate time to make late disbursements. If the disbursements were not made, the negotiators stated that the institution should assume responsibility and use its own funds to make the disbursements. In the end, an agreement was reached providing 180 days to make a late disbursement.

Loan Cancellation Notice and Affirmative Confirmation of a Loan (§ 668.165(a))

Statute: Section 432(m)(1)(D)(i) of the HEA provides that a master promissory note (MPN) must allow eligible borrowers to receive initial and subsequent loans through a student confirmation process approved by the Secretary.

Current Regulations: Section 682.401(d)(4)(vi) requires an institution and a lender to develop and document a confirmation process in accordance with guidelines established by the Secretary for loans made under the multi-year feature of an MPN. The guidelines allow an institution to use either an active or passive confirmation process.

In addition, the regulations in § 668.165(a)(2) provide that an institution must notify a student whenever it credits a student's account with funds from a Title IV, HEA program loan. The institution must send the notice no earlier than 30 days before, and no later than 30 days after, it credits the student's account. A student then has 14 days to inform the institution if he or she wishes to cancel all or a portion of the loan or loan disbursement. If the institution receives a cancellation request within this 14-day period, it must comply with the student's request and cancel the loan, return the loan proceeds, or do both.

Proposed Regulations: These proposed regulations would condition the loan cancellation provisions in § 668.165 on whether an institution obtains affirmative (active) confirmation from a student that he or she wants a loan.

If the institution obtains affirmative confirmation, then it would continue to comply with the current loan cancellation provisions.

If the institution does not obtain affirmative confirmation, it would be required to notify the student no earlier than 30 days before, but no later than seven days after, it credits the student's account with loan funds. Moreover, the institution would be required to give the student 30 days (instead of the current 14 days) to cancel all or a portion of the loan or loan disbursement.

The proposed regulations would define *affirmative confirmation* as a process under which an institution obtains written confirmation of the types and amounts of Title IV, HEA program loans that a student wants for an award year before the institution credits the student's account with those loan funds. Also, the proposed regulations would clarify that, if an institution received a loan cancellation request, it would not have to return loan proceeds that the institution disbursed directly to a student or parent.

Reasons: Under the current loan certification or origination processes, other than for the initial loan under an MPN, a student can continue to receive subsequent loans without doing anything. We believe that the process for obtaining a loan should, as an added consumer protection, provide the student with more control over the types and amounts of loans he or she wants.

For this reason, we initially proposed that as part of the process for notifying a student of the amounts and types of loans he or she was eligible to receive for an award year, or through another process, the institution would obtain affirmative confirmation from the student for those loans. Some of the non-Federal negotiators noted that there are already several disclosures made to students regarding their loans and opined that affirmative confirmation was either not needed or that any marginal benefit would be outweighed by the cost and complexity of implementing it. Other non-Federal negotiators stated that their institutions currently use an affirmative confirmation process.

In lieu of affirmative confirmation we then proposed to modify the loan cancellation provisions by (1) requiring an institution to notify a student no later than the date that loan funds were credited to his or her account (instead of up to 30 days after that), and (2) giving the student more time (30 days instead of 14) to cancel all or a portion of the loan. Some of the non-Federal negotiators countered by suggesting that the Department give institutions a choice between doing affirmative confirmation or complying with the expanded loan cancellation regulations. We agreed to provide this choice.

Cash Management—Excess Cash (§ 668.166)

Statute: The HEA does not specifically address the issue of excess cash.

Current Regulations: Under § 668.166, excess cash is defined as any amount of Title IV, HEA program funds (except for Perkins Loan funds) an institution receives from the Secretary that is not disbursed to students or parents by the end of the third business day following the date the institution received those funds.

An institution is allowed to maintain excess cash for seven days under two tolerance options. Under the first option, the institution may maintain excess cash for an amount up to one percent of the total amount of funds it drew down in the previous year. Under the second option, the institution may maintain excess cash for an amount up to three percent of its prior-year drawdowns, if the funds are drawn down during a period of peak enrollment.

In instances where the Secretary finds that an institution maintains excess cash for an amount or time period greater than that allowed under the tolerance options, the regulations prescribe the method used to calculate a liability for maintaining those funds and provide that the Secretary may initiate a proceeding to fine, limit, suspend, or terminate the institution's participation in the Title IV, HEA programs.

Proposed Regulations: The proposed regulations would expand the definition of excess cash to include Title IV, HEA program funds received from the Secretary that are deposited or transferred into the institution's Federal bank account as a result of an award cancellation, adjustment, or recovery.

Also, the proposed regulations would eliminate the three percent excess cash tolerance option and simplify the provisions addressing the consequences for maintaining excess cash.

Reasons: The proposed regulations clarify that any Title IV, HEA program funds that an institution has and does not use to make disbursements to students within three business days are considered excess cash.

We initially proposed to eliminate both tolerance options in view of the progress the Department and institutions have made over the last 10 years in moving more and more to a student-level reporting and authorization process, and the timeliness and predictability of transferring funds electronically. Some of the non-Federal negotiators objected, arguing that some tolerance is still needed. We agreed to keep the one percent tolerance option.

With regard to the consequences for maintaining excess cash, we believe the current regulations are unnecessarily complex in specifying the method used to calculate an interest liability. In addition, the provision alerting institutions that the Secretary may initiate an adverse action for maintaining excess cash is redundant, since the Secretary may take an adverse action for any finding, depending on the gravity and materiality of the violation. Instead, and perhaps more likely, we note that the Secretary may place an institution on cash monitoring or reimbursement.

Single Disbursement for Perkins and FSEOG Awards (§§ 674.16 and 676.16)

Statute: The HEA does not specifically address single disbursements for Perkins and FSEOG awards.

Current Regulations: Under §§ 674.16(g) and 676.16(e), an institution may make a single disbursement of a Perkins Loan or FSEOG award if the total amount of that award for an academic year is less than $501.

Proposed Regulations: We propose to eliminate these single disbursement provisions.

Reasons: These regulations are no longer needed—they were published in 1978 in response to administrative burdens and costs associated with paying students small amounts each payment period by check and maintaining manual accounting records.

Minimum Period for Certifying a Loan (§§ 682.603 and 685.301)

Statute: The HEA does not specifically address the issue of the minimum period for certifying a loan.

Current Regulations: The current regulations indicate the minimum period of enrollment for which a school may certify (for an FFEL loan) or originate (for a Direct Loan Program loan) a loan. The minimum period is based on whether the program (1) measures academic progress in credit hours and uses a semester, trimester, or quarter credit hour system, or (2) measures progress in credit hours but does not use a semester, trimester, or quarter credit hour system or measures progress in clock hours. For the first category, the school may certify or originate a loan for a single term. For the second category, the school may certify or originate a loan for the lesser of the length of the program or the academic year.

Proposed Regulations: The proposed regulations make several changes. First, with respect to allowing a school to make a loan for a single term, the proposals in §§ 682.603(f)(1)(i) and 685.301(a)(9)(i) treat terms that are substantially equal in length with no term less than nine weeks in length in the same way that semesters, trimesters, or quarters are treated. Terms are considered substantially equal in length if no term is more than two weeks longer than any other term. Second, with respect to programs that measure progress in credit hours but do not use a semester, trimester, or quarter system and do not have terms that are substantially equal in length with no term less than nine weeks in length, or measure progress in clock hours, the proposal clarifies that the school may certify a loan for the remaining portion of the program. Third, the proposal indicates that, under certain specified conditions, a school may certify or originate a loan for the remaining portion of the program or academic year for a transfer student. This would be allowed at a school that measures academic progress in credit hours but does not have terms that are substantially equal in length with no term less than nine weeks in length, or at a school that measures progress in clock hours, where there would be overlapping loan periods for the student at the two schools involved. The loan at the new school could not exceed the remaining balance of the student's annual loan limit, taking into consideration the amount of loan proceeds that the student had received at the prior school. Fourth, the proposal indicates that, under certain specified conditions, a school may certify or originate a loan for the remaining portion of the academic year for a student who completes a degree program at a school and then immediately begins a new degree program at the same school. This would be allowed at a school that measures academic progress in credit hours but does not use a semester, trimester, or quarter system and does not have terms that are substantially equal in length with no term less than nine weeks in length, where the loan to complete the student's first degree program had been for less than an academic year. The second loan may not exceed the remaining balance of the student's annual loan limit at the loan level associated with the new program. For example, if a student in his or her third year at such a school received $1,500 for less than an academic year to complete his or her associate's degree program, and then immediately enrolled in a bachelor's degree program at the same school, the school could certify or originate a loan for $4,000 for the remainder of the academic year ($5,500 − $1,500 = $4,000). Once that period of time (the remainder of the academic year) is completed, the school could certify or originate a new loan for the next full academic year.

Reasons: The Department proposed in §§ 682.603(f)(1)(i) and 685.301(a)(9)(i) to treat terms that are substantially equal in length with no term less than nine weeks in length in the same way as semesters, trimesters, or quarters for purposes of allowing schools to make a full loan for a single term. A quarter often is as short as 10 weeks long in a three-quarter, 30-week academic year. If a school were to have three substantially equal terms (i.e., no term more than two weeks longer than any other term) in a 30-week academic year, it would have to have three terms of nine weeks, 10 weeks, and 11 weeks. Such terms would be substantially similar to quarters. Therefore, the Department believes that the school should be allowed to make a full loan for such a single term in the same way that it can for a single quarter. However, several negotiators, while agreeing that there should be a minimum number of weeks associated with this concept, suggested that the minimum should be eight weeks for programs that had four eight-week terms in a 32-week academic year. After some discussion, the Committee agreed to the original Departmental proposal to consider nine weeks to be the minimum length for such a term to be a period for which a full loan could be made.

Another topic addressed by the Committee was the minimum period of time for which a loan may be certified or originated for transfer students. Currently transfer students in a program that measures academic progress in credit hours but does not use a semester, trimester, or quarter system or measures progress in clock hours are allowed to borrow only the remaining balance of their loan amounts when they have already had a loan for an academic year (or a program of less than an academic year) made to them at a previous school where the loan period at the previous school overlaps the loan period at the school the students transfer into. Since the minimum period of time for which a school can certify a loan is the lesser of the program (or remaining portion of the program) or the academic year, transfer students with one academic year or more remaining in their program often are eligible to borrow only a small amount of money (the remaining balance) for a period of time associated with the first full academic year (usually 30 weeks) remaining in their program.

One non-Federal negotiator believed that this was unfair, and suggested that transfer students in these types of programs should be allowed to obtain loans for the remaining portion of the program or academic year, instead of for the whole program or academic year when the prior school certified or originated a loan for a period of enrollment that overlaps the period of enrollment at the new school. That negotiator and other non-Federal negotiators argued that this should be the case because the new school is only certifying or originating a loan for the remaining balance of the students' annual loan amount, not for the entire

annual loan limit. After discussion of this topic, the Committee agreed with this position.

Another non-Federal negotiator pointed out that often when students complete a degree program at a school that measures academic progress in credit hours but does not use a semester, trimester, or quarter system, and then immediately start another degree program, they are allowed to borrow only the remaining balance of their annual loan amount for the first academic year of their second degree program. This occurs when the last loan made to complete the first degree program had been for less than an academic year. Since the minimum period of time for which a school can certify a loan is the lesser of the program (or remaining portion of the program) or the academic year, students finishing one degree program and starting a second degree program in the situation noted above are eligible to borrow only a small amount of money (the remaining balance) for a period of time associated with the first full academic year (usually 30 weeks) of their second degree program.

Therefore, the Committee agreed that, for these students in these types of programs, where the school certified or originated a loan for less than an academic year for the completion of one degree program, it should be allowed to certify or originate a loan for the beginning of the second degree program for the remaining portion of the academic year, instead of for the whole academic year.

Annual Loan Limit Progression (§§ 682.603 and 685.301)

Statute: A student must complete an academic year to progress to the next FFEL or Direct Loan annual loan limit. Section 428(b)(1)(A) of the HEA authorizes insurance on a subsidized Stafford loan for any academic year. Unsubsidized Stafford loans, at the increased loan limits for such loans, are subject to the academic year limits in section 428(b)(1) of the HEA. Section 481(a)(2) of the HEA requires an academic year to be (1) a 26-week minimum period of instructional time for clock hour programs and a 30-week minimum period of instructional time for credit hour programs, unless the Secretary authorizes a reduced period of not less than 26 weeks as specified in regulations; and (2) for an undergraduate program, at least 24 semester or trimester credit hours, 36 quarter credit hours, or 900 clock hours.

Current regulations: None.

Proposed regulations: Under current policy, for a standard term based program, a student progresses to the next annual loan limit if he or she completes an academic year in calendar time. So, once the calendar time period associated with all of the terms in the academic year has elapsed, a student gains eligibility for a new annual loan limit. For nonstandard term credit hour, nonterm credit hour, and clock hour programs, a student does not progress to the next loan limit until he or she completes an academic year in both time and hours. The proposed regulations would incorporate this policy with one change. As in a standard term based program, a student would progress to the next loan limit if he or she completes an academic year in calendar time in a nonstandard term credit hour program if the terms in that program are substantially equal in length and are at least nine weeks in length.

Reasons: The Department seeks to incorporate in regulations current policy regarding progression to the next annual loan limit to provide for greater clarity of the requirements. The change to apply the policy applicable to standard term credit hour programs to nonstandard term credit hour programs if the terms in those programs are substantially equal in length and are at least nine weeks in length would provide consistency with final regulations published in the **Federal Register** on November 1, 2000 (65 FR 65616), whereby the Department applied the disbursement requirements for standard term-based programs to credit hour programs measured in nonstandard terms that are substantially equal in length. The Committee agreed that the inclusion of these changes was desirable.

Calculation of a Pell Grant (§§ 690.63 and 690.66)

Statute: Section 401(e) of the HEA indicates that the Secretary will promulgate regulations to ensure that an eligible student is paid a Pell Grant for each academic year in the amount for which that student is eligible.

Current Regulations: The current regulations provide institutions with a number of formulas for calculating a Pell Grant on a payment period basis depending on the academic calendar of the program that is being taken. Section 690.63(a)(1) indicates which formulas can be used for programs using standard terms with at least 30 weeks of instructional time, and provides the specific criteria that must be used to determine whether a program falls under that category. The section limits programs in that category to traditional semester, trimester, or quarter credit hour programs. Section 690.63(b), (c), and (d) provides the formulas that are used for programs that use credit hours and academic terms. Section 690.63(e) provides the formula for programs using clock hours or credit hours without terms. And § 690.66 provides formulas for correspondence study programs.

Proposed Regulations: The proposed regulations make several changes. First, the proposed regulations in § 690.63(a)(1) place semester, trimester, and quarter programs that have terms for different cohorts of students that start periodically (e.g., each month) in the same category as the traditional semester, trimester, or quarter programs and, thus, allow institutions with those types of programs to use the same formulas for those programs as are used for the traditional term programs. Second, the proposed regulations in § 690.63(e) would modify the calculation for programs using clock hours or credit hours without terms. The resulting calculation would determine the percentage of the academic year that would be used to determine the award amount for the payment period, considering both the hours and the weeks of instructional time in the payment period. The calculations would call for the student's scheduled award (the amount a full-time student would get for a full academic year) to be multiplied by the lesser of two fractions that represent (1) the credit or clock hours in the payment period divided by the credit or clock hours in the academic year, and (2) the weeks of instructional time in the payment period divided by the weeks of instructional time in the academic year. Third, the proposed regulations in § 690.66(a) make a similar modification to the calculation for correspondence study programs without terms.

Reasons: The formula most often used for traditional semester, trimester, or quarter credit hour programs is specified in current § 690.63(b). These programs also have the option of using the formula specified in current § 690.63(d). Under the formula in § 690.63(b), a student's Pell Grant is calculated for a payment period (a term). The formula provides for a determination of the student's enrollment status for the term and use of the Payment Schedule or Disbursement Schedule associated with that enrollment status to determine the annual amount that the student would get at that enrollment status. The annual amount is then divided by the number of terms associated with the program's academic year. For example, for a full-time student in the fall semester in a traditional semester program, the

formula calls for the Scheduled Award (the amount a full-time student would get for a full academic year) to be divided by two (the number of semesters associated with the academic year for that program). Or, for a half-time student in the fall quarter in a traditional quarter program, the formula calls for the annual amount from the half-time Disbursement Schedule to be divided by three (the number of quarters associated with the academic year for that program). Traditional term-based programs are allowed to use this formula if they meet the criteria in current § 690.63(a)(1).

Under the proposed change to § 690.63(a)(1), traditional programs would continue to be allowed to use this formula. However, several non-Federal negotiators suggested that, because certain other programs (i.e., those that start their semesters, trimesters, or quarters on a periodic (e.g., monthly) basis for different cohorts of students) are substantially similar in nature to traditional semester, trimester, or quarter programs, they also should be allowed to use this formula. These negotiators suggested that this issue be added to the negotiated rulemaking agenda, and the Committee agreed to do so. After discussion of this issue, the Committee members agreed that, if these programs meet the criteria applicable to them in proposed § 690.63(a)(1), they should be allowed to use the same formulas that traditional semester, trimester, or quarter programs are allowed to use.

The formula used for programs using credit hours without terms or clock hours is specified in current § 690.63(e). It is used for such programs regardless of the program length and it generally works well when applied to programs that are an academic year or more in length; however, a non-Federal negotiator pointed out that, for certain short programs (less than an academic year in length), application of the formula results in the student qualifying for less of an award than might be deemed appropriate based on the length of the program. For example, a student with a Scheduled Pell Grant Award of $4050, generally receives $4050 for a program that is one academic year in length (e.g., a program of 900 clock hours scheduled to be taken over a 30-week period). Such a student might expect to receive two-thirds of that Scheduled Award ($2700) for a shorter program that is two-thirds as long, e.g., a program of 600 clock hours scheduled to be taken over a 20-week period. However, currently such a student would receive only four-ninths of the Scheduled Award ($1800) instead of two-thirds of the Scheduled Award ($2700) for such a program. Therefore, the non-Federal negotiator suggested that this issue be added to the agenda, and the Committee agreed to do so.

During negotiations, it was noted that the above result occurs because of the way the current formula addresses the fact that an academic year is measured in both (credit or clock) hours and weeks of instructional time. Consider, for example, the 600-hour, 20-week program mentioned above. Even though the program is less than an academic year long, it must have a defined academic year, and we will assume here that its defined academic year is 900 clock hours and 30 weeks of instructional time. Because the definition of *academic year* includes hours and weeks, the Pell Grant formula calls for a reduction based on both factors when the program is less than an academic year in both hours and weeks. In this example, the first part of the calculation reduces the full Scheduled Award of $4050 to two-thirds of that amount ($2700) to address the fact that the program consists of only 20 weeks; and then it reduces that figure ($2700) by another two-thirds to account for the fact that the program is only 600 hours. Note that the calculations are actually performed on a payment period basis and, while the numbers here show the result for the whole program, the program would actually be divided into two payment periods, and two separate calculations—each for one-third of the program—would actually be done.

In response, the Department proposed an alternative calculation. This alternative continues to address the fact that an academic year is defined by both (credit or clock) hours and weeks of instructional time. However, the proposed calculation multiplies the student's Scheduled Award by only one of the two fractions that address reductions in program length and hours (the lesser of the two where the fractions are not the same), instead of multiplying the Scheduled Award by the two fractions sequentially. Note that while one of the two fractions used in the proposed regulations is slightly different than one of the two fractions in the current regulations, the two fractions in both the proposed and the current regulations basically attempt to account for (1) the weeks of instructional time for which the student is being paid compared to the weeks of instructional time in the academic year, and (2) the credit or clock hours for which the student is being paid compared to the credit or clock hours in the academic year. The first fraction in the current regulations was primarily designed to address course compression—that is, for example, to the extent that a one academic year program (in terms of credit or clock hours) was scheduled to be completed in fewer weeks of instructional time than was a similar program taken over the full 30 weeks in the defined academic year, the student's award was going to be reduced. However, to the extent that there would be a full complement of credit or clock hours in the program compared to the credit or clock hours in the academic year, the second fraction would not result in a further reduction. While this formula generally worked as intended for longer programs that were compressed, it ended up penalizing students in shorter programs that had not been compressed, because there would still be two reductions for those students instead of one. The first one occurred because there were fewer weeks of instructional time (even though the course had not been compressed) in the program compared to the weeks of instructional time in a full academic year, and the second one occurred because there were fewer credit or clock hours in the program compared to the credit or clock hours in a full academic year.

Using the lesser of the two fractions (where they are not the same) to determine the amount for which the student qualifies results in the student's award being reduced by the greater amount when there could be a reduction in the award to account for (1) the program having fewer hours, and (2) the program having fewer weeks of instructional time. By using the lesser of the two fractions, the proposed regulations would continue to address both of these measures. However, because a student enrolling in a shorter program will attend school for fewer weeks compared to the time the student would have attended for enrollment in a longer program (other factors such as enrollment status being equal), having sequential reductions for both of those measures reduces the student's award twice for what is really only one reason, i.e., the program is just a shorter program. Therefore, to ensure that a student's award is not subject to such a double reduction, only the greater of the two possible reductions comes into play when those reductions would not be the same. The Committee agreed with this alternative approach proposed by the Department.

Because the formula used for correspondence study programs without terms is similar to the formula used for programs using clock hours or credit hours without terms, the Department also proposed in § 690.66(a) to make a

similar modification to the calculation for correspondence study programs without terms. Part of that modification would remove the requirement that the institution prepare a written schedule for submission of lessons that reflects a workload of at least 12 hours of preparation per week to determine the length of the correspondence program, as that information is no longer needed in the new calculation. The Committee agreed to this proposal.

The Committee agreed that if the proposed changes related to calculating payments for a payment period were adopted for the Pell Grant Program, comparable changes should be adopted for the ACG and National SMART Grant programs. Therefore, proposed changes in § 691.63 that track the proposed changes in § 690.63 are also being published in this NPRM.

The following appendices will not appear in the Code of Federal Regulations:

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Appendix A to the preamble--Current Disbursement Requirements

Program Type	FFEL and Direct Loan Second disbursements	Pell Grant, ACG, National SMART Grant, FSEOG and Perkins Loan Subsequent disbursements	Exceptions to disbursing once each payment period**
Standard term credit hour program	Term*	Term	*For a single term loan period, FFEL and Direct Loan funds must be paid in two installments. Second installment paid at calendar midpoint between first and last scheduled days of class of the loan period.
Nonstandard term credit hour program (terms substantially equal in length)	Term*	Term	*For a single term loan period for the remainder of a program, FFEL and Direct Loan funds must be paid in two installments. Second installment paid at calendar midpoint between first and last scheduled days of class of the loan period.
Nonstandard term credit hour program (terms NOT substantially equal in length)	Later of • Calendar midpoint between first and last scheduled days of class of the loan period, or • Date that the student has completed half of the academic coursework in the loan period *	Term	* For a remainder of a program equal to or less than ½ an academic year, FFEL and Direct Loan funds must be paid in two installments. Second installment paid at calendar midpoint between first and last scheduled days of class of the loan period.
Clock-hour program	Later of • Calendar midpoint between first and last scheduled days of class of the loan period, or • Date that the student has completed half of the clock hours in the loan period *	Payment period: Completion of half of the clock hours in the academic year or program, as appropriate	* For a remainder of a program equal to or less than ½ an academic year, FFEL and Direct Loan funds must be paid in two installments. Second installment paid at calendar midpoint between first and last scheduled days of class of the loan period.
Nonterm credit-hour program	Later of • Calendar midpoint between first and last scheduled days of class of the loan period, or • Date that the student has completed half of the academic coursework in the loan period.*	Payment period: Completion of • Half of the number of weeks of instructional time in the academic year/program, and • Half of the number of credit hours in the academic year/program	* For a remainder of a program equal to or less than ½ an academic year, FFEL and Direct Loan funds must be paid in two installments. Second installment paid at calendar midpoint between first and last scheduled days of class of the loan period.

**FFEL and Direct Loan funds are not paid in two installments if the school is exempt under the cohort default rate exception.

Appendix B to the preamble--Proposed Disbursement Requirements

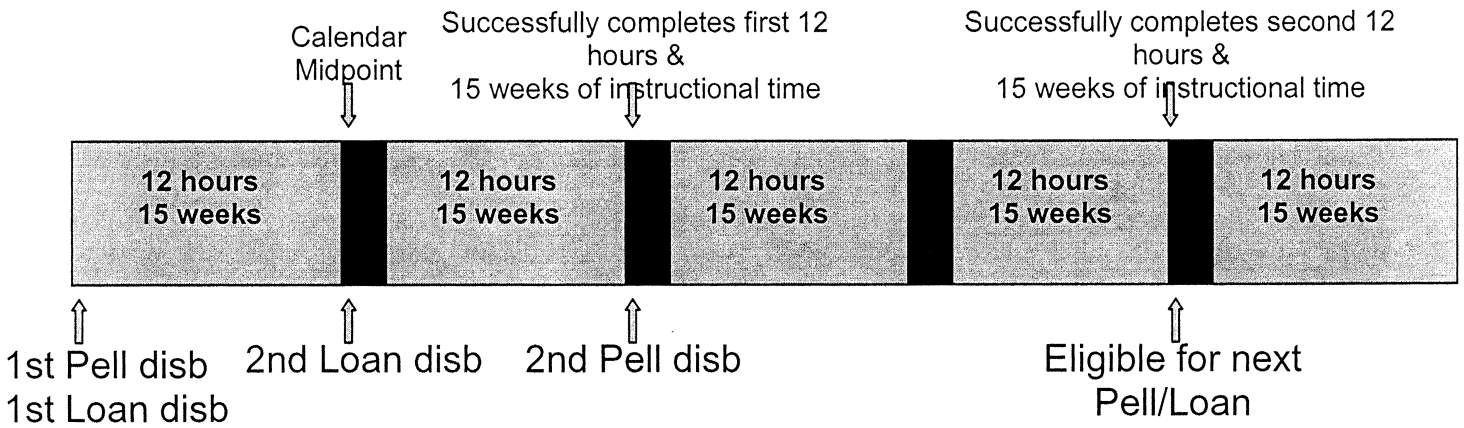
Program Type	FFEL and Direct Loan Second disbursements	Pell Grant, ACG, National SMART Grant, FSEOG and Perkins Loan Subsequent disbursements	Exceptions to disbursing once each payment period**
Standard term credit hour program	Term*	Term	*For a single term loan period, FFEL and Direct Loan funds must be paid in two installments. Second installment paid at calendar midpoint between first and last scheduled days of class of the loan period.
Nonstandard term credit hour program (terms substantially equal in length)	Term*	Term	*For a single term loan period, FFEL and Direct Loan funds must be paid in two installments. Second installment paid upon successful completion of half of the weeks of instructional time in the payment period.
Nonstandard term credit hour program (terms NOT substantially equal in length)	Payment period=Successful completion of • Half of the weeks of instructional time in the academic year/program less than an academic year; and • Half of the credit hours in the academic year/program less than an academic year For a remainder of a program equal to or less than ½ an academic year, the payment period is the remainder of the program.*	Term	* For a remainder of a program equal to or less than ½ an academic year, FFEL and Direct Loan funds must be paid in two installments. Second installment paid upon successful completion of • Half of the weeks of instructional time in the payment period; and • Half of the credit hours in the payment period
Clock-hour program and nonterm credit hour program	Payment period=Successful completion of • Half of the weeks of instructional time in the academic year/program less than an academic year; and • Half of the clock hours/credit hours in the academic year/program less than an academic year For a remainder of a program equal to or less than ½ an academic year, the payment period is the remainder of the program.*	Payment period=Successful completion of • Half of the weeks of instructional time in the academic year/program less than an academic year; and • Half of the clock hours/credit hours in the academic year /program less than an academic year. For a remainder of a program equal to or less than ½ an academic year, the payment period is the remainder of the program.	* For a remainder of a program equal to or less than ½ an academic year, FFEL and Direct Loan funds must be paid in two installments. Second installment paid upon successful completion of • Half of the weeks of instructional time in the payment period; and • Half of the clock hours/credit hours in the payment period

**FFEL and Direct Loan funds are not paid in two installments if the school is exempt under the cohort default rate exception.

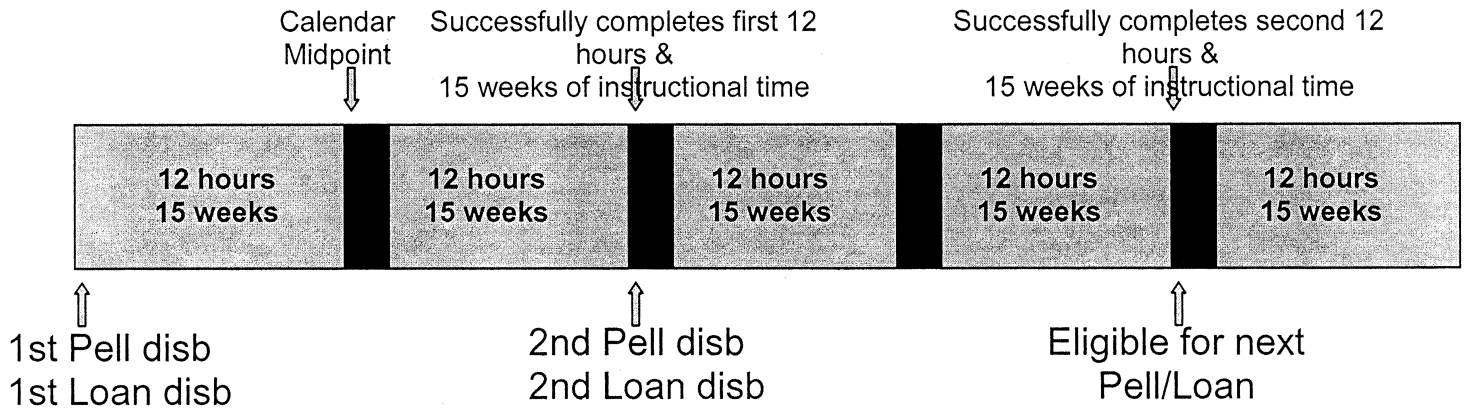
Appendix C to the preamble--Title IV disbursements--Less-than-full-time enrollment

60 credit hour nonterm program Academic Year = 24 credit hours & 30 weeks of instructional time

Half-time student--Current policy

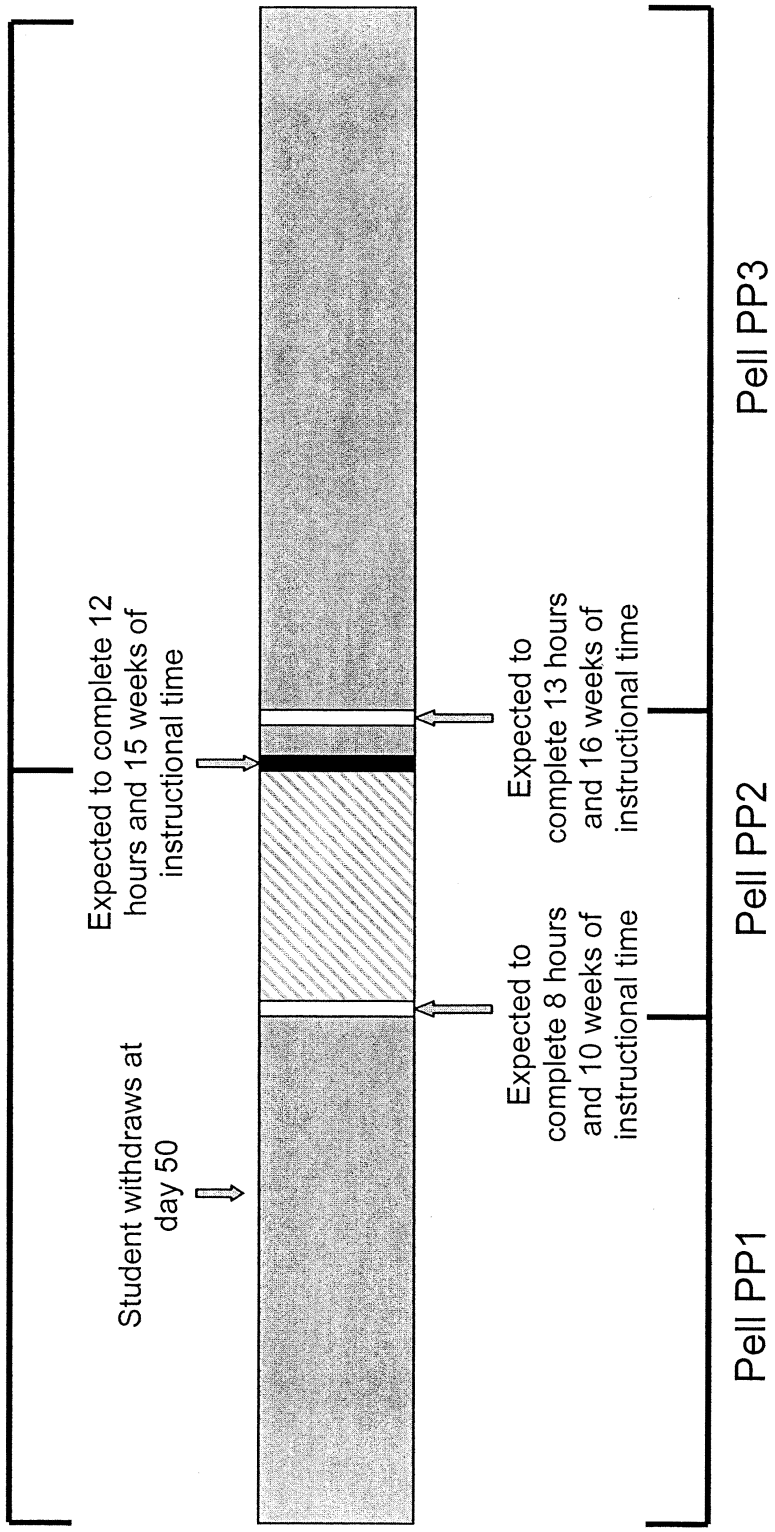


Half-time student--Proposed change



Appendix D to the preamble--Return of Title IV Funds--Payment periods for nonstandard term credit hour programs with terms not substantially equal in length

Academic Year = 24 credit hours & 30 weeks of instructional time
Length of terms: Term 1=10 weeks, Term 2=6 weeks, Term 3=14 weeks



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Executive Order 12866

1. Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether the regulatory action is ''significant'' and therefore subject to the requirements of the Executive Order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

Pursuant to the terms of the Executive Order, we determined that this proposed regulatory action will not have an annual effect on the economy of more than $100 million. Therefore, this action is not ''economically significant'' and subject to OMB review under section 3(f)(1) of Executive Order 12866. In accordance with the Executive order, the Secretary has assessed the potential costs and benefits of this regulatory action and has determined that the benefits justify the costs.

Need for Federal Regulatory Action

These proposed regulations address a broad range of issues affecting students, borrowers, schools, lenders, guaranty agencies, secondary market participants, and third-party servicers participating in the Pell Grant, FSEOG, FWS, ACG, National SMART Grant, FFEL, Direct Loan, or Perkins Loan programs. Prior to the start of negotiated rulemaking, a list of proposed regulatory changes was developed from advice and recommendations by interested parties and organizations submitted through testimony at public hearings and written comments submitted directly to the Department of Education in Washington, DC. Staff within the Office of Postsecondary Education also identified issues for discussion and negotiation.

Regulatory Alternatives Considered

A broad range of alternatives to the proposed regulations was considered as part of the negotiated rulemaking process. These alternatives are reviewed in detail under the *Reasons* sections accompanying the discussion of each proposed provision. In assessing the budgetary impact of these alternatives, the Department considered the effect of possible changes on the size or timing of Federal student aid disbursements. In all cases, the alternatives considered-which generally dealt with the consolidation or clarification of existing definitions, procedures, or processes to simplify program administration-did not have a measurable effect on Federal costs.

Benefits

Many of the proposed regulations merely consolidate current regulations, codify the Department's guidance, or make relatively minor changes intended to establish consistent definitions or streamline program operations across the various Federal student aid programs; in the absence of data to the contrary, the Department believes the additional clarity and enhanced efficiency resulting from these changes represent benefits with little or no countervailing costs or additional burden. This belief is strongly supported by the fact that the Committee reached consensus on the proposed regulations. Nonetheless, the Department is interested in comments on possible administrative burdens related to the proposed regulations.

Benefits provided in these regulations include the clarification or consolidation of regulations or definitions involving enrollment statuses, independent study for direct assessment programs, cash management rules, disbursement and payment periods, return of Title IV aid, and the calculation of Pell Grant awards.

Costs

Because entities affected by these regulations already participate in the Title IV, HEA programs, these lenders, guaranty agencies, and schools must already have established systems and procedures in place to meet program eligibility requirements. All the proposed regulations involve discrete changes in specific parameters associated with existing guidance and regulations rather than entirely new requirements. Accordingly, entities wishing to continue to participate in the Federal student aid programs have already absorbed most of the administrative costs related to implementing these proposed regulations. Marginal costs over this baseline are primarily related to one-time system changes that, while possibly significant in some cases, are an unavoidable cost of continued program participation. The Department is particularly interested in comments on possible administrative burdens related to these system or process changes.

Elsewhere in this **SUPPLEMENTARY INFORMATION** section we identify and explain burdens specifically associated with information collection requirements. See the heading *Paperwork Reduction Act of 1995*.

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf)*, in Table 1 below, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these proposed regulations. This table provides our best estimate of the changes in Federal student aid payments as a result of these proposed regulations.

TABLE 1.—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED SAVINGS

[In millions]

Category	Transfers
Annualized Monetized Transfers	$0

2. Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum on ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites 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 technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§'' and a numbered heading; for example, § 682.209 Repayment of a loan.)
- Could the description of the proposed regulations in the

''Supplementary Information'' section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?

• What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section of this preamble.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. These proposed regulations would affect institutions of higher education, lenders, and guaranty agencies that participate in Title IV, HEA programs, individual students, and loan borrowers. The U.S. Small Business Administration (SBA) Size Standards define these institutions as ''small entities'' if they are for-profit or nonprofit institutions with total annual revenue below $5,000,000 or if they are institutions controlled by governmental entities with populations below 50,000. Guaranty agencies are State and private nonprofit entities that act as agents of the Federal government, and as such are not considered ''small entities'' under the Regulatory Flexibility Act. Individuals are also not defined as ''small entities'' under the Regulatory Flexibility Act.

A significant percentage of the schools and lenders participating in the Federal student loan programs meet the definition of ''small entities.'' While these schools and lenders fall within the SBA size guidelines, the proposed regulations would not impose significant new costs on these entities.

The Secretary invites comments from small institutions and lenders participating in the Federal student loan programs as to whether they believe the proposed changes would have a significant economic impact on them and, if so, requests evidence to support that belief.

Paperwork Reduction Act of 1995

Sections 668.4, 668.10, 668.21, 668.22, 668.164, 668.165, 674.16, 676.16, 682.200, 682.603, 682.604, 685.301, and 685.303, contain information collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department has submitted a copy of these sections to OMB for its review.

Collection of Information: Student Assistance General Provisions; Perkins Loan Program; FSEOG Program; FFEL Program; and the Direct Loan Program.

Sections 668.4, 668.22, 668.164, 682.200, 682.604, 685.301—Payment Periods and Disbursements of Title IV Grant and Loan Funds

By making a number of changes to the payment period definitions and disbursement requirements, these proposed regulations would, with few exceptions, align disbursements for all Title IV grant and loan programs.

Inconsistent requirements for disbursing Title IV grant and loan funds for certain types of programs can result in a student receiving second or subsequent disbursements of his or her grant funds or Perkins Loan funds at a different point in time than second disbursements of his or her FFEL or Direct Loan funds. Changes to the regulations that would achieve greater consistency in the timing of the disbursements of Title IV grant and loan funds are proposed to reduce this burden and confusion for institutions and students.

These proposed changes include—(1) Specifying that an institution must disburse all Title IV grant and loan funds on a payment period basis; (2) requiring, generally, that an institution disburse all Title IV grant and loan funds once each payment period; (3) adding a time component to the payment period definitions for clock hour programs to make the disbursements of Title IV grant and Perkins Loan funds conform with the disbursements of FFEL and Direct Loan funds, which must, by law, include a time component; (4) using weeks of instructional time as the time component for determining all Title IV grant and loan disbursements; (5) removing the institutional option to have more than two payment periods for nonterm credit hour programs and clock hour programs; and (6) extending to clock hour programs the provision that addresses how to identify the end of a payment period when an institution is unable to determine whether a student in a nonterm credit hour program has completed half of the credit hours in a program, academic year, or remainder of a program.

We estimate that the proposed changes will decrease burden for individuals and schools. We estimate that the proposed changes will decrease burden for individuals and institutions by 3,599 hours and 14,397 hours, respectively. Thus, we estimate that these proposed regulations will reduce burden by 17,996 hours in OMB Control Number 1845–0022.

Section 668.10—Defining Independent Study for Direct Assessment Programs

These proposed regulations would add a definition of *independent study* for direct assessment programs. The new definition would identify the conditions that must exist for a student in a direct assessment program who is taking all or a portion of that program through independent study to be eligible for Title IV, HEA program assistance. For example, students who are engaged in independent study would be expected to have regular and substantive interaction with their professor to assure progress within the course or program.

In the short-term, we expect no additional burden to be associated with direct assessment programs. We are currently aware of only one institution that utilizes such programs. Therefore, this section is not subject to the Paperwork Reduction Act of 1995.

Sections 668.21, 682.604, and 685.303—Treatment of Title IV Grant and Loan Funds if a Recipient Does Not Begin Attendance

The proposed regulations would consolidate requirements for returning any Perkins Loan, FSEOG, Pell Grant, ACG, National SMART Grant, and FFEL and Direct Loan funds under § 668.21, and eliminate these requirements from §§ 682.604(d)(3) and (4) and 685.303(b)(3). The proposed regulations would hold the institution responsible for returning FFEL and Direct Loan funds disbursed or paid directly to the student, if the institution knew the student would not attend before the funds were disbursed and establishes a timeframe within which the FFEL and Direct Loan funds must be returned. Finally, the proposed regulations clarify the meaning of ''delivered'' vs. ''disbursed'' FFEL and Direct Loan funds.

The proposed changes do not increase burden for institutions, lenders, or guaranty agencies.

Section 668.22—Post-Withdrawal Disbursements of Grant Funds Directly to a Student

The proposed regulations would eliminate the current requirement that an institution notify a student who has withdrawn from school and obtain the student's permission before making a post-withdrawal disbursement of Title IV grant funds directly to the student. In addition, the proposed regulations would require the institution to make a post-withdrawal disbursement of such grant funds to the student within 30 days of the date the institution

determines that the student withdrew. The proposed changes to the requirements for direct disbursement of post-withdrawal grant proceeds would reduce burden to the institutions by eliminating a notification and confirmation process. The reduction in burden will be reflected in OMB 1845–0022.

For loan funds instead of grant funds, a change is proposed for making a post-withdrawal disbursement of Title IV loan proceeds which, although retaining the borrower notice and confirmation process in the current regulations, requires the disbursement ''as soon as possible,'' but no later than 120 days after determination of the student's withdrawal. Adding the language ''as soon as possible'' to the current 120-day limit for disbursement of post-withdrawal Title IV loan proceeds will have no affect on paperwork burden.

We estimate that the proposed changes will decrease burden for individuals and institutions by 201 hours and 302 hours, respectively. Thus, we estimate that this proposed regulation will reduce burden by 503 hours as reflected in OMB Control Number 1845–0022.

Sections 668.164(c) and 668.165(b)(1)(i)—Electronic Disbursements of Title IV Funds

The proposed regulations would modify current authorization and notification requirements related to making direct payments to a student. The proposed regulations would allow an institution to pay a student directly through expanded electronic funds transfer methods such as debit cards, stored-value cards, ATM cards or other transaction devices. We estimate that the proposed changes will decrease the burden for institutions through the ability to use expanded electronic processes for making direct payments.

We estimate that the proposed changes will decrease burden for institutions by 254,475 hours as reflected in OMB Control Number 1845–0038.

Section 668.165(a)—Loan Cancellation Notice and Affirmative Confirmation of a Loan

The proposed regulations would provide institutions the choice between active and passive confirmation of a loan. In addition, the proposed regulations would codify existing practice that an institution is not responsible for returning loans that it disbursed directly to a student. If an institution chooses active confirmation, the process is unchanged from current requirements. If an institution chooses passive confirmation of a loan, the proposed regulations change the timeframes for notice to the student, but do not substantially change the content of such notice. Therefore, we estimate that there will be no change in the burden.

Sections 682.603 and 685.301—Minimum Period for Certifying a Loan

The proposed regulations would clarify existing requirements for certifying FFEL and Direct Loans in certain situations. We believe there will be no overall change in the burden.

Sections 682.603 and 685.301—Annual Loan Limit Progression

The proposed regulations would incorporate into §§ 682.603 and 685.301 the Department's longstanding policy that provides that (1) for standard term, credit hour programs, a student regains eligibility for a new annual loan limit after the calendar period associated with the academic year has elapsed, and (2) for nonstandard term credit hour, nonterm credit hour, and all clock hour programs, a student regains eligibility for a new annual loan limit only after completing both the credit or clock hours and the weeks of instructional time in the academic year.

In addition, the proposed regulations would apply the policy for standard term, credit hour programs to nonstandard term credit hour programs with terms that are substantially equal in length and that are at least nine weeks in length regains. That is, a student enrolled in a nonstandard term, credit hour program with terms that are substantially equal in length and that are at least nine weeks in length would regain eligibility for a new annual loan limit when the calendar time associated with the academic year has elapsed. This proposed change would be consistent with final regulations published in the **Federal Register** on November 1, 2000 (65 FR 65616), which applied the same disbursement requirements to credit hour programs with standard terms and credit hour programs with nonstandard terms that are substantially equal in length. The proposed changes for §§ 682.603 and 685.301 have no effect on the burden for institutions, as they simply incorporate existing policy into the regulations. This existing burden has been approved by OMB under OMB 1845–0020.

Section 674.16 and 676.16—Single Disbursement for Perkins Loan and FSEOG Awards

The proposed regulations eliminate an exception in the regulations that allows an institution to make a single disbursement of a Perkins Loan or FSEOG award if the total amount of that loan or award for an academic year is less than $501. Eliminating the exception merely harmonizes the disbursement requirements for these programs and has no impact on burden.

Consistent with the discussion above, the following chart describes the sections of the proposed regulations involving information collections, the information being collected, and the collections the Department will submit to the Office of Management and Budget for approval and public comment under the Paperwork Reduction Act.

Regulatory section	Information collection	Collection
§ 668.4, 668.22, 668.164, 682.200, 682.604, 685.301	This proposed regulation will, with few exceptions, align disbursements for all Title IV grant and loan programs.	OMB 1845–0022
§ 668.22	This proposed regulation will eliminate the current requirement that an institution notify a student who has withdrawn from school, and receive confirmation from the student, before making a post-withdrawal disbursement of Title IV grant funds directly to the student.	OMB 1845–0022
§§ 668.164 and 688.165	This proposed regulation provides authority for an institution to pay Title IV credit balances through electronic funds transfer, debit card, stored-value card, ATM card or other device.	OMB 1845–0038

If you want to comment on the proposed information collection requirements, please send your comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for U.S. Department of

Education. Send these comments by e-mail to *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974. Commenters need only submit comments via one submission medium. You may also send a copy of these comments to the Department contact named in the **ADDRESSES** section of this preamble. We consider your comments on these proposed collections of information in—

- Deciding whether the proposed collections are necessary for the proper performance of our functions, including whether the information will have practical use;
- Evaluating the accuracy of our estimate of the burden of the proposed collections, including the validity of our methodology and assumptions;
- Enhancing the quality, usefulness, and clarity of the information we collect; and
- Minimizing the burden on those who must respond. This includes exploring 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.

OMB is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, to ensure that OMB gives your comments full consideration, it is important that OMB receives the comments within 30 days of publication. This does not affect the deadline for your comments to us on the proposed regulations.

Intergovernmental Review

These programs are not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Family Education Loan Program; 84.037 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program; 84.268 William D. Ford Federal Direct Loan Program; 84.375 Academic Competitiveness Grants; and 84.376 SMART Grants)

List of Subjects

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Parts 674 and 676

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Employment, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Parts 682 and 685

Administrative practice and procedure, Colleges and universities, Education, Loans program—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Parts 690 and 691

Colleges and universities, Elementary and secondary education, Grant programs—education, Student aid.

Dated: August 2, 2007.

Margaret Spellings,

Secretary of Education.

For the reasons discussed in the preamble, the Secretary proposes to amend parts 668, 674, 676, 682, 685, 690, and 691 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c–1, unless otherwise noted.

2. Section 668.2(b) is amended by adding, in alphabetical order, the definitions *First professional degree, Graduate or professional student*, *Half-time student*, *Three-quarter time student*, and *Undergraduate student*, and revising the definition of *Full-time student* to read as follows:

§ 668.2 General definitions.

* * * * *

(b) * * *

First professional degree: A degree that signifies both completion of the academic requirements for beginning practice in a given profession and a level of professional skill beyond that normally required for a bachelor's degree. Professional licensure is also generally required. Examples of a first professional degree include but are not limited to Pharmacy (Pharm.D.), Dentistry (D.D.S. or D.M.D.), Veterinary Medicine (D.V.M.), Chiropractic (D.C. or D.C.M.), Law (L.L.B. or J.D.), Medicine (M.D.), Optometry (O.D.), Osteopathic Medicine (D.O.), Podiatry (D.P.M., D.P., or Pod.D.), and Theology (M.Div., or M.H.L.).

(Authority: 20 U.S.C. 1082 and 1088)

Full-time student: An enrolled student who is carrying a full-time academic workload as determined by the institution under a standard applicable to all students enrolled in a particular educational program. The student's workload may include any combination of courses, work, research, or special studies that the institution considers sufficient to classify the student as a full-time student. However, for an undergraduate student, an institution's minimum standard must equal or exceed one of the following minimum requirements:

(1) For a program that measures progress in credit hours and uses standard terms (semesters, trimesters, or quarters), 12 semester hours or 12 quarter hours per academic term.

(2) For a program that measures progress in credit hours and does not use terms, 24 semester hours or 36 quarter hours over the weeks of instructional time in the academic year, or the prorated equivalent if the program is less than one academic year.

(3) For a program that measures progress in credit hours and uses nonstandard terms (terms other than semesters, trimesters or quarters) the number of credits determined by—

(i) Dividing the number of weeks of instructional time in the term by the number of weeks of instructional time in the program's academic year; and

(ii) Multiplying the fraction determined under paragraph (b)(3)(i) of

this definition by the number of credit hours in the program's academic year.

(4) For a program that measures progress in clock hours, 24 clock hours per week.

(5) A series of courses or seminars that equals 12 semester hours or 12 quarter hours in a maximum of 18 weeks.

(6) The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic workload of a full-time student.

(7) For correspondence coursework, a full-time courseload must be—

(i) Commensurate with the full-time definitions listed in paragraphs (1) through (6) of this definition; and

(ii) At least one-half of the coursework must be made up of non-correspondence coursework that meets one-half of the institution's requirement for full-time students.

(Authority: 20 U.S.C. 1082 and 1088)

Graduate or professional student: A student who—

(1) Is not receiving title IV aid as an undergraduate student for the same period of enrollment;

(2) Is enrolled in a program or course above the baccalaureate level at an institution of higher education, or is enrolled in a program leading to a first professional degree; and

(3) Has completed the equivalent of at least three academic years of full-time study at an institution of higher education, either prior to entrance into the program or as part of the program itself.

(Authority: 20 U.S.C. 1082 and 1088)

Half-time student: (1) Except as provided in paragraph (2) of this definition, an enrolled student who is carrying a half-time academic work load, as determined by the institution, that amounts to at least half of the work load of the applicable minimum requirement outlined in the definition of a full-time student.

(2) A student enrolled solely in a program of study by correspondence who is carrying a work load of at least 12 hours of work per week, or is earning at least six credit hours per semester, trimester, or quarter. However, regardless of the work, no student enrolled solely in correspondence study is considered more than a half-time student.

(Authority: 20 U.S.C. 1082 and 1088)

* * * * *

Three-quarter time student: An enrolled student who is carrying a three-quarter-time academic work load, as determined by the institution, that amounts to at least three quarters of the work of the applicable minimum requirement outlined in the definition of a full-time student.

(Authority: 20 U.S.C. 1082 and 1088)

* * * * *

Undergraduate student: (1) A student who is enrolled in an undergraduate course of study that usually does not exceed four academic years, or is enrolled in a longer program designed to lead to a first degree at the baccalaureate level. For purposes of 34 CFR 690.6(c)(5) students who have completed a baccalaureate program of study and who are subsequently completing a State-required teacher certification program are treated as undergraduates.

(2) In addition to meeting the definition in paragraph (1) of this definition, a student is only considered an undergraduate for purposes of the Federal Supplemental Educational Opportunity Grant (FSEOG) Program, the Federal Pell Grant Program, the Academic Competitiveness Grant (ACG) Program, and National Science and Mathematics Access to Retain Talent (SMART) Grant Program if the student has not yet earned a baccalaureate or first professional degree. However, for purposes of 34 CFR 690.6(c)(5) students who have completed a baccalaureate program of study and who are subsequently completing a State-required teacher certification program are treated as undergraduates.

(3) For purposes of dual degree programs that allow individuals to complete a bachelor's degree and either a graduate or first professional degree within the same program, a student is considered an undergraduate student for at least the first three academic years of that program.

(Authority: 20 U.S.C. 1082 and 1088)

* * * * *

3. Section 668.4 is revised to read as follows:

§ 668.4 Payment period.

(a) *Payment periods for an eligible program that measures progress in credit hours and uses standard terms or nonstandard terms that are substantially equal in length.* For a student enrolled in an eligible program that measures progress in credit hours and uses standard terms (semesters, trimesters, or quarters), or for a student enrolled in an eligible program that measures progress in credit hours and uses nonstandard terms that are substantially equal in length, the payment period is the academic term.

(b) *Payment periods for an eligible program that measures progress in credit hours and uses nonstandard terms that are not substantially equal in length.* For a student enrolled in an eligible program that measures progress in credit hours and uses nonstandard terms that are not substantially equal in length—

(1) For Pell Grant, ACG, National SMART Grant, FSEOG, and Perkins Loan program funds, the payment period is the academic term;

(2) For FFEL and Direct Loan program funds—

(i) For a student enrolled in an eligible program that is one academic year or less in length—

(A) The first payment period is the period of time in which the student successfully completes half of the number of credit hours in the program and half of the number of weeks of instructional time in the program; and

(B) The second payment period is the period of time in which the student successfully completes the program; and

(ii) For a student enrolled in an eligible program that is more than one academic year in length—

(A) For the first academic year and any subsequent full academic year—

(*1*) The first payment period is the period of time in which the student successfully completes half of the number of credit hours in the academic year and half of the number of weeks of instructional time in the academic year; and

(*2*) The second payment period is the period of time in which the student successfully completes the academic year;

(B) For any remaining portion of an eligible program that is more than half an academic year but less than a full academic year in length—

(*1*) The first payment period is the period of time in which the student successfully completes half of the number of credit hours in the remaining portion of the program and half of the number of weeks of instructional time remaining in the program; and

(*2*) The second payment period is the period of time in which the student successfully completes the remainder of the program; and

(C) For any remaining portion of an eligible program that is not more than half an academic year, the payment period is the remainder of the program.

(c) *Payment periods for an eligible program that measures progress in credit hours and does not have academic terms or for a program that measures progress in clock hours.*

(1) For a student enrolled in an eligible program that is one academic year or less in length—

(i) The first payment period is the period of time in which the student successfully completes half of the number of credit hours or clock hours, as applicable, in the program and half of the number of weeks of instructional time in the program; and

(ii) The second payment period is the period of time in which the student successfully completes the program or the remainder of the program.

(2) For a student enrolled in an eligible program that is more than one academic year in length—

(i) For the first academic year and any subsequent full academic year—

(A) The first payment period is the period of time in which the student successfully completes half of the number of credit hours or clock hours, as applicable, in the academic year and half of the number of weeks of instructional time in the academic year; and

(B) The second payment period is the period of time in which the student successfully completes the academic year;

(ii) For any remaining portion of an eligible program that is more than half an academic year but less than a full academic year in length—

(A) The first payment period is the period of time in which the student successfully completes half of the number of credit hours or clock hours, as applicable, in the remaining portion of the program and half of the number of weeks of instructional time remaining in the program; and

(B) The second payment period is the period of time in which the student successfully completes the remainder of the program; and

(iii) For any remaining portion of an eligible program that is not more than half an academic year, the payment period is the remainder of the program.

(3) For purposes of paragraphs (c)(1) and (c)(2) of this section, if an institution is unable to determine when a student has successfully completed half of the credit hours or clock hours in a program, academic year, or remainder of a program, the student is considered to begin the second payment period of the program, academic year, or remainder of a program at the later of the date, as determined by the institution, on which the student has successfully completed—

(i) Half of the academic coursework in the program, academic year, or remainder of the program; or

(ii) Half of the number of weeks of instructional time in the program, academic year, or remainder of the program.

(d) *Application of the cohort default rate exemption.* Notwithstanding paragraphs (a), (b), and (c) of this section, if 34 CFR 682.604(c)(10) or 34 CFR 685.301(b)(8) applies to an eligible program that measures progress in credit hours and uses nonstandard terms, an eligible program that measures progress in credit hours and does not have academic terms, or an eligible program that measures progress in clock hours, the payment period for purposes of FFEL and Direct Loan funds is the loan period for those portions of the program to which 34 CFR 682.604(c)(10) or 34 CFR 685.301(b)(8) applies.

(e) *Excused absences.* For purposes of this section, in determining whether a student successfully completes the clock hours in a payment period, an institution may include clock hours for which the student has an excused absence (i.e., an absence that a student does not have to make up) if—

(1) The institution has a written policy that permits excused absences; and

(2) The number of excused absences under the written policy for purposes of paragraph (e) of this section does not exceed the lesser of—

(i) The policy on excused absences of the institution's accrediting agency or, if the institution has more than one accrediting agency, the agency designated under 34 CFR 600.11(b);

(ii) The policy on excused absences of any State agency that licenses the institution or otherwise legally authorizes the institution to operate in the State; or

(iii) Ten percent of the clock hours in the payment period.

(f) *Re-entry within 180 days.* If a student withdraws from a program described in paragraph (c) of this section during a payment period and then reenters the same program within 180 days, the student remains in that same payment period when he or she returns and, subject to conditions established by the Secretary or by the FFEL lender or guaranty agency, is eligible to receive any title IV, HEA program funds for which he or she was eligible prior to withdrawal, including funds that were returned by the institution or student under the provisions of § 668.22.

(g) *Re-entry after 180 days or transfer.* (1) Except as provided in paragraph (g)(3) of this section, and subject to the conditions of paragraph (g)(2) of this section, an institution calculates new payment periods for the remainder of a student's program based on paragraph (c) of this section, for a student who withdraws from a program described in paragraph (c) of this section, and—

(i) Reenters that program after 180 days;

(ii) Transfers into another program at the same institution within any time period; or

(iii) Transfers into a program at another institution within any time period.

(2) For a student described in paragraph (g)(1) of this section—

(i) For the purpose of calculating payment periods only, the length of the program is the number of credit hours and the number of weeks of instructional time, or the number of clock hours and the number of weeks of instructional time, that the student has remaining in the program he or she enters or reenters; and

(ii) If the remaining hours and weeks constitute half of an academic year or less, the remaining hours constitute one payment period.

(3) Notwithstanding the provisions of paragraph (g)(1) of this section, an institution may consider a student who transfers into another program at the same institution to remain in the same payment period if—

(i) The student is continuously enrolled at the institution;

(ii) The coursework in the payment period the student is transferring out of is substantially similar to the coursework the student will be taking when he or she first transfers into the new program;

(iii) The payment periods are substantially equal in length in weeks of instructional time and credit hours or clock hours, as applicable; and

(iv) There are little or no changes in institutional charges associated with the payment period to the student.

(h) *Definitions.* For purposes of this section—

(1) Terms are *substantially equal in length* if no term in the program is more than two weeks of instructional time longer than any other term in that program; and

(2) A student *successfully completes* credit hours or clock hours if the institution considers the student to have passed the coursework associated with those hours.

(Authority: 20 U.S.C. 1070 *et seq.*)

4. Section 668.10 is amended by:

A. In paragraph (a)(3)(ii), removing the word ''or'' immediately after the figure ''668.4(a)'' and adding, in its place, the punctuation '','', and by adding the words '', or (c),'' immediately after the parenthetical ''(b)''.

B. Revising paragraph (a)(3)(iii).

C. Removing paragraphs (a)(3)(v) and (3)(vi).

The revision reads as follows:

§ 668.10 Direct Assessment Programs.

(a) * * *

(3) * * *

(iii) A week of instructional time in a direct assessment program is any seven-day period in which at least one day of educational activity occurs. Educational activity in a direct assessment program includes regularly scheduled learning sessions, faculty-guided independent study, consultations with a faculty mentor, development of an academic action plan addressed to the competencies identified by the institution, or, in combination with any of the foregoing, assessments. It does not include credit for life experience. For purposes of direct assessment programs, independent study occurs when a student follows a course of study with predefined objectives but works with a faculty member to decide how the student is going to meet those objectives. The student and faculty member agree on what the student will do (e.g., required readings, research, and work products), how the student's work will be evaluated, and on what the relative timeframe for completion of the work will be. The student must interact with the faculty member on a regular and substantive basis to assure progress within the course or program.

* * * * *

5. Section 668.21 is revised to read as follows:

§ 668.21 Treatment of title IV grant and loan funds if the recipient does not begin attendance at the institution.

(a) If a student does not begin attendance in a payment period or period of enrollment, the institution must—

(1) Return all title IV, HEA program funds that were credited to the student's account at the institution or disbursed directly to the student for that payment period or period of enrollment, for Federal Perkins Loan, FSEOG, Federal Pell Grant, ACG, and National SMART Grant program funds; and

(2) For FFEL and Direct Loan funds—

(i)(A) Return all FFEL and Direct Loan funds that were credited to the student's account at the institution for that payment period or period of enrollment; and

(B) Return the amount of payments made directly by or on behalf of the student to the institution for that payment period or period of enrollment, up to the total amount of the loan funds disbursed;

(ii) For remaining amounts of FFEL or Direct Loan funds disbursed directly to the student for that payment period or period of enrollment, the institution is not responsible for returning the funds, but must immediately notify the lender or the Secretary, as appropriate, when it becomes aware that the student will not or has not begun attendance so that the lender or Secretary will issue a final demand letter to the borrower in accordance with 34 CFR 682.412 or 34 CFR 685.211, as appropriate; and

(iii) Notwithstanding paragraph (a)(2)(ii) of this section, if an institution knew that a student would not begin attendance prior to disbursing FFEL or Direct Loan funds directly to the student for that payment period or period of enrollment (e.g., the student notified the institution that he or she would not attend, or the institution expelled the student), the institution must return those funds.

(b) The institution must return those funds for which it is responsible under paragraph (a) of this section to the respective title IV, HEA program as soon as possible, but no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance.

(c) For purposes of this section, the Secretary considers that a student has not begun attendance in a payment period or period of enrollment if the institution is unable to document the student's attendance at any class during the payment period or period of enrollment.

(d) In accordance with procedures established by the Secretary or FFEL Program lender, an institution returns title IV, HEA funds timely if—

(1) The institution deposits or transfers the funds into the bank account it maintains under § 668.163 no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance;

(2) The institution initiates an electronic funds transfer (EFT) no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance;

(3) The institution initiates an electronic transaction, no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance, that informs an FFEL lender to adjust the borrower's loan account for the amount returned; or

(4) The institution issues a check no later than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance. An institution does not satisfy this requirement if—

(i) The institution's records show that the check was issued more than 30 days after the date that the institution becomes aware that the student will not or has not begun attendance; or

(ii) The date on the cancelled check shows that the bank used by the Secretary or FFEL Program lender endorsed that check more than 45 days after the date that the institution becomes aware that the student will not or has not begun attendance.

(Authority: 20 U.S.C. 1094)

6. Section 668.22 is amended by:

A. Revising paragraph (a)(5).

B. Adding paragraph (e)(5)(iii).

The revision and addition read as follows:

§ 668.22 Treatment of title IV funds when a student withdraws.

(a) * * *

(5)(i) A post-withdrawal disbursement must be made from available grant funds before available loan funds.

(ii)(A) If outstanding charges exist on the student's account, the institution may credit the student's account up to the amount of outstanding charges with all or a portion of any—

(*1*) Grant funds that make up the post-withdrawal disbursement in accordance with § 668.164(d)(1) and (d)(2); and

(*2*) Loan funds that make up the post-withdrawal disbursement in accordance with § 668.164(d)(1), (d)(2), and (d)(3) only after obtaining confirmation from the student or parent, in the case of a parent PLUS loan, that they still wish to have the loan funds disbursed in accordance with paragraph (a)(5)(iii) of this section.

(B)(*1*) The institution must disburse directly to a student any amount of a post-withdrawal disbursement of grant funds that is not credited to the student's account. The institution must make the disbursement as soon as possible, but no later than 30 days after the date of the institution's determination that the student withdrew, as defined in paragraph (l)(3) of this section.

(*2*) The institution must offer to disburse directly to a student, or parent in the case of a parent PLUS loan, any amount of a post-withdrawal disbursement of loan funds that is not credited to the student's account, in accordance with paragraph (a)(5)(iii) of this section.

(*3*) The institution must make a direct disbursement of any loan funds that make up the post-withdrawal disbursement only after obtaining the student's, or parent's in the case of a parent PLUS loan, confirmation that the student or parent still wishes to have

the loan funds disbursed in accordance with paragraph (a)(5)(iii) of this section.

(iii)(A) The institution must provide within 30 days of the date of the institution's determination that the student withdrew, as defined in paragraph (l)(3) of this section, a written notification to the student, or parent in the case of parent PLUS loan, that—

(*1*) Requests confirmation of any post-withdrawal disbursement of loan funds that the institution wishes to credit to the student's account in accordance with paragraph (a)(5)(ii)(A)(*2*) of this section, identifying the type and amount of those loan funds and explaining that a student, or parent in the case of a parent PLUS loan, may accept or decline some or all of those funds;

(*2*) Requests confirmation of any post-withdrawal disbursement of loan funds that the student, or parent in the case of a parent PLUS loan, can receive as a direct disbursement, identifying the type and amount of these title IV funds and explaining that the student, or parent in the case of a parent PLUS loan, may accept or decline some or all of those funds;

(*3*) Explains that a student, or parent in the case of a parent PLUS loan, who does not confirm that a post-withdrawal disbursement of loan funds may be credited to the student's account may not receive any of those loan funds as a direct disbursement unless the institution concurs;

(*4*) Explains the obligation of the student, or parent in the case of a parent PLUS loan, to repay any loan funds he or she chooses to have disbursed; and

(*5*) Advises the student, or parent in the case of a parent PLUS loan, that no post-withdrawal disbursement of loan funds will be made, unless the institution chooses to make a post-withdrawal disbursement based on a late response in accordance with paragraph (a)(5)(iii)(C) of this section, if the student or parent in the case of a parent PLUS loan, does not respond within 14 days of the date that the institution sent the notification, or a later deadline set by the institution.

(B) The deadline for a student, or parent in the case of a parent PLUS loan, to accept a post-withdrawal disbursement under paragraph (a)(5)(iii)(A) of this section must be the same for both a confirmation of a direct disbursement of the post-withdrawal disbursement of loan funds and a confirmation of a post-withdrawal disbursement of loan funds to be credited to the student's account.

(C) If the student, or parent in the case of a parent PLUS loan, submits a timely response that confirms that they wish to receive all or a portion of a direct disbursement of the post-withdrawal disbursement of loan funds, or confirms that a post-withdrawal disbursement of loan funds may be credited to the student's account, the institution must disburse the funds in the manner specified by the student, or parent in the case of a parent PLUS loan, as soon as possible, but no later than 120 days after the date of the institution's determination that the student withdrew, as defined in paragraph (l)(3) of this section.

(D) If a student, or parent in the case of a parent PLUS loan, submits a late response to the institution's notice requesting confirmation, the institution may make the post-withdrawal disbursement of loan funds as instructed by the student, or parent in the case of a parent PLUS loan (provided the institution disburses all the funds accepted by the student, or parent in the case of a parent PLUS loan), or decline to do so.

(E) If a student, or parent in the case of a parent PLUS loan, submits a late response to the institution and the institution does not choose to make the post-withdrawal disbursement of loan funds, the institution must inform the student, or parent in the case of a parent PLUS loan, in writing of the outcome of the post-withdrawal disbursement request.

(F) If the student, or parent in the case of a parent PLUS loan, does not respond to the institution's notice, no portion of the post-withdrawal disbursement of loan funds that the institution wishes to credit to the student's account, nor any portion of loan funds that would be disbursed directly to the student, or parent in the case of a parent PLUS loan, may be disbursed.

(iv) An institution must document in the student's file the result of any notification made in accordance with paragraph (a)(5)(iii) of this section of the student's right to cancel all or a portion of loan funds or of the student's right to accept or decline loan funds, and the final determination made concerning the disbursement.

* * * * *

(e) * * *

(5) * * *

(iii) For a program that measures progress in credit hours and uses nonstandard terms that are not substantially equal in length, if the institution uses the payment period to determine the treatment of title IV grant or loan funds for a category of students found in paragraph (e)(5)(ii)(B) of this section, the institution must—

(A)(*1*) For students in the category who are disbursed or could have been disbursed aid using both the payment period definition in § 668.4(b)(1) and the payment period definition in § 668.4(b)(2), use the payment period during which the student withdrew that ends later; and

(*2*) If in the payment period that ends later there are funds that have been or could have been disbursed from overlapping payment periods, the institution must include in the return calculation any funds that can be attributed to the payment period that ends later; and

(B) For students in the category who are disbursed or could have been disbursed aid using only the payment period definition in § 668.4(b)(1) or the payment period definition in § 668.4(b)(2), use the payment period definition for which title IV, HEA program funds were disbursed for a student's calculation under this section.

* * * * *

7. Section 668.161 is amended by revising paragraph (b) to read as follows:

§ 668.161 Scope and purpose.

* * * * *

(b) *Federal interest in title IV, HEA program funds.* Except for funds received by an institution for administrative expenses and for funds used for the Job Location and Development Program under the FWS Programs, funds received by an institution under the title IV, HEA programs are held in trust for the intended student beneficiaries, the Secretary, or lender or a guaranty agency under the FFEL programs. The institution, as a trustee of Federal funds, may not use or hypothecate (*i.e.*, use as collateral) title IV, HEA program funds for any other purpose.

8. Section 668.164 is amended by:

A. Revising paragraphs (b), (c), and (d).

B. Revising paragraph (g)(4)(i).

C. Adding a new paragraph (h).

The revisions and addition read as follows:

§ 668.164 Disbursing funds.

* * * * *

(b) *Disbursements by payment period.* (1) Except as provided in paragraph (b)(2) of this section, an institution must disburse title IV, HEA program funds on a payment period basis. An institution must disburse title IV, HEA program funds once each payment period unless—

(i) For FFEL and Direct Loan funds, 34 CFR 682.604(c)(6)(ii) or 34 CFR 685.301(b)(3) applies; or

(ii) For FSEOG, Federal Pell Grant, ACG, and National SMART Grant funds, an institution chooses to make more

than one disbursement in each payment period in accordance with 34 CFR 676.16(a)(3), 34 CFR 690.76, or 34 CFR 691.76, as applicable.

(2) The provisions of paragraph (b)(1) of this section do not apply to the disbursement of FWS Program funds.

(3) Except as provided in paragraph (g) of this section, an institution may disburse title IV, HEA program funds to a student or parent for a payment period only if the student is enrolled for classes for that payment period and is eligible to receive those funds.

(c) *Direct payments.* (1) An institution pays a student or parent directly by—

(i) Releasing to the student or parent a check provided by a lender to the institution under the FFEL Program;

(ii) Issuing a check payable to and requiring the endorsement of the student or parent. An institution issues a check on the date that it—

(A) Mails the check to the student or parent; or

(B) Notifies the student that the check is available for immediate pickup at a specified location at the institution. The institution may hold the check for up to 21 days after the date it notifies the student. If the student does not pick up the check within this 21-day period, the institution must immediately mail the check to the student or parent, initiate an EFT to the student's or parent's bank account, or return the funds to the appropriate title IV, HEA program;

(iii) Initiating an electronic funds transfer (EFT) to a bank account designated by the student's or parent; or

(iv) Dispensing cash for which the institution obtains a signed receipt from the student or parent.

(2) For purposes of this section, ''bank account'' means an FDIC insured account such as a checking or savings account, or a similar account that underlies a stored-value card or other transaction device.

(3) An institution may request, but not require or rely on, the student or parent to open a bank account. If the institution opens a bank account on behalf of a student or parent, establishes a process the student or parent follows to open a bank account, or similarly assists the student or parent in opening a bank account, the institution must—

(i) Obtain in writing affirmative consent from the student or parent to open that account;

(ii) Before the account is opened, inform the student or parent of the terms and conditions associated with accepting and using the account;

(iii) Not make any claims against the funds in the account without the written permission of the student or parent, except for correcting an error in transferring the funds in accordance with banking protocols;

(iv) Ensure that the student or parent does not incur any cost in opening the account or initially receiving any type of debit card, stored-value card, other type of automated teller machine (ATM) card, or similar transaction device that is used to access the funds in that account;

(v) Ensure that the student has convenient access to a branch office of the bank or ATMs of the bank in which the account was opened (or ATMs of an affiliated bank), so that the student does not incur any cost in making cash withdrawals from that office or ATMs;

(vi) Ensure that the debit, stored-value or ATM card, or other device can be widely used, *e.g.*, the institution may not limit the use of the card or device to particular vendors; and

(vii) Not market or portray the account, card, or device as a credit card or credit instrument, or subsequently convert the account, card, or device to a credit card or credit instrument.

(d) *Crediting a student's account at the institution.* An institution may use title IV, HEA program funds to credit a student's account at the institution to satisfy—

(1) Current year charges for—

(i) Tuition and fees;

(ii) Board, if the student contracts with the institution for board;

(iii) Room, if the student contracts with the institution for room; and

(iv) If the institution obtains the student's or parent's authorization under § 668.165(b), other educationally related charges incurred by the student at the institution; and

(2) Prior award year charges for a total of not more than $200 for—

(i) Tuition and fees, room, or board; and

(ii) If the institution obtains the student's or parent's authorization under § 668.165(b), other educationally related charges incurred by the student at the institution.

* * * * *

(g) * * *

(4) * * *

(i) An institution may not make a late disbursement later than 180 days after the date of the institution's determination that the student withdrew, as provided in § 668.22, or for a student who did not withdraw, 180 days after the date the student otherwise becomes ineligible.

* * * * *

(h)(1) Notwithstanding any State law (such as a law that allows funds to escheat to the State), an institution must return to the Secretary, lender, or guaranty agency, as applicable, any title IV, HEA program funds that it attempts to disburse directly to a student or parent but the student or parent does not receive or negotiate those funds.

(2) If a disbursement is made by check and the check is not cashed, an institution must return those funds no later than 240 days of the initial attempt to disburse them.

(i) If a check is returned to the institution, or an EFT is rejected, the institution may, as long as it does so within 45 days of the funds being returned to the institution, make additional attempts to disburse the funds. If the institution has not made another attempt to disburse those funds, they must be returned to the Secretary, lender, or guaranty agency, as applicable, before the 45 day period ends.

(ii) All attempts to disburse the funds must end and the institution must return those funds to the Secretary, lender, or guaranty agency, as applicable, by the end of the 240-day period.

9. Section 668.165 is amended by:

A. Revising paragraph (a).

B. Revising paragraph (b)(1).

The revisions read as follows:

§ 668.165 Notices and authorizations.

(a) *Notices.* (1) Before an institution disburses title IV, HEA program funds for any award year, the institution must notify a student of the amount of funds that the student or his or her parent can expect to receive under each title IV, HEA program, and how and when those funds will be disbursed. If those funds include Direct Loan or FFEL Program funds, the notice must indicate which funds are from subsidized loans and which are from unsubsidized loans.

(2) Except in the case of a post-withdrawal disbursement made in accordance with § 668.22(a)(5), if an institution credits a student's account at the institution with Direct Loan, FFEL, or Federal Perkins Loan Program funds, the institution must notify the student or parent of—

(i) The anticipated date and amount of the disbursement;

(ii) The student's right or parent's right to cancel all or a portion of that loan or loan disbursement and have the loan proceeds returned to the holder of that loan. However, if the institution releases a check provided by a lender under the FFEL Program, the institution is not required to provide this information; and

(iii) The procedures and time by which the student or parent must notify the institution that he or she wishes to cancel the loan or loan disbursement.

(3) The institution must provide the notice described in paragraph (a)(2) of this section in writing—

(i) No earlier than 30 days before, and no later than 30 days after, crediting the student's account at the institution, if the institution obtains affirmative confirmation from the student under paragraph (a)(6)(i) of this section; or

(ii) No earlier than 30 days before, and no later than seven days after, crediting the student account at the institution, if the institution does not obtain affirmative confirmation from the student under paragraph (a)(6)(i) of this section.

(4)(i) A student or parent must inform the institution if he or she wishes to cancel all or a portion of a loan or loan disbursement.

(ii) The institution must return the loan proceeds, cancel the loan, or do both, in accordance with program regulations provided that the institution receives a loan cancellation request—

(A) The later of the first day of a payment period or 14 days after the date it notifies the student or parent of his or her right to cancel all or a portion of a loan, if the institution obtains affirmative confirmation from the student under paragraph (a)(6)(i) of this section; or

(B) Within 30 days of the date the institution notifies the student or parent of his or her right to cancel all or a portion of a loan, if the institution does not obtain affirmative confirmation from the student under paragraph (a)(6)(i) of this section.

(iii) If a student or parent requests a loan cancellation after the period set forth in paragraph (a)(4)(ii)(A) or (B) of this section, the institution may return the loan proceeds, cancel the loan, or do both, in accordance with program regulations.

(5) An institution must inform the student or parent in writing regarding the outcome of any cancellation request.

(6) For purposes of this section—

(i) Affirmative confirmation is a process under which an institution obtains written confirmation of the types and amounts of title IV, HEA program loans that a student wants for an award year before the institution credits the student's account with those loan funds; and

(ii) An institution is not required to return any loan proceeds that it disbursed directly to a student or parent.

(b) * * *

(1) If an institution obtains written authorization from a student or parent, as applicable, the institution may—

(i) Use the student's or parent's title IV, HEA program funds to pay for charges described in § 668.164(d)(2) that are included in that authorization; and

(ii) Except if prohibited by the Secretary under the reimbursement or cash monitoring payment method, hold on behalf of the student or parent any title IV, HEA program, funds that would otherwise be paid directly to the student or parent under § 668.164(e). Under this provision, the institution may issue a stored-value card or other similar device that allows the student or parent to access those funds at his or her discretion to pay for educationally related expenses.

* * * * *

10. Section 668.166 is revised to read as follows:

§ 668.166 Excess cash.

(a) *General.* (1) The Secretary considers excess cash to be any amount of title IV, HEA program funds, other than Federal Perkins Loan Program funds, that an institution does not disburse to students or parents by the end of the third business day following the date the institution—

(i) Received those funds from the Secretary; or

(ii) Deposited or transferred to its Federal account previously disbursed title IV, HEA program funds received from the Secretary, such as those resulting from award adjustments, recoveries, or cancellations.

(2) The provisions of this section do not apply to the title IV, HEA program funds that an institution receives from the Secretary under the just-in-time payment method.

(b) *Excess cash tolerances.* An institution may maintain for up to seven days an amount of excess cash that does not exceed one percent of the total amount of funds the institution drew down in the prior award year. The institution must return immediately to the Secretary any amount of excess cash over the one-percent tolerance and any amount remaining in its account after the seven-day tolerance period.

(c) *Consequences for maintaining excess cash.* Upon a finding than an institution maintains excess cash for any amount or timeframe over that allowed in the tolerance provisions in paragraph (b) of this section, the actions the Secretary may take include, but are not limited to—

(1) Requiring the institution to reimburse the Secretary for the costs the Secretary incurred in providing that excess cash to the institution; and

(2) Providing funds to the institution under the reimbursement payment method or cash monitoring payment method described in § 668.163(d) and (e), respectively.

(Authority: 20 U.S.C. 1094)

PART 674—FEDERAL PERKINS LOAN PROGRAM

11. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087hh and 20 U.S.C. 421–429 unless otherwise noted.

§ 674.2 [Amended]

12. Section 674.2 is amended by:

A. In paragraph (a), adding to its list, in alphabetical order, the terms *Graduate or professional student, Half-time student,* and *Undergraduate student.*

B. In paragraph (b), removing the definitions for *Graduate or professional student, Half-time graduate or professional student, Half-time Undergraduate student,* and *Undergraduate student.*

§ 674.16 [Amended]

13. Section 674.16 is amended by removing paragraph (g) and redesignating paragraphs (h) and (i) as paragraphs (g) and (h), respectively.

PART 676—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

14. The authority citation for part 676 continues to read as follows:

Authority: 20 U.S.C. 1070b–1070b–3, unless otherwise noted.

§ 676.2 [Amended]

15. Section 676.2 is amended by:

A. In paragraph (a), adding to its list, in alphabetical order, the term *Undergraduate student.*

B. In paragraph (b), removing the definition for *Undergraduate student.*

§ 676.16 [Amended]

16. Section 676.16 is amended by removing paragraph (e) and redesignating paragraph (f) as paragraph (e).

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

17. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

18. Section 682.200 is amended by:

A. In paragraph (a)(1), adding to its list, in alphabetical order, the terms *Graduate and professional student, Half-time student,* and *Undergraduate student.*

B. In paragraph (b), removing the definitions for *Graduate or professional student, Half-time student,* and *Undergraduate student* and revising the definition of *Period of Enrollment.*

The revision reads as follows:

§ 682.200 Definitions.

* * * * *

(b) * * *

Period of enrollment. The period for which a Stafford, SLS, or PLUS loan is intended. The period of enrollment must coincide with a *bona fide* academic term established by the school for which institutional charges are generally assessed (*e.g.*, semester, trimester, or quarter in weeks of instructional time, length of the student's program in weeks of instructional time or academic year). The period of enrollment is also referred to as the loan period.

* * * * *

§ 682.207 [Amended]

19. Section 682.207(e) is amended by removing the parenthetical ''(10)'' and adding, in its place, the parenthetical ''(8)''.

§ 682.208 [Amended]

20. Section 682.208(f)(1)(iii)(A) is amended by removing the figure ''§ 682.604(d)(4)'' and adding, in its place, the figure ''34 CFR 668.21(a)(2)(ii)''.

21. Section 682.603 is amended by:

A. Revising paragraph (f)(1).

B. Redesignating paragraphs (g), (h), and (i) as paragraphs (h), (i), and (j), respectively.

C. Adding a new paragraph (g).

D. In the introductory text of newly redesignated paragraph (h)(1) and the text of newly redesignated paragraph (h)(2), removing the parenthetical ''(10)'' and adding, in its place, the parenthetical ''(8)''.

The revision and addition read as follows:

§ 682.603 Certification by a participating school in connection with a loan application.

* * * * *

(f)(1)(i) The minimum period of enrollment for which a school may certify a loan application is—

(A) At a school that measures academic progress in credit hours and uses a semester, trimester, or quarter system, or has terms that are substantially equal in length with no term less than nine weeks in length, a single term (e.g., a semester or quarter); or

(B) Except as provided in paragraphs (f)(1)(ii) or (iii) of this section, at a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system and does not have terms that are substantially equal in length with no term less than nine weeks in length, the lesser of—

(*1*) The length of the student's program (or the remaining portion of that program if the student has less than the full program remaining) at the school; or

(*2*) The academic year as defined by the school in accordance with 34 CFR 668.3.

(ii) For a student who transfers into a school with credit or clock hours from another school, and the prior school certified or originated a loan for a period of enrollment that overlaps the period of enrollment at the new school, the new school may certify a loan for the remaining portion of the program or academic year. In this case the school may certify a loan for an amount that does not exceed the remaining balance of the student's annual loan limit.

(iii) For a student who completes a degree program at a school, where the student's last loan to complete that program had been for less than an academic year, and the student then begins a new degree program at the same school, the school may certify a loan for the remainder of the academic year. In this case the school may certify a loan for an amount that does not exceed the remaining balance of the student's annual loan limit at the loan level associated with the new program.

* * * * *

(g)(1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or nonstandard terms that are substantially equal in length, and each term is at least nine weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of paragraphs (g)(1) and (g)(2) of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

* * * * *

22. Section 682.604 is amended by:

A. Revising paragraph (c)(6).

B. Removing paragraphs (c)(7) and (c)(8).

C. Redesignating paragraphs (c)(9), (c)(10), and (c)(11) as paragraphs (c)(7), (c)(8), and (c)(9), respectively.

D. In newly redesignated paragraph (c)(9), removing the parenthetical ''(g)'' and adding, in its place, the parenthetical ''(h)''.

E. Revising paragraph (d)(3).

F. Removing paragraph (d)(4).

The revisions read as follows:

§ 682.604 Processing the borrower's loan proceeds and counseling borrowers.

* * * * *

(c) * * *

(6) Unless the provision of § 682.207(d) applies—

(i) If a loan period is more than one payment period, the school must deliver loan proceeds at least once in each payment period; and

(ii) If a loan period is one payment period, the school must make at least two deliveries of loan proceeds during that payment period. The school may not make the second delivery until the student successfully completes half of the number of credit hours or clock hours and half of the number of weeks of instructional time in the payment period.

* * * * *

(d) * * *

(3) If a student does not begin attendance in the period of enrollment—

(i) Disbursed loan proceeds must be handled in accordance with 34 CFR 668.21; and

(ii) Undelivered loan funds held by the school must be handled in accordance with 34 CFR 668.167.

* * * * *

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

23. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et. seq.*, unless otherwise noted.

24. Section 685.102 is amended by:

A. In paragraph (a)(1), adding to its list, in alphabetical order, the terms *Full-time student, Graduate or professional student, Half-time student,* and *Undergraduate student.*

B. In paragraph (a)(3), removing from its list, the terms *Full-time student, Graduate or professional student,* and *Undergraduate student.*

C. In paragraph (b), removing the definition of *Half-time student* and revising the definition of *Period of enrollment.*

The revision reads as follows:

§ 685.102 Definitions.

* * * * *

(b) * * *

Period of enrollment: The period for which a Direct Subsidized, Direct Unsubsidized, or Direct PLUS Loan is intended. The period of enrollment must coincide with one or more academic terms established by the school (such as semester, trimester, quarter in weeks of instructional time; academic year; and length of the program of study in weeks of instructional time), for which institutional charges are generally assessed. The period of enrollment is also referred to in this part as the loan period.

* * * * *

25. Section 685.301 is amended by:

A. Redesignating paragraph (a)(9)(ii) as paragraph (a)(9)(iv).

B. Revising paragraph (a)(9)(i).

C. Adding new paragraphs (a)(9)(ii) and (iii).

D. Revising paragraphs (b)(2) and (b)(3).

E. Removing paragraphs (b)(5) and (b)(6).

F. Redesignating paragraphs (b)(7) and (b)(8) as paragraphs (b)(5) and (b)(6), respectively.

G. Redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively.

H. Adding a new paragraph (c).

The revisions and additions read as follows:

§ 685.301 Origination of a loan by a Direct Loan Program school.

(a) * * *

(9)(i) The minimum period of enrollment for which a school may originate a Direct Loan application is—

(A) At a school that measures academic progress in credit hours and uses a semester, trimester, or quarter system, or has terms that are substantially equal in length with no term less than nine weeks in length, a single academic term (e.g., a semester or quarter); or

(B) Except as provided in paragraph (a)(9)(ii) or (iii) of this section, at a school that measures academic progress in clock hours, or measures academic progress in credit hours but does not use a semester, trimester, or quarter system and does not have terms that are substantially equal in length with no term less than nine weeks in length, the lesser of—

(*1*) The length of the student's program (or the remaining portion of that program if the student has less than the full program remaining) at the school; or

(*2*) The academic year as defined by the school in accordance with 34 CFR 668.3.

(ii) For a student who transfers into a school with credit or clock hours from another school, and the prior school originated or certified a loan for a period of enrollment that overlaps the period of enrollment at the new school, the new school may originate a loan for the remaining portion of the program or academic year. In this case the school may originate a loan for an amount that does not exceed the remaining balance of the student's annual loan limit.

(iii) For a student who completes a degree program at a school, where the student's last loan to complete that program had been for less than an academic year, and the student then begins a new degree program at the same school, the school may originate a loan for the remainder of the academic year. In this case the school may originate a loan for an amount that does not exceed the remaining balance of the student's annual loan limit at the loan level associated with the new program.

* * * * *

(b) * * *

(2) An institution must disburse the loan proceeds on a payment period basis in accordance with 34 CFR 668.164(b).

(3) Unless paragraphs (b)(4) or (b)(8) of this section applies—

(i) If a loan period is more than one payment period, the school must disburse loan proceeds at least once in each payment period; and

(ii) If a loan period is one payment period, the school must make at least two payments during that payment period. The school may not make the second payment until the student successfully completes half of the number of credit hours or clock hours and half of the number of weeks of instructional time in the payment period.

* * * * *

(c) *Annual loan limit progression based on completion of an academic year.* (1) If a school measures academic progress in an educational program in credit hours and uses either standard terms (semesters, trimesters, or quarters) or nonstandard terms that are substantially equal in length, and each term is at least nine weeks of instructional time in length, a student is considered to have completed an academic year and progresses to the next annual loan limit when the academic year calendar period has elapsed.

(2) If a school measures academic progress in an educational program in nonstandard terms that are not substantially equal in length or each term is not at least nine weeks of instructional time in length, or in credit hours and does not have academic terms, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the academic coursework in the student's academic year.

(3) If a school measures academic progress in an educational program in clock hours, a student is considered to have completed an academic year and progresses to the next annual loan limit at the later of—

(i) The student's completion of the weeks of instructional time in the student's academic year; or

(ii) The date, as determined by the school, that the student has successfully completed the clock hours in the student's academic year.

(4) For purposes of paragraphs (c)(1) and (c)(2) of this section, terms in a loan period are substantially equal in length if no term in the loan period is more than two weeks of instructional time longer than any other term in that loan period.

* * * * *

26. Section 685.303 is amended by revising paragraph (b)(3) to read as follows:

§ 685.303 Processing loan proceeds.

* * * * *

(b) * * *

(3) If a student does not begin attendance in the period of enrollment, disbursed loan proceeds must be

handled in accordance with 34 CFR 668.21.

* * * * *

PART 690—FEDERAL PELL GRANT PROGRAM

27. The authority citation for part 690 continues to read as follows:

Authority: 20 U.S.C. 1070a, unless otherwise noted.

§ 690.2 [Amended]

28. Section 690.2 is amended by:

A. In paragraph (b), adding to its list, in alphabetical order, the terms *Half-time student*, *Three-quarter-time student*, and *Undergraduate student*.

B. In paragraph (c), removing the definitions for *Half-time student*, *Less-than-half-time student*, *Three-quarter-time student*, and *Undergraduate student*.

29. Section 690.63 is amended by revising paragraphs (a)(1) and (e) to read as follows:

§ 690.63 Calculation of a Federal Pell Grant for a payment period.

(a)(1) Programs using standard terms with at least 30 weeks of instructional time. A student's Federal Pell Grant for a payment period is calculated under paragraphs (b) or (d) of this section if—

(i) The student is enrolled in an eligible program that—

(A) Measures progress in credit hours;

(B) Is offered in semesters, trimesters, or quarters; and

(C) Requires the student to enroll for at least 12 credit hours in each term in the award year to qualify as a full-time student; and

(ii) The program uses an academic calendar that provides at least 30 weeks of instructional time in—

(A) Two semesters or trimesters in the fall through the following spring, or three quarters in the fall, winter, and spring, none of which overlaps any other term (including a summer term) in the program; or

(B) Any two semesters or trimesters, or any three quarters where—

(*1*) The institution starts its terms for different cohorts of students on a periodic basis (e.g., monthly);

(*2*) The program is offered exclusively in semesters, trimesters, or quarters; and

(*3*) Students are not allowed to be enrolled simultaneously in overlapping terms and must stay with the cohort in which they start unless they withdraw from a term (or skip a term) and re-enroll in a subsequent term.

* * * * *

(e) *Programs using credit hours without terms or clock hours.* The Federal Pell Grant for a payment period for a student in a program using credit hours without terms or using clock hours is calculated by—

(1) Determining the student's Scheduled Federal Pell Grant using the Payment Schedule; and

(2) Multiplying the amount determined under paragraph (e)(1) of this section by the lesser of—

(i)

$$\frac{\text{The number of credit or clock hours in the payment period}}{\text{The number of credit or clock hours in the program's academic year}}$$

; or

(ii)

$$\frac{\text{The number of weeks of instructional time in the payment period}}{\text{The number of weeks of instructional time in the program's academic year}}$$

* * * * *

30. Section 690.66 is amended by revising paragraph (a) to read as follows:

§ 690.66 Correspondence study.

(a) An institution calculates the Federal Pell Grant for a payment period for a student in a program of study offered by correspondence courses without terms, but not including any residential component, by—

(1) Determining the student's annual award using the half-time Disbursement Schedule; and

(2) Multiplying the annual award determined from the Disbursement Schedule for a half-time student by the lesser of—

(i)

$$\frac{\text{The number of credit hours in the payment period}}{\text{The number of credit hours in the program's academic year}}$$

; or

(ii)

$$\frac{\text{The number of weeks of instructional time in the payment period}}{\text{The number of weeks of instructional time in the program's academic year}}$$

* * * * *

PART 691—ACADEMIC COMPETITIVENESS GRANT (ACG) AND NATIONAL SCIENCE AND MATHEMATICS ACCESS TO RETAIN TALENT GRANT (NATIONAL SMART GRANT) PROGRAMS

31. The authority citation for part 691 continues to read as follows:

Authority: 20 U.S.C. 1070a–1, unless otherwise noted.

§ 691.2 [Amended]

32. Section 691.2 is amended by:

A. In paragraph (b), adding to its list, in alphabetical order, the term *Undergraduate student.*

B. In paragraph (d), removing the definition for *Undergraduate student***.**

§ 691.8 [Amended]

33. Section 691.8 is amended by removing paragraph (c).

34. Section 691.63 is amended by revising paragraphs (a)(1) and (e) to read as follows:

§ 691.63 Calculation of a grant for a payment period.

(a)(1) *Programs using standard terms with at least 30 weeks of instructional time.* A student's grant for a payment period is calculated under paragraphs (b) or (d) of this section if —

(i) The student is enrolled in an eligible program that—

(A) Measures progress in credit hours;

(B) Is offered in semesters, trimesters, or quarters; and

(C) Requires the student to enroll for at least 12 credit hours in each term in the award year to qualify as a full-time student; and

(ii) The program uses an academic calendar that provides at least 30 weeks of instructional time in—

(A) Two semesters or trimesters in the fall through the following spring, or three quarters in the fall, winter, and spring, none of which overlaps any other term (including a summer term) in the program; or

(B) Any two semesters or trimesters, or any three quarters where—

(*1*) The institution starts its terms for different cohorts of students on a periodic basis (e.g., monthly);

(*2*) The program is offered exclusively in semesters, trimesters, or quarters; and

(*3*) Students are not allowed to be enrolled simultaneously in overlapping terms and must stay with the cohort in which they start unless they withdraw from a term (or skip a term) and re-enroll in a subsequent term.

* * * * *

(e) *Programs using credit hours without terms or clock hours.* The grant for a payment period for a student in a program using credit hours without terms or using clock hours is calculated by—

(1) Determining that the student is attending at least full-time;

(2) Determining the student's ACG or National SMART Grant Scheduled Award; and

(3) Multiplying the ACG or National SMART Grant amount determined under paragraph (e)(2) of this section by the lesser of—

(i)

$$\frac{\text{The number of credit or clock hours in the payment period}}{\text{The number of credit or clock hours in the program's academic year}}$$

; or

(ii)

$$\frac{\text{The number of weeks of instructional time in the payment period}}{\text{The number of weeks of instructional time in the program's academic year}}$$

* * * * *

[FR Doc. E7–15314 Filed 8–7–07; 8:45 am]

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Federal Register

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August 8, 2007

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Airplane Performance and Handling Qualities in Icing Conditions; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2005–22840; Amendment No. 25–121]

RIN 2120–AI14

Airplane Performance and Handling Qualities in Icing Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action introduces new airworthiness standards to evaluate the performance and handling characteristics of transport category airplanes in icing conditions. This action will improve the level of safety for new airplane designs when operating in icing conditions, and harmonizes the U.S. and European airworthiness standards for flight in icing conditions.

DATES: This final rule becomes effective October 9, 2007.

FOR FURTHER INFORMATION CONTACT: Don Stimson, FAA, Airplane & Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone: (425) 227–1129; fax: (425) 227–1149, e-mail: *don.stimson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

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

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

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

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

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

Small Business Regulatory Enforcement Fairness Act

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

Authority for This Rulemaking

The FAA's authority to issue rules regarding 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 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. This regulation is within the scope of that authority because it prescribes new safety standards for the design of transport category airplanes.

I. Background

A. Statement of the Problem

Currently, § 25.1419, ''Ice protection,'' requires transport category airplanes with approved ice protection features be capable of operating safely within the icing conditions identified in appendix C of part 25. This section requires applicants to perform flight testing and conduct analyses to make this determination. Section 25.1419 only requires an applicant to demonstrate that the airplane can operate safely in icing conditions if the applicant is seeking to certificate ice protection features.

Although an airplane's performance capability and handling qualities are important in determining whether an airplane can operate safely, part 25 does not have specific requirements on airplane performance or handling qualities for flight in icing conditions. In addition, the FAA does not have a standard set of criteria defining what airplane performance capability and handling qualities are needed to be able to operate safely in icing conditions. Finally, § 25.1419 fails to address certification approval for flight in icing conditions for airplanes without ice protection features.

Service history shows that flight in icing conditions may be a safety risk for transport category airplanes. We found nine accidents since 1983 in the National Transportation Safety Board's accident database that may have been prevented if this rule had been in effect. In evaluating the potential for this rulemaking to avoid future accidents, we considered only past accidents involving tailplane stall or potential airframe ice accretion effects on drag or controllability. We did not consider accidents related to ground deicing since this amendment does not change the ground deicing requirements. We also limited our search to accidents involving aircraft certificated to the icing standards of part 25 (or its predecessor).

B. NTSB Recommendations

This amendment addresses the following National Transportation Safety Board (NTSB) safety recommendations related to airframe icing:[1]

1. NTSB Safety Recommendation A–91–087 [2] recommended requiring flight tests where ice is accumulated in those cruise and approach flap configurations in which extensive exposure to icing conditions can be expected, and requiring subsequent changes in configuration to include landing flaps. This safety recommendation resulted from an accident that was attributed to tailplane stall due to ice contamination.

This amendment requires applicants to investigate the susceptibility of airplanes to ice-contaminated tailplane stall during airworthiness certification. An accompanying Advisory Circular (AC) will provide detailed guidance on acceptable means of compliance, including flight tests in icing conditions where the airplane's configuration is changed from flaps and landing gear retracted to flaps and landing gear in the landing position.

[1] Refer to appendix 3 of the NPRM for more details on these safety recommendations (except for A–96–056, which was not discussed in the NPRM).

[2] ''Effect of Ice on Aircraft Handling Characteristics (1984 Trials),'' Jetstream 31—G–JSSD, British Aerospace Flight Test Report FTR.177/JM, dated May 13, 1985.

2. NTSB Safety Recommendation A–96–056 [3] recommended revising the icing certification testing regulation to ensure that airplanes are properly tested for all conditions in which they are authorized to operate, or are otherwise shown to be capable of safe flight into such conditions. Additionally, if safe operations cannot be demonstrated by the manufacturer, operational limitations should be imposed to prohibit flight in such conditions and flightcrews should be provided with the means to positively determine when they are in icing conditions that exceed the limits for aircraft certification.

This amendment partially addresses safety recommendation A–96–056 by revising the certification standards to ensure that transport category airplanes are properly tested for the critical icing conditions defined in appendix C of part 25. We are considering future rulemaking action to address icing conditions beyond those covered by appendix C of part 25, and to provide flightcrews with a means to positively determine when they are in icing conditions that exceed the limits for aircraft certification.

3. NTSB Safety Recommendation A–98–094 [4] recommended that manufacturers of all turbine-engine driven airplanes (including the EMB–120) provide minimum maneuvering airspeed information for all airplane configurations, phases, and conditions of flight (icing and non-icing conditions). Also, the NTSB recommended that minimum airspeeds should take into consideration the effects of various types, amounts, and locations of ice accumulations, including thin amounts of very rough ice, ice accumulated in supercooled large droplet icing conditions, and tailplane icing.

This amendment partially addresses safety recommendation A–98–094 by requiring the same maneuvering capability requirements at the minimum operating speeds in the most critical icing conditions defined in appendix C of part 25 as are currently required in non-icing conditions. We are considering future rulemaking action to address supercooled large droplet icing conditions.

4. NTSB Safety Recommendation A–98–096 is also a result of the same accident discussed under Safety Recommendation A–98–094, above. The NTSB recommended the FAA require, during type certification, that manufacturers and operators of all transport category airplanes certificated to operate in icing conditions install stall warning/protection systems that provide a cockpit warning (aural warning and/or stick shaker) before the onset of stall when the airplane is operating in icing conditions.

This amendment requires adequate stall warning margin to be shown with the most critical ice accretion for transport category airplanes approved to fly in icing conditions. Except for the short time before icing conditions are recognized and the ice protection system activated, this stall warning must be provided by the same means as for non-icing conditions. Although neither an aural stall warning or stick shaker is required under this amendment, all recently certificated transport category airplanes have used either a stick shaker or an aural warning to warn the pilot of an impending stall. We do not anticipate any future transport category airplane designs without a cockpit warning of an impending stall.

C. Summary of the NPRM

This amendment is based on the notice of proposed rulemaking (NPRM), Notice No. 05–10, which was published in the **Federal Register** on November 4, 2005 (70 FR 67278). In the NPRM, we proposed to revise the airworthiness standards for type certification of transport category airplanes to add a comprehensive set of new requirements for airplane performance and handling qualities for flight in icing conditions. We also proposed to add requirements that define the ice accretion (that is, the size, shape, location, and texture of the ice) that must be considered for each phase of flight.

These changes were proposed to ensure that minimum operating speeds determined during certification of all future transport category airplanes will provide adequate maneuver capability in icing conditions for all phases of flight and all airplane configurations. They would also harmonize the FAA's regulations with those expected to be adopted by the European Aviation Safety Agency (EASA). This harmonization would not only benefit the aviation industry economically, but also maintain the necessary high level of aviation safety.

II. Discussion of the Final Rule

A. General Summary

Twelve commenters responded to the NPRM: Four private citizens, Airbus Industrie (Airbus), the Air Line Pilots Association (ALPA), The Boeing Company (Boeing), Dassault Aviation (Dassault), the General Aviation Manufacturers Association (GAMA), the National Transportation Safety Board (NTSB), Raytheon Aircraft Company (Raytheon), and the United Kingdom Civil Aviation Authority (U.K. CAA).

Seven of these commenters explicitly expressed support for the rule, none opposed it. Many of the commenters suggested specific improvements or clarifications. Summaries of their comments and our responses (including explanations of changes to the final rule in response to the comments) are provided below.[5]

1. Engine Bleed Configuration for Showing Compliance With § 25.119

The proposed § 25.119 would require applicants to comply with the landing climb performance requirements in both icing and non-icing conditions. Raytheon stated that proposed § 25.119(b) is unclear as to whether the engine bleed configuration for showing compliance should include bleed extraction for operation of the airframe and engine ice protection systems (IPS). Raytheon pointed out that engine bleed extraction for operating the airframe and engine IPS could affect engine acceleration time, which would affect the thrust level used for showing compliance. Raytheon noted that the means of compliance in the proposed AC addresses this issue, but recommended that it be clarified within the rule.

While we agree that engine bleed extraction could affect the thrust level used to show compliance with § 25.119(b), we disagree that the rule needs to be revised to state the bleed configuration. For flight in icing conditions, § 25.21(g)(1) requires compliance to be shown assuming normal operation of the airplane and its IPS in accordance with the operating limitations and operating procedures established by the applicant and provided in the Airplane Flight Manual (AFM). The bleed configuration of the engines would be part of the AFM operating procedures that must be used to show compliance with § 25.119(b). As noted by Raytheon, the guidance provided in the AC accompanying this final rule reminds applicants that the

[3] National Transportation Safety Board, 1996. ''In-Flight Icing Encounter and Loss of Control, Simmons Airlines, d.b.a.American Eagle Flight 4184, Avions de Transport Regional (ATR) Model 72–212, N401AM, Roselawn, Indiana, October 31, 1994.'' Aircraft Accident Report NTSB/AAR–96/01. Washington, DC.

[4] National Transportation Safety Board, 1998. ''In-Flight Icing Encounter and Uncontrolled Collision With Terrain, Comair Flight 3272, Embraer EMB–120RT, N265CA, Monroe, Michigan, January 9, 1997.'' Aircraft Accident Report NTSB/AR–98/04. Washington, DC.

[5] The full text of each commenter's submission is available in the Docket.

engine bleed configuration should be considered when showing compliance with the requirements of this final rule.

2. Using the Landing Ice Accretion To Comply With § 25.121(d)(2)(ii)

Boeing proposed using the landing ice accretion for showing compliance with the approach climb gradient requirement in icing conditions, rather than the holding ice accretion as proposed in § 25.121(d)(2)(ii). Boeing recommended this change to harmonize with EASA's proposed rule.

We consider it inappropriate to use the landing ice accretion for compliance with § 25.121(d). Section 25.121(d) specifies the minimum climb capability, in terms of a climb gradient, that an airplane must be capable of achieving in the approach configuration with one engine inoperative. This requirement involves the approach phase of flight, which occurs before entering the landing phase. Depending on the IPS design and the procedures for its use, the landing ice accretion (which is defined as the ice accretion after exiting the holding phase and transitioning to the landing phase) may be smaller than the holding ice accretion. For example, there may be a procedure to use the IPS to remove the ice when transitioning to the landing phase so that the protected areas are clear of ice for landing. It would be inappropriate to allow any reduction in the ice accretion to be used for the approach climb gradient (in the approach phase) resulting from using the IPS in the landing phase.

We note that neither EASA's Notice of Proposed Amendment (NPA) covering the same icing-related safety issues (NPA 16/2004) nor our NPRM define an ice accretion specific to the approach phase of flight. Both proposals used holding ice for compliance in icing conditions because holding ice was considered to be conservative for this flight phase. Therefore, we believe that it is appropriate to define an additional ice accretion that would be specifically targeted at the approach phase of flight. We have added the following definition as paragraph (a)(5) in part II of appendix C:

''Approach ice is the critical ice accretion on the unprotected parts of the airplane, and any ice accretion on the protected parts appropriate to normal IPS operation following exit from the holding flight phase and transition to the most critical approach configuration.''

Section 25.121(d)(2)(ii) is also revised to refer to this definition. The definition of landing ice is revised to be the ice accretion after exiting from the approach phase (rather than after the holding phase as proposed) and redesignated as paragraph (a)(6).

Finally, applicants would still have the option to use a more conservative ice accretion in accordance with paragraph (b) of part II of appendix C. Therefore, applicants would have the option of using the holding ice accretion as proposed in the NPRM if it was more critical than the approach ice accretion.

3. V_{REF} Comparison at Maximum Landing Weight

Proposed § 25.125(a)(2) would require landing distances to be determined in icing conditions if the landing approach speed, V_{REF}, for icing conditions exceeds V_{REF} for non-icing conditions by more than 5 knots calibrated airspeed. Boeing proposed that the V_{REF} speed comparison for icing and non-icing conditions in proposed § 25.125(a)(2) be made at the maximum landing weight. This proposal would harmonize the FAA's rule with the expected EASA final rule. Boeing also stated that the proposed rule was deficient in that it did not specify the weight or weights at which this comparison must be made. The results of this comparison can depend on the weight at which the comparison is made.

We agree that this comparison should be made at the maximum landing weight and have revised § 25.125(a)(2) of the final rule accordingly. We consider this to be a clarifying change that will not impose an additional burden on applicants.

4. Landing Distance in Icing Conditions

As noted in the discussion of the previous comment, proposed § 25.125(a)(2) would require the landing distance to be determined in icing conditions if the landing approach speed, V_{REF}, for icing conditions exceeds the non-icing V_{REF} by more than 5 knots calibrated airspeed. An increase in V_{REF} for icing conditions is normally caused by an increase in stall speed in icing conditions because V_{REF} must be at least 1.23 times the stall speed.

Raytheon noted that a change in stall speed is not the only factor that might affect landing distance in icing conditions. For example, idle thrust might be adjusted by an engine control system designed to maintain sufficient bleed flow to support the demands of engine and airframe ice protection. Also, landing procedures for icing conditions might be different than for non-icing conditions. Raytheon suggested revising proposed § 25.125(a)(2) to require that the landing distance must also be determined in icing conditions if the thrust settings or landing procedures used in icing conditions would cause an increase in the landing distance.

One of the primary safety concerns addressed by proposed § 25.125 is to maintain a minimum speed margin above the stall speed for an approach and landing in icing conditions. This is achieved by increasing the landing approach speed (V_{REF}) if ice on the airplane results in a significant increase in stall speed. Under proposed § 25.125(b)(2)(ii)(B), a significant increase in stall speed relative to this requirement is one that results in an increase in V_{REF} of more than 5 knots calibrated airspeed, where V_{REF} is not less than 1.23 times the stall speed.

An increase in V_{REF} will increase the distance required by the airplane to land and come to a stop since the airplane will touch down at a higher speed. A significant increase in stall speed in the landing configuration due to ice has a secondary effect of increasing the required landing distance. We proposed in § 25.125(a)(2) that this increase in landing distance be taken into account. Proposed § 25.125(a)(2) resulted from the secondary effect of a significant increase in stall speed in the landing configuration due to ice, not to an evaluation of all of the possible reasons why the required landing distance may need to be longer in icing conditions. The commenter correctly points out that a longer landing distance may also be needed if higher thrust settings or different landing procedures are used in icing conditions.

In evaluating the potential costs and effects of the proposed change, we could not find any existing airplanes where, if the requirement proposed by the commenter had been in effect, it would have required an applicant to determine a longer landing distance in icing conditions. In nearly all cases, applicants have not used different thrust or power settings or different procedures for landing in icing conditions. Airplane manufacturers indicated that they did not anticipate this relationship to change for future designs.

When different thrust or power settings or procedures have been used for landing in icing conditions, V_{REF} has also increased by more than 5 knots. In these cases, applicants would be required by the proposed § 25.125(a) to determine the landing distance for icing conditions, and existing § 25.101(c) and (f) require applicants to include the effects of different power or thrust settings or landing procedures on this landing distance.

Therefore, we see no need to amend the proposed requirement as recommended by Raytheon.

5. Sandpaper Ice Accretion

Proposed appendix C, part II(a)(6) defined sandpaper ice as a thin, rough layer of ice. A private citizen notes the NPRM did not specifically state how sandpaper ice should be used or considered in showing compliance with any of the proposed airplane performance and handling qualities requirements. This commenter suggested amending proposed § 25.143(i)(1) to add that if normal operation of the horizontal tail IPS allows ice to form on the tail leading edge, sandpaper ice must also be considered in determining the critical ice accretion. (Proposed § 25.143(i)(1) would require applicants to demonstrate the airplane is safely controllable, per the applicable requirements of § 25.143, with the ice accretion defined in appendix C that is most critical for the particular flight phase.)

Appendix C, part II(a) requires applicants to use the most critical ice accretion to show compliance with the applicable subpart B airplane performance and handling requirements in icing conditions. The determination of the most critical ice accretion must consider the full range of atmospheric icing conditions of part I of appendix C as well as the characteristics of the IPS (per § 25.21(g)(1) and appendix C, part II(a)). This includes consideration of thin, rough layers of ice (known as sandpaper ice) as well as any other type of ice accretion that may occur in the applicable atmospheric icing conditions, taking into account the operating characteristics of the IPS and the flight phase.

Since the requirement to use the most critical ice accretion includes consideration of sandpaper ice and sandpaper ice is not referenced elsewhere in the rule, we have removed appendix C, part II(a)(6) from the final rule. The AC that we are issuing along with this final rule, or shortly thereafter, provides further information on the use of sandpaper ice in showing compliance. (This AC will be available in the Regulatory Guidance Library (RGL) when issued.)

6. Critical Ice Accretion for Showing Compliance With § 25.143(i)(1)

As noted in the discussion of the previous comment, proposed § 25.143(i)(1) would require applicants to demonstrate the airplane is safely controllable, per the applicable requirements of § 25.143, with the ice accretion defined in appendix C that is most critical for the particular flight phase. Raytheon stated that because ice accretion before normal system operation is addressed separately in § 25.143(j), the controllability demonstration required by § 25.143(i)(1) should be limited to only the most critical ice accretion defined in appendix C part II(a) rather than all of appendix C.

For purposes of the controllability demonstrations required by § 25.143(i)(1), appendix C, parts I and II(a), (b), (c), and (d) apply. Appendix C, part II(e) only applies to §§ 25.143(j) and 25.207(h), which are the only subpart B requirements pertaining to flight in icing conditions before activation of the IPS. We acknowledge that this limited applicability of appendix C, part II(e) is unclear in the language proposed, and we have revised the final rule to include a sentence that specifies this limitation.

7. Pushover Maneuver for Ice-Contaminated Tailplane Stall Evaluation

Raytheon stated that proposed § 25.143(i)(2), which states that a push force from the pilot must be required throughout a pushover maneuver down to zero g or full down elevator, is inconsistent with allowing a pull force for recovery from the maneuver. Raytheon noted that the FAA stated in the NPRM that a force reversal (that is, a push force becoming a pull force) is unacceptable, implying that the pilot should only be permitted to relax his or her push force to initiate recovery. The 50-pound limit for recovery in the proposed § 25.143(i)(2) appears to allow up to 50 pounds of force reversal to develop during the maneuver, including at the initiation of recovery from the maneuver. Raytheon stated that they object to the proposed requirement and continue to support the industry proposal for the pushover maneuver submitted to ARAC by the Flight Test Harmonization Working Group. The industry proposal specified there must be no force reversal down to 0.5 g (the limit of the operational flight envelope) and a prompt recovery from zero g (or full down elevator control if zero g cannot be obtained) with less than 50 pounds of stick force. Raytheon stated that the 50-pound pull force was not intended as a limit for the subsequent pull-up maneuver during recovery from the push-over test.

The FAA continues to disagree with the industry proposal, and Raytheon did not offer any new evidence or rationale that would lead us to reconsider our position. As stated in the NPRM, certification testing and service experience have shown that testing to only 0.5 g is inadequate, considering the relatively high frequency of experiencing 0.5 g in operations. Since the beginning of the 1980s, the practice of many certification authorities has been to require testing to lower load factors. The industry proposal for determining the acceptability of a control force reversal (as described in the NPRM) was subjective and would have led to inconsistent evaluations. Requiring a push force to zero g removes subjectivity in the assessment of the airplane's controllability and provides readily understood criteria of acceptability. Any lesser standard would not give confidence that the problem has been fully addressed.

We do not consider the requirement for a push force to be needed to reach zero g, coupled with allowing a pull force of up to 50 pounds during the recovery, to be inconsistent with our position that force reversals are unacceptable within the normal flight envelope. The pushover maneuver ends when zero g is reached (or when full down elevator is achieved if zero g cannot be reached). The recovery is a separate pull-up maneuver, initiated by the pilot, to regain the original flight path. It is acceptable for this maneuver to require a pull force, but the pull force must not exceed 50 pounds, which is the maximum pitch force permitted by the existing § 25.143(c) (renumbered as § 25.143(d) by this amendment) for short term application of force using one hand. No changes were made.

8. Pushover Maneuver Limited by Design Features Other Than Elevator Power

Airbus noted that proposed § 25.143(i)(2) would allow the required pushover maneuver to end before zero g is reached if the airplane is limited by elevator power. Airbus commented that safe design characteristics other than limited elevator power may also prevent an aircraft from reaching zero g during the pushover maneuver (e.g., flight envelope protections designed into fly-by-wire control systems). Airbus proposed revising the proposed rule to allow the pushover maneuver to end before reaching zero g for other safe design characteristics that prevent reaching zero g.

We agree with Airbus and have revised § 25.143(i)(2) to include consideration of other design characteristics of the flight control system that may prevent reaching zero g in the pushover maneuver.

9. Pitch Force Requirements During a Sideslip Maneuver

Raytheon stated that the proposed requirement for flight in icing conditions is more stringent than the requirements applicable to non-icing conditions. Proposed § 25.143(i)(3) would require that any changes in force that the pilot must apply to the pitch control to maintain speed with increasing sideslip angle must be steadily increasing with no force reversals. Raytheon notes the non-icing subpart B static lateral-directional stability requirements of § 25.177 do not specify that the pitch forces cannot reverse. For example, a push force at small sideslip angles that changes to a pull force as sideslip increases is acceptable.

Raytheon noted that it would not be unusual for an airplane to require an increase in pull force with increasing sideslip. If the tailplane or a portion of it developed aerodynamic separation as sideslip increases, then to maintain 1–g flight the elevator hinge moment would require further pull force that could be sudden or become excessive. Raytheon notes this undesirable characteristic would comply with proposed § 25.143(i)(3).

Raytheon and another commenter (a private citizen) proposed that the proposed rule be revised to eliminate the requirements that the pitch force be steadily increasing with increasing sideslip and that there be no reversal. Instead, these commenters suggested that the requirement should be limited to ensuring that there is no abrupt or uncontrollable pitching tendency.

The FAA agrees with the commenters that small, gradual changes in the pitch control force may not be objectionable or unsafe, and that the proposed requirement is unnecessarily more stringent than the requirements for non-icing conditions. The safety concern is sudden or large pitch force changes that would be difficult for the pilot to control. Therefore, we have changed § 25.143(i)(3) in the final rule to read as follows:

''Any changes in force that the pilot must apply to the pitch control to maintain speed with increasing sideslip angle must be steadily increasing with no force reversals, unless the change in control force is gradual and easily controllable by the pilot without using exceptional piloting skill, alertness, or strength.''

Under this new language, abrupt changes in the control force characteristic, unless so small as to be unnoticeable, would not be considered to meet the requirement that the force be steadily increasing. A gradual change in control force is a change that is not abrupt and does not have a steep gradient. It can be easily managed by a pilot of average skill, alertness, and strength. Control forces in excess of those permitted by § 25.143(d) would be considered excessive.

10. Stall Warning in Icing Conditions

Existing § 25.207(c) requires at least a 3 knot or 3% speed margin between the stall warning speed (V_{SW}) and the reference stall speed (V_{SR}). Existing § 25.207(d) requires at least a 5 knot or 5% speed margin between V_{SW} and the speed at which the behavior of the airplane gives the pilot a clear and distinctive indication of an acceptable nature that the airplane is stalled. Under proposed § 25.21(g), the stall warning requirements of § 25.207(c) and (d) would apply only to non-icing conditions. For icing conditions, proposed § 25.207(e) requires that stall warning be sufficient to allow the pilot to prevent stalling when the pilot starts the recovery maneuver not less than 3 seconds after the onset of stall warning in a one knot per second deceleration.

The U.K. CAA noted that proposed § 25.207(e) would allow stall warning in icing conditions to occur at a speed slower than the speed for the maximum lift capability of the wing (also known as the 1g stall speed). This would not be true for non-icing conditions because of § 25.207(c). According to U.K. CAA, if the stall warning speed is slower than the 1g stall speed, the airplane will have little or no maneuvering capability at the point that the airplane gives the pilot a warning of an impending stall. The U.K. CAA stated that in an operational scenario, if the airplane slows to a speed slightly above the stall warning speed, any attempt to maneuver the airplane or further reduce speed could lead to an immediate stall. This situation is of most concern to the U.K. CAA in the landing phase because, unlike the cruise or takeoff phases, there are limited options for the crew to recover from a stall. The airplane is already at low altitude and descending towards the ground, the power setting is low, and the potential to trade height for speed is extremely limited.

Due to this concern, the U.K. CAA recommended making the non-icing stall warning speed margin requirements of § 25.207(c) and (d) also apply to icing conditions, but only when the airplane is in the landing configuration. Since the proposed § 25.207(e) was intended to be used in place of § 25.207(c) and (d) for icing conditions, the U.K. CAA suggested that, if § 25.207(c) and (d) are applied to the landing configuration in icing conditions, then § 25.207(e) need not be applied to the landing configuration.

In developing the proposed rule, the FAA accepted a determination by the Flight Test Harmonization Working Group (FTHWG) that the same handling qualities standards should generally apply to flight in icing conditions as apply to flight in non-icing conditions. In certain areas, however, the FTHWG decided that the handling qualities standards for non-icing conditions were inappropriate for flight in icing conditions. In these areas, the FTHWG recommended alternative criteria for flight in icing conditions.

The stall warning margin was one of the areas where the FTHWG recommended alternative criteria for flight in icing conditions. The FTHWG determined that applying the existing stall warning margin requirements of § 25.207(c) and (d) to icing conditions would be far more stringent than the best current practices and would unduly penalize designs that have not exhibited safety problems in icing conditions. The FTHWG further determined the stall warning requirements of the existing § 25.207(c) and (d) could be made less stringent for icing conditions without compromising safety. As a result, we proposed the less stringent § 25.207(e) to address stall warning margin requirements for icing conditions in place of § 25.207(c) and (d).

No changes have been made to this final rule as a result of the U.K. CAA's comment. We acknowledge that the U.K. CAA has pointed out a deficiency with safety implications in the proposed stall warning requirements. However, U.S. manufacturers' initial cost analysis of the U.K. CAA's recommended changes indicates these changes may significantly increase the costs of this rulemaking beyond the benefits provided due to uncertainties in how the increased stall warning margin requirement would affect airplane type certification testing, certification program schedules, and the design of stall warning systems.

In addition, the U.K. CAA's recommended changes would introduce significant regulatory differences from EASA's airworthiness certification requirements, and might not completely resolve the potential safety issue. For these reasons we believe that additional time and aviation industry participation are needed to determine an appropriate way to address this safety concern. However, we do not believe it is appropriate to delay issuance of this final rule pending resolution of this issue.

This final rule significantly improves the affected airworthiness standards and the benefits of these improvements should be achieved as soon as possible. It also satisfies a number of important NTSB recommendations. As these improvements are being implemented, we will continue to work closely with EASA and industry to address the issue raised by the U.K. CAA. This subject has been included on EASA's 2008 rulemaking agenda, and we will work with them in that context to agree on a harmonized approach. Once these efforts are completed, we will initiate new rulemaking, if appropriate, to adopt any necessary revisions to part 25.

11. Stall and Stall Warning Requirements Prior to Activation of the IPS

Proposed § 25.207(h)(2)(ii) would require compliance with the stall characteristics requirements of § 25.203, using the stall demonstration prescribed by § 25.201, for flight in icing conditions before the IPS is activated. This requirement would apply if the stall warning required by § 25.207 is provided by a different means for flight in icing conditions than for non-icing conditions. The stall demonstration prescribed by § 25.201 requires that the stalling maneuver be continued to the point where the airplane gives the pilot a clear and distinctive indication of an acceptable nature that the airplane is stalled.

Raytheon disagreed with this proposal because the ice accretion resulting from a delay in activating the IPS is a short term transient condition. According to Raytheon, the intent should be to demonstrate only the ability to prevent a stall, rather than to also ensure that the airplane has good stall characteristics. Raytheon stated that it is unnecessary to consider that the pilot might ignore the stall buffeting and continue to increase angle-of-attack until the airplane is stalled. To comply with the proposed rule, Raytheon argued that an airplane with a stick pusher stall identification system would be required to have its stick pusher activation based on a contaminated wing leading edge for non-icing conditions. This would require increased takeoff and landing speeds and negatively impact all takeoff and landing performance.

Raytheon also stated that the cost impacts would be excessive for what is only a transient condition. Raytheon's position is that there is no need to consider the airplane's handling qualities after it has stalled. It should be sufficient to show that the pilot can prevent stalling if the recovery maneuver is not begun until at least three seconds after the onset of stall warning, which is also required by the proposed § 25.207(h)(2)(ii).

We do not agree with Raytheon's comments. Because of human factors considerations, proposed § 25.207(b) generally requires that the same means of providing a stall warning be used in both icing and non-icing conditions. Therefore, if a stick shaker is used for stall warning in non-icing conditions (as is the case for most transport category airplanes) it must also be used for stall warning in icing conditions. The reason for this proposed requirement is that in icing accidents and incidents where the airplane stalled before the stick shaker activated, flightcrews have not recognized the buffeting associated with ice contamination in time to prevent stalling. Proposed § 25.207(h)(2)(ii) allows a different means of providing stall warning in icing conditions only for the relatively short time period between when the airplane first enters icing conditions and when the IPS is activated. (This exception to the proposed § 25.207(b) is further limited such that it only applies when the procedures for activating the IPS do not involve waiting until a certain amount of ice has been accumulated.)

Because there is still a safety concern with flightcrews recognizing a stall warning that is provided by a different means than the flightcrew would normally experience, we consider it essential that the airplane also be shown to have safe stall characteristics. Poor stalling characteristics with an iced wing have directly contributed to the severity of icing accidents involving a stall in icing conditions.

As for Raytheon's comment about the cost impacts, we evaluated these as part of the regulatory evaluation conducted for the NPRM, and we do not agree that the cost impacts associated with this requirement are excessive. In addition, the adopted § 25.207 will not require airplanes with stick pusher stall identification systems to have their stick pusher activation based on a contaminated wing leading edge for non-icing conditions. Section 25.207(h)(2)(ii) does not apply if the same stall warning means is used for non-icing and icing conditions. If a stick shaker is used for stall warning and if the stick shaker activation point must be advanced due to the effect of the ice accreted before activation of the IPS, this would result in the same negative effect on takeoff and landing speeds. However, if the procedures for activating the IPS ensure that it is activated before any ice accretes on the wings, neither the stick shaker activation point nor the takeoff and landing speeds will be affected. This could be accomplished, for example, by using an ice detector that would activate the IPS before ice accretes on the wings, or by procedures for activating the IPS based on environmental conditions conducive to icing, but before ice would actually accrete on the wings.

12. Dissipation of Ice Shapes at High Altitudes and High Mach Numbers

Proposed § 25.253(c) specifies the maximum speed for demonstrating stability characteristics in icing conditions. Proposed § 25.253(c)(3) allows this speed to be limited to the speed at which it is demonstrated that the airframe will be free of ice accretion due to the effects of increased dynamic pressure. Raytheon stated that experience has shown that ice shapes dissipate quickly at high altitude and high Mach numbers. Raytheon suggested revising § 25.253(c)(3) to specify the altitude and/or Mach number range that ice shapes would dissipate.

Although we agree that past experience shows that ice shapes dissipate or detach at high altitude and high Mach numbers, the applicable range may vary with airplane type. The particular conditions under which the ice accretions dissipate or detach should be justified as part of the certification program. Since this is consistent with proposed § 25.253(c), we made no changes to the final rule.

13. Critical Ice Shapes

Proposed appendix C, part II(a) defines how to determine the critical ice accretions for each phase of flight. The NTSB commented that for each phase of flight, the applicant should be required to demonstrate that the shape, chordwise and spanwise, and the roughness of the shapes accurately reflect the full range of appendix C conditions in terms of mean effective drop diameter, liquid water content, and temperature during each phase of flight. Additionally, the NTSB suggested that we review the justification and selection of the most critical ice shape for each phase of flight.

Although we believe the proposed requirements already address the NTSB's concerns, we have revised appendix C, part II(a) for additional clarity. We added text to state that applicants must demonstrate that the full range of atmospheric icing conditions specified in part I of appendix C have been considered, including the mean effective drop diameter, liquid water content, and

temperature appropriate to the flight conditions.

14. Takeoff Ice Accretions

ALPA noted that the takeoff ice accretions defined in proposed appendix C, part II(a)(2) do not include the entire takeoff flight path. As defined in § 25.111, the takeoff flight path ends at either 1,500 feet above the takeoff surface, or the height at which the transition from the takeoff to the en route configuration is completed and the final takeoff speed (V_{FTO}) is reached, whichever is higher. The takeoff flight path in proposed appendix C, part II(a)(2) ends at 1,500 feet above the takeoff surface. ALPA stated that there are many mountainous airport locations where the takeoff configuration must be maintained above 1,500 feet above the takeoff surface for terrain clearance at maximum takeoff gross weights. Since winter operations in these locations often involve icing conditions, ALPA requested that the takeoff flight path of Appendix C, part II(a)(2) be revised to match that of § 25.111.

ALPA's comment points out an oversight in the text of the proposal. Appendix C, part II(a)(2) has been revised to include the entire takeoff flight path as defined in § 25.111. We consider this to be a technical clarification that does not impose a significant additional burden on applicants.

15. Size of Ice Accretion Before Activation of the IPS

For the pre-activation ice identified in Appendix C, part II(e), ALPA did not support the 30-second time period for the flightcrew to see and respond to ice accreting on the airplane as stated in paragraphs 2c(4)(a) and (b) of Appendix 1, Airframe Ice Accretion, of proposed AC 25.21–1X. ALPA believes that the ice accreted during a more operationally realistic timeframe and the potential degradations in aircraft performance and handling qualities must be accounted for during certification in order to make the proposed requirements and acceptable means of compliance an effective combination. While a well designed human factors study could determine an appropriate time, ALPA proposed that at least the 2-minute time period contained in 14 CFR 33.77, Foreign object ingestion—ice, be used as the time to visually recognize ice is accreting until definitive studies can be completed.

The FAA believes that ALPA has misunderstood the use of the 30-second time period in the proposed AC 25.21–1X acceptable means of compliance. The FAA does not expect the flightcrew to see and respond to ice accumulating on the airplane within 30 seconds. In accordance with § 25.21(g), compliance must be shown using ice accretions consistent with the AFM operating procedures. First, applicants must determine the ice accretion that would be on the airplane when the AFM procedures call for activating the IPS. Then, the 30-second time period is used in combination with the continuous maximum icing environment, as defined in appendix C of part 25, as a standard for determining the additional ice that could accrete on the airplane before the pilot actually activates the IPS. Since the appendix C maximum continuous icing envelope represents at least the 99th percentile of encounters with continuous maximum icing (that is, 99% of the time, less icing would occur), it would take significantly longer than 30 seconds in nearly all actual icing events for the airplane to accrete this much ice.

As a result of this comment, the FAA reviewed the proposed AC 25.21–1X text. Although the use of a-30 second time period in a continuous maximum icing environment is clearly stated, the FAA believes that the text is incomplete regarding what we expect applicants to consider in determining the ice accretion specified by the AFM procedures for activating the IPS. The FAA is revising the proposed AC to state that this ice accretion should be easily recognizable by the pilot under all foreseeable conditions (for example, at night in clouds). No changes have been made to the regulatory requirements.

16. Maximum Size of the Critical Ice Accretion

Dassault noted that, in Europe, the critical ice accretion is limited to a maximum thickness of 3 inches. Dassault did not find such a limitation in the NPRM, nor in the proposed advisory circular (AC) 25.21–1X related to the NPRM. Dassault noted that this omission could result in carrying out performance and handling tests with unrealistic ice accretions (particularly those assumed to build up on the unprotected parts of the airplane during the 45-minute holding flight phase referenced in ACs 25.21–X and 25.1419–1A).

We did not make any changes to the final rule because several existing ACs provide guidance for the size of the most critical ice accretions that should be considered. This longstanding guidance considers a 45-minute holding condition within an icing cloud. Since this guidance is not regulatory, we have accepted applicants' use of service history and other experience with other compliance criteria to determine the maximum ice accretion that needs to be considered. We will continue to address this issue in the same manner. The AC being issued along with this final rule refers to these alternative methods of compliance and provides guidance for their use.

17. Detection of Icing Conditions

A private citizen commented that icing conditions should be monitored by more than the pilot's eyesight. We are unable to address the commenter's issue in this rulemaking because this rulemaking only addresses performance and handling qualities requirements for the current methods of ice detection (which include detection by visual means). However, we are pursuing separate rulemaking for future airplane designs relative to allowable methods for detecting icing and determining when to activate the IPS. In NPRM 07–07, ''Activation of Ice Protection,'' published in the **Federal Register** on April 26, 2007, we proposed to amend the airworthiness standards applicable to transport category airplanes to require a means to ensure timely activation of the airframe IPS.

18. Delayed Activation of the IPS

ALPA recommended modifying all rule language to eliminate references and rule provisions for waiting until a finite amount of ice has accumulated before activating the IPS. ALPA stated that delayed activation of the IPS has been a factor in several accidents and incidents. ALPA also pointed out that the FAA has adopted 17 airworthiness directives requiring immediate activation of IPS at the first sign of ice accretion for a number of airplane types where the previous practice was to wait until a specified amount of ice had accumulated on the airplane. ALPA noted that after an exhaustive review of accident and incident data, ARAC recommended an operating rule that would remove the option of delaying activation of the IPS.

Except for the airworthiness directives referenced by ALPA, current regulations do not prohibit AFM procedures that call for delaying activation of the IPS until a specified amount of ice has accreted. Although we strongly encourage activating the IPS at the first sign of ice accretion, there may be some designs for which delayed activation is currently acceptable, safe, and appropriate. For example, some thermal wing IPS can currently be used in either an anti-ice or deice mode. In the deice mode, the wing IPS is not activated until a certain amount of ice

has accreted. This has not resulted in any safety issues, and can be a more economical way of operating the wing IPS.

The purpose of this rulemaking is to provide appropriate performance and handling qualities requirements, considering the currently accepted procedures for activating the IPS. Establishing new requirements for acceptable methods for activating the IPS is beyond the scope of this rulemaking. As ALPA noted, however, ARAC has recommended the FAA adopt new requirements that would ensure flightcrews are provided with a clear means to know when to activate the IPS in a timely manner. We are pursuing separate rulemaking in response to this ARAC recommendation. In NPRM 07–07, ''Activation of Ice Protection,'' published in the **Federal Register** on April 26, 2007, we proposed to amend the airworthiness standards applicable to transport category airplanes to require a means to ensure timely activation of the airframe IPS. We will update the requirements adopted by this final rule related to the means of activating the IPS, if necessary, to be consistent with any final action resulting from NPRM 07–07, ''Activation of Ice Protection.''

19. Harmonization With EASA's NPA

Several commenters noted that the FAA did not fully harmonize the NPRM with the EASA's NPA covering the same icing-related safety issues. They recommended harmonizing the two rule proposals.

We worked closely with EASA to ensure that there are no significant regulatory differences between this amendment and EASA's anticipated final rule. However, since EASA's final rule has not yet been issued, we cannot guarantee that the two final rules will be completely harmonized. We believe that any differences will be primarily editorial and not significant regulatory differences.

20. Accuracy of the Regulatory Flexibility Evaluation

GAMA requested that the FAA review the regulatory flexibility evaluation in the interest of accuracy.

We reviewed the regulatory flexibility evaluation and reaffirmed the determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. All U.S. part 25 aircraft manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for aircraft manufacturers.

21. Aircraft Population Used When Determining Cost Versus Benefit

GAMA stated that it appeared the cost proposal considered U.S. manufactured aircraft while the benefit section included international products. GAMA believes that the same aircraft population should be used when determining cost versus benefit. Additionally, GAMA stated that it appeared it was assumed that cost was only attributed to entirely new TC products. GAMA believes it would be appropriate to consider the economic impact to some amount of amended TC and STC projects as well.

Section 1 of Executive Order 12866 states ''Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people.'' Section 5 states ''In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments and their industries * * *.'' Therefore, regulatory evaluations and flexibility analyses focus on American people and American industries.

American industries, such as manufacturers and operators of aircraft, must comply with regulations promulgated by Federal agencies. Foreign firms are not required to comply with U.S. regulations unless they choose to sell or operate their aircraft in America.

We determined the costs for this proposal by analyzing only American manufacturing industries, since foreign firms are not required to comply with U.S. regulations unless they choose to sell or operate their aircraft in America. While we do consider foreign manufactured aircraft in the benefit section, we determined the benefits by analyzing only American operators of those aircraft. Hence, the intent of Executive Order 12866 was satisfied.

We did include amended TCs in the analysis. Each TC includes all derivatives for a particular aircraft model. For example, TC No. A16WE initially covered only the Boeing 737–100, but was later amended to include the –200 through –900 Boeing 737 models.

Future applicants for approval of changed products are subject to § 21.101 (Changed Product Rule). There are several provisions of § 21.101 allowing future applicants of changed products to comply with earlier regulation amendments. We have already determined that benefits of the Changed Product Rule exceed the costs. Therefore, we do not estimate the benefits and costs of changed products for new certification rules.

22. Value of Fatalities Avoided

A private citizen claimed that the value of the fatalities avoided by this proposal would be in the neighborhood of $20 billion.

The number of averted fatalities and injuries is based on the historical accident rate extrapolated into the future. The FAA used $3.0 million for an avoided fatality and $132,700 for the additional associated medical and legal costs' for a fatality. The derivation for these values is discussed in the ''Economic Values for FAA Investment and Regulatory Decisions, A Guide.''[6] Without the rule, we expect that over the 45-year analysis period, approximately three accidents will occur. These three accidents are expected to result in approximately 12 fatalities, six serious injuries, and two minor injuries. From these values, and expected future accidents based on past accident history, we estimated a benefit of about $90 million over the 45-year analysis period.

III. Rulemaking Analyses and Notices

Paperwork Reduction Act

There are no current or new requirements for information collection associated with this amendment.

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 regulations.

Economic Assessment, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

[6] *http://www.faa.gov/regulations_policies/policy_guidance/benefit_cost/media/050404%20Critical%20Values%20Dec%2031%20Report%2007Jan05.pdf.*

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 also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with the base year of 1995.)

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) will not have a significant economic impact on a substantial number of small entities; (3) will not reduce barriers to international trade; and (4) 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.

Introduction

This portion of the preamble summarizes the FAA's analysis of the economic impacts of a final rule amending part 25 of Title 14, Code of Federal Regulations (14 CFR) to change the regulations applicable to transport category airplanes certificated for flight in icing conditions. It also includes summaries of the regulatory flexibility determination, the international trade impact assessment, and the unfunded mandates assessment. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

Total Benefits and Costs of This Rulemaking

The estimated potential benefits of avoiding 3 accidents over the 45-year analysis interval are $89.2 million ($23.6 million in present value at seven percent). To obtain these benefits, over the 45-year analysis interval, manufacturers will incur additional certification costs of $9.8 million and the operators of these airplanes will pay $52.5 million in additional fuel-burn. We estimate the total cost of this final rule to be about $62.3 million and the seven percent present value cost of the rule will be about $23.0 million.

Who Is Potentially Affected by This Rulemaking

- Operators of part 25 U.S.-registered aircraft conducting operations under FAR Parts 121, 129, and 135, and
- Manufacturers of those part 25 aircraft.

Our Cost Assumptions and Sources of Information

This evaluation makes the following assumptions:

1. This final rule is assumed to become effective immediately.
2. The production runs for newly certificated part 25 airplane models is 20 years.
3. The average life of a part 25 airplane is 25 years.
4. We analyzed the costs and benefits of this final rule over the 45-year period (20 + 25 = 45) 2006 through 2050.
5. We used a 10-year certification compliance period. For the 10-year life-cycle period, the FAA calculated an average of four new certifications will occur.
6. We used $3.0 million as the value of an avoided fatality.
7. New airplane certifications will occur in year one of the analysis time period.

Benefits of This Rulemaking

The benefits of this final rule consist of the value of lives saved due to avoiding three accidents involving part 25 airplanes operating in icing conditions. Based on the historic accident rate, we estimate that a total of 12 fatalities could potentially be avoided by adopting the final rule. Over the 45-year period of analysis, the potential benefit of the propose rule will be $89.2 million ($23.6 million in present value at seven percent).

Costs of This Rulemaking

We estimate the costs of this final rule to be about $62.3 million ($23.0 million in present value at seven percent) over the 45-year analysis period. The total cost of $62.3 million equals the fixed certification costs of $9.8 million incurred in the first year plus the variable annual fuel burn cost of $52.5 million over the 45-year analysis period.

Regulatory Flexibility Determination

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

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

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

In the interest of accuracy, one commenter requested we review the determination we made in the proposed rules regulatory flexibility evaluation. We reviewed the determination from the proposed rule and came to the same conclusions for this final rule for the reasons discussed below.

Currently U.S. manufactured part 25 aircraft type certificate holders include: The Boeing Company, Cessna Aircraft Company (a subsidiary of Textron Inc.), Raytheon Company, and Gulfstream Aerospace Corporation (a wholly owned subsidiary of General Dynamics). All United States part 25 aircraft manufacturers exceed the Small Business Administration small-entity criteria of 1,500 employees for aircraft manufacturers.

This rule will add an additional weighted average monthly fuel burn cost of about $42 per airplane, which is less than an hour of fuel burn and thus a minimal additional cost to all operators.

Given that manufacturers are not small entities and operators incur a minimal additional cost, as the FAA Administrator, I certify that this final rule will not have a significant economic impact on a substantial number of small 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 statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an 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 $128.1 million in lieu of $100 million.

This final rule does not contain such a mandate. The requirements of Title II do not apply.

Executive Order 13132, Federalism

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

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the FAA, when modifying its regulations in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. In the NPRM, we requested comments on whether the proposed rule should apply differently to intrastate operations in Alaska. We didn't receive any comments, and we have determined, based on the administrative record of this rulemaking, that there is no need to make any regulatory distinctions applicable to intrastate aviation 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 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 final rule 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,'' and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 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. Amend § 25.21 by adding a new paragraph (g) to read as follows:

§ 25.21 Proof of compliance.

* * * * *

(g) The requirements of this subpart associated with icing conditions apply only if the applicant is seeking certification for flight in icing conditions.

(1) Each requirement of this subpart, except §§ 25.121(a), 25.123(c), 25.143(b)(1) and (b)(2), 25.149, 25.201(c)(2), 25.207(c) and (d), 25.239, and 25.251(b) through (e), must be met in icing conditions. Compliance must be shown using the ice accretions defined in appendix C, assuming normal operation of the airplane and its ice protection system in accordance with the operating limitations and operating procedures established by the applicant and provided in the Airplane Flight Manual.

(2) No changes in the load distribution limits of § 25.23, the weight limits of § 25.25 (except where limited by performance requirements of this subpart), and the center of gravity limits of § 25.27, from those for non-icing conditions, are allowed for flight in icing conditions or with ice accretion.

■ 3. Amend § 25.103 by revising paragraph (b)(3) to read as follows:

§ 25.103 Stall speed.

* * * * *

(b) * * *

(3) The airplane in other respects (such as flaps, landing gear, and ice accretions) in the condition existing in the test or performance standard in which V_{SR} is being used;

* * * * *

■ 4. Amend § 25.105 by revising paragraph (a) to read as follows:

§ 25.105 Takeoff.

(a) The takeoff speeds prescribed by § 25.107, the accelerate-stop distance prescribed by § 25.109, the takeoff path prescribed by § 25.111, the takeoff distance and takeoff run prescribed by § 25.113, and the net takeoff flight path prescribed by § 25.115, must be determined in the selected configuration for takeoff at each weight, altitude, and ambient temperature within the operational limits selected by the applicant—

(1) In non-icing conditions; and

(2) In icing conditions, if in the configuration of § 25.121(b) with the takeoff ice accretion defined in appendix C:

(i) The stall speed at maximum takeoff weight exceeds that in non-icing conditions by more than the greater of 3 knots CAS or 3 percent of V_{SR}; or

(ii) The degradation of the gradient of climb determined in accordance with § 25.121(b) is greater than one-half of the applicable actual-to-net takeoff flight path gradient reduction defined in § 25.115(b).

* * * * *

■ 5. Amend § 25.107 by revising paragraph (c)(3) and (g)(2) and adding new paragraph (h) to read as follows:

§ 25.107 Takeoff speeds.

* * * * *

(c) * * *

(3) A speed that provides the maneuvering capability specified in § 25.143(h).

* * * * *

(g) * * *

(2) A speed that provides the maneuvering capability specified in § 25.143(h).

(h) In determining the takeoff speeds V_1, V_R, and V_2 for flight in icing conditions, the values of V_{MCG}, V_{MC}, and V_{MU} determined for non-icing conditions may be used.

■ 6. Amend § 25.111 by revising paragraph (c)(3)(iii), (c)(4), and adding a new paragraph (c)(5) to read as follows:

§ 25.111 Takeoff path.

* * * * *

(c) * * *

(3) * * *

(iii) 1.7 percent for four-engine airplanes.

(4) The airplane configuration may not be changed, except for gear retraction and automatic propeller feathering, and no change in power or thrust that requires action by the pilot may be made until the airplane is 400 feet above the takeoff surface; and

(5) If § 25.105(a)(2) requires the takeoff path to be determined for flight in icing conditions, the airborne part of the takeoff must be based on the airplane drag:

(i) With the takeoff ice accretion defined in appendix C, from a height of 35 feet above the takeoff surface up to the point where the airplane is 400 feet above the takeoff surface; and

(ii) With the final takeoff ice accretion defined in appendix C, from the point where the airplane is 400 feet above the takeoff surface to the end of the takeoff path.

* * * * *

■ 7. Revise § 25.119 to read as follows:

§ 25.119 Landing climb: All-engines-operating.

In the landing configuration, the steady gradient of climb may not be less than 3.2 percent, with the engines at the power or thrust that is available 8 seconds after initiation of movement of the power or thrust controls from the minimum flight idle to the go-around power or thrust setting—

(a) In non-icing conditions, with a climb speed of V_{REF} determined in accordance with § 25.125(b)(2)(i); and

(b) In icing conditions with the landing ice accretion defined in appendix C, and with a climb speed of V_{REF} determined in accordance with § 25.125(b)(2)(ii).

■ 8. Amend § 25.121 by revising paragraphs (b), (c), and (d) to read as follows:

§ 25.121 Climb: One-engine inoperative.

* * * * *

(b) *Takeoff; landing gear retracted.* In the takeoff configuration existing at the point of the flight path at which the landing gear is fully retracted, and in the configuration used in § 25.111 but without ground effect:

(1) The steady gradient of climb may not be less than 2.4 percent for two-engine airplanes, 2.7 percent for three-engine airplanes, and 3.0 percent for four-engine airplanes, at V_2 with:

(i) The critical engine inoperative, the remaining engines at the takeoff power or thrust available at the time the landing gear is fully retracted, determined under § 25.111, unless there is a more critical power operating condition existing later along the flight path but before the point where the airplane reaches a height of 400 feet above the takeoff surface; and

(ii) The weight equal to the weight existing when the airplane's landing gear is fully retracted, determined under § 25.111.

(2) The requirements of paragraph (b)(1) of this section must be met:

(i) In non-icing conditions; and

(ii) In icing conditions with the takeoff ice accretion defined in appendix C, if in the configuration of § 25.121(b) with the takeoff ice accretion:

(A) The stall speed at maximum takeoff weight exceeds that in non-icing conditions by more than the greater of 3 knots CAS or 3 percent of V_{SR}; or

(B) The degradation of the gradient of climb determined in accordance with § 25.121(b) is greater than one-half of the applicable actual-to-net takeoff flight path gradient reduction defined in § 25.115(b).

(c) *Final takeoff.* In the en route configuration at the end of the takeoff path determined in accordance with § 25.111:

(1) The steady gradient of climb may not be less than 1.2 percent for two-engine airplanes, 1.5 percent for three-engine airplanes, and 1.7 percent for four-engine airplanes, at V_{FTO} with—

(i) The critical engine inoperative and the remaining engines at the available maximum continuous power or thrust; and

(ii) The weight equal to the weight existing at the end of the takeoff path, determined under § 25.111.

(2) The requirements of paragraph (c)(1) of this section must be met:

(i) In non-icing conditions; and

(ii) In icing conditions with the final takeoff ice accretion defined in appendix C, if in the configuration of § 25.121(b) with the takeoff ice accretion:

(A) The stall speed at maximum takeoff weight exceeds that in non-icing conditions by more than the greater of 3 knots CAS or 3 percent of V_{SR}; or

(B) The degradation of the gradient of climb determined in accordance with § 25.121(b) is greater than one-half of the applicable actual-to-net takeoff flight path gradient reduction defined in § 25.115(b).

(d) *Approach.* In a configuration corresponding to the normal all-engines-operating procedure in which V_{SR} for this configuration does not exceed 110 percent of the V_{SR} for the related all-engines-operating landing configuration:

(1) The steady gradient of climb may not be less than 2.1 percent for two-engine airplanes, 2.4 percent for three-engine airplanes, and 2.7 percent for four-engine airplanes, with—

(i) The critical engine inoperative, the remaining engines at the go-around power or thrust setting;

(ii) The maximum landing weight;

(iii) A climb speed established in connection with normal landing procedures, but not exceeding 1.4 V_{SR}; and

(iv) Landing gear retracted.

(2) The requirements of paragraph (d)(1) of this section must be met:

(i) In non-icing conditions; and

(ii) In icing conditions with the approach ice accretion defined in appendix C. The climb speed selected for non-icing conditions may be used if the climb speed for icing conditions, computed in accordance with paragraph (d)(1)(iii) of this section, does not exceed that for non-icing conditions by more than the greater of 3 knots CAS or 3 percent.

■ 9. Amend § 25.123 by revising paragraph (a) introductory text and paragraph (b) to read as follows:

§ 25.123 En route flight paths.

(a) For the en route configuration, the flight paths prescribed in paragraph (b) and (c) of this section must be determined at each weight, altitude, and ambient temperature, within the operating limits established for the airplane. The variation of weight along the flight path, accounting for the progressive consumption of fuel and oil by the operating engines, may be included in the computation. The flight paths must be determined at a speed not less than V_{FTO}, with—

* * *

(b) The one-engine-inoperative net flight path data must represent the actual climb performance diminished by a gradient of climb of 1.1 percent for two-engine airplanes, 1.4 percent for three-engine airplanes, and 1.6 percent for four-engine airplanes—

(1) In non-icing conditions; and

(2) In icing conditions with the en route ice accretion defined in appendix C, if:

(i) A speed of 1.18 V_{SR} with the en route ice accretion exceeds the en route speed selected for non-icing conditions by more than the greater of 3 knots CAS or 3 percent of V_{SR}; or

(ii) The degradation of the gradient of climb is greater than one-half of the applicable actual-to-net flight path reduction defined in paragraph (b) of this section.

* * * * *

■ 10. Revise § 25.125 to read as follows:

§ 25.125 Landing.

(a) The horizontal distance necessary to land and to come to a complete stop (or to a speed of approximately 3 knots for water landings) from a point 50 feet above the landing surface must be determined (for standard temperatures, at each weight, altitude, and wind within the operational limits established by the applicant for the airplane):

(1) In non-icing conditions; and

(2) In icing conditions with the landing ice accretion defined in appendix C if V_{REF} for icing conditions exceeds V_{REF} for non-icing conditions by more than 5 knots CAS at the maximum landing weight.

(b) In determining the distance in paragraph (a) of this section:

(1) The airplane must be in the landing configuration.

(2) A stabilized approach, with a calibrated airspeed of not less than V_{REF}, must be maintained down to the 50-foot height.

(i) In non-icing conditions, V_{REF} may not be less than:

(A) 1.23 $V_{SR}0$;

(B) V_{MCL} established under § 25.149(f); and

(C) A speed that provides the maneuvering capability specified in § 25.143(h).

(ii) In icing conditions, V_{REF} may not be less than:

(A) The speed determined in paragraph (b)(2)(i) of this section;

(B) 1.23 $V_{SR}0$ with the landing ice accretion defined in appendix C if that speed exceeds V_{REF} for non-icing conditions by more than 5 knots CAS; and

(C) A speed that provides the maneuvering capability specified in § 25.143(h) with the landing ice accretion defined in appendix C.

(3) Changes in configuration, power or thrust, and speed, must be made in accordance with the established procedures for service operation.

(4) The landing must be made without excessive vertical acceleration, tendency to bounce, nose over, ground loop, porpoise, or water loop.

(5) The landings may not require exceptional piloting skill or alertness.

(c) For landplanes and amphibians, the landing distance on land must be determined on a level, smooth, dry, hard-surfaced runway. In addition—

(1) The pressures on the wheel braking systems may not exceed those specified by the brake manufacturer;

(2) The brakes may not be used so as to cause excessive wear of brakes or tires; and

(3) Means other than wheel brakes may be used if that means—

(i) Is safe and reliable;

(ii) Is used so that consistent results can be expected in service; and

(iii) Is such that exceptional skill is not required to control the airplane.

(d) For seaplanes and amphibians, the landing distance on water must be determined on smooth water.

(e) For skiplanes, the landing distance on snow must be determined on smooth, dry, snow.

(f) The landing distance data must include correction factors for not more than 50 percent of the nominal wind components along the landing path opposite to the direction of landing, and not less than 150 percent of the nominal wind components along the landing path in the direction of landing.

(g) If any device is used that depends on the operation of any engine, and if the landing distance would be noticeably increased when a landing is made with that engine inoperative, the landing distance must be determined with that engine inoperative unless the use of compensating means will result in a landing distance not more than that with each engine operating.

■ 11. Amend § 25.143 by redesignating paragraphs (c) through (g) as paragraphs (d) through (h) respectively; adding a new paragraph (c); revising redesignated paragraphs (d), (e), and (f); amending redesignated paragraph (h) by removing the words ''Thrust power setting'' in the fourth column of the table and replacing them with the words ''Thrust/power setting''; and adding paragraphs (i), and (j) to read as follows:

§ 25.143 General.

* * * * *

(c) The airplane must be shown to be safely controllable and maneuverable with the critical ice accretion appropriate to the phase of flight defined in appendix C, and with the critical engine inoperative and its propeller (if applicable) in the minimum drag position:

(1) At the minimum V_2 for takeoff;

(2) During an approach and go-around; and

(3) During an approach and landing.

(d) The following table prescribes, for conventional wheel type controls, the maximum control forces permitted during the testing required by paragraph (a) through (c) of this section:

Force, in pounds, applied to the control wheel or rudder pedals	Pitch	Roll	Yaw
For short term application for pitch and roll control—two hands available for control	75	50	
For short term application for pitch and roll control—one hand available for control	50	25	
For short term application for yaw control			150
For long term application	10	5	20

(e) Approved operating procedures or conventional operating practices must be followed when demonstrating compliance with the control force limitations for short term application that are prescribed in paragraph (d) of this section. The airplane must be in trim, or as near to being in trim as practical, in the preceding steady flight condition. For the takeoff condition, the airplane must be trimmed according to the approved operating procedures.

(f) When demonstrating compliance with the control force limitations for long term application that are prescribed in paragraph (d) of this section, the airplane must be in trim, or as near to being in trim as practical.

* * * * *

(i) When demonstrating compliance with § 25.143 in icing conditions—

(1) Controllability must be demonstrated with the ice accretion defined in appendix C that is most critical for the particular flight phase;

(2) It must be shown that a push force is required throughout a pushover maneuver down to a zero g load factor, or the lowest load factor obtainable if limited by elevator power or other design characteristic of the flight control system. It must be possible to promptly recover from the maneuver without exceeding a pull control force of 50 pounds; and

(3) Any changes in force that the pilot must apply to the pitch control to

maintain speed with increasing sideslip angle must be steadily increasing with no force reversals, unless the change in control force is gradual and easily controllable by the pilot without using exceptional piloting skill, alertness, or strength.

(j) For flight in icing conditions before the ice protection system has been activated and is performing its intended function, the following requirements apply:

(1) If activating the ice protection system depends on the pilot seeing a specified ice accretion on a reference surface (not just the first indication of icing), the requirements of § 25.143 apply with the ice accretion defined in appendix C, part II(e).

(2) For other means of activating the ice protection system, it must be demonstrated in flight with the ice accretion defined in appendix C, part II(e) that:

(i) The airplane is controllable in a pull-up maneuver up to 1.5 g load factor; and

(ii) There is no pitch control force reversal during a pushover maneuver down to 0.5 g load factor.

■ 12. Amend § 25.207 by revising paragraph (b); redesignating paragraphs (e) and (f) as paragraphs (f) and (g) respectively; adding a new paragraph (e); revising redesignated paragraph (f) and adding paragraph (h) to read as follows:

§ 25.207 Stall warning.

* * * * *

(b) The warning must be furnished either through the inherent aerodynamic qualities of the airplane or by a device that will give clearly distinguishable indications under expected conditions of flight. However, a visual stall warning device that requires the attention of the crew within the cockpit is not acceptable by itself. If a warning device is used, it must provide a warning in each of the airplane configurations prescribed in paragraph (a) of this section at the speed prescribed in paragraphs (c) and (d) of this section. Except for the stall warning prescribed in paragraph (h)(2)(ii) of this section, the stall warning for flight in icing conditions prescribed in paragraph (e) of this section must be provided by the same means as the stall warning for flight in non-icing conditions.

* * * * *

(e) In icing conditions, the stall warning margin in straight and turning flight must be sufficient to allow the pilot to prevent stalling (as defined in § 25.201(d)) when the pilot starts a recovery maneuver not less than three seconds after the onset of stall warning. When demonstrating compliance with this paragraph, the pilot must perform the recovery maneuver in the same way as for the airplane in non-icing conditions. Compliance with this requirement must be demonstrated in flight with the speed reduced at rates not exceeding one knot per second, with—

(1) The more critical of the takeoff ice and final takeoff ice accretions defined in appendix C for each configuration used in the takeoff phase of flight;

(2) The en route ice accretion defined in appendix C for the en route configuration;

(3) The holding ice accretion defined in appendix C for the holding configuration(s);

(4) The approach ice accretion defined in appendix C for the approach configuration(s); and

(5) The landing ice accretion defined in appendix C for the landing and go-around configuration(s).

(f) The stall warning margin must be sufficient in both non-icing and icing conditions to allow the pilot to prevent stalling when the pilot starts a recovery maneuver not less than one second after the onset of stall warning in slow-down turns with at least 1.5 g load factor normal to the flight path and airspeed deceleration rates of at least 2 knots per second. When demonstrating compliance with this paragraph for icing conditions, the pilot must perform the recovery maneuver in the same way as for the airplane in non-icing conditions. Compliance with this requirement must be demonstrated in flight with—

(1) The flaps and landing gear in any normal position;

(2) The airplane trimmed for straight flight at a speed of 1.3 V_{SR}; and

(3) The power or thrust necessary to maintain level flight at 1.3 V_{SR}.

* * * * *

(h) For flight in icing conditions before the ice protection system has been activated and is performing its intended function, the following requirements apply, with the ice accretion defined in appendix C, part II(e):

(1) If activating the ice protection system depends on the pilot seeing a specified ice accretion on a reference surface (not just the first indication of icing), the requirements of this section apply, except for paragraphs (c) and (d) of this section.

(2) For other means of activating the ice protection system, the stall warning margin in straight and turning flight must be sufficient to allow the pilot to prevent stalling without encountering any adverse flight characteristics when the speed is reduced at rates not exceeding one knot per second and the pilot performs the recovery maneuver in the same way as for flight in non-icing conditions.

(i) If stall warning is provided by the same means as for flight in non-icing conditions, the pilot may not start the recovery maneuver earlier than one second after the onset of stall warning.

(ii) If stall warning is provided by a different means than for flight in non-icing conditions, the pilot may not start the recovery maneuver earlier than 3 seconds after the onset of stall warning. Also, compliance must be shown with § 25.203 using the demonstration prescribed by § 25.201, except that the deceleration rates of § 25.201(c)(2) need not be demonstrated.

■ 13. Amend § 25.237 by revising paragraph (a) to read as follows:

§ 25.237 Wind velocities.

(a) For land planes and amphibians, the following applies:

(1) A 90-degree cross component of wind velocity, demonstrated to be safe for takeoff and landing, must be established for dry runways and must be at least 20 knots or 0.2 V_{SR0}, whichever is greater, except that it need not exceed 25 knots.

(2) The crosswind component for takeoff established without ice accretions is valid in icing conditions.

(3) The landing crosswind component must be established for:

(i) Non-icing conditions, and

(ii) Icing conditions with the landing ice accretion defined in appendix C.

* * * * *

■ 14. Amend § 25.253 by revising paragraph (b), and adding a new paragraph (c) to read as follows:

§ 25.253 High-speed characteristics.

* * * * *

(b) *Maximum speed for stability characteristics.* V_{FC}/M_{FC}. V_{FC}/M_{FC} is the maximum speed at which the requirements of §§ 25.143(g), 25.147(E), 25.175(b)(1), 25.177, and 25.181 must be met with flaps and landing gear retracted. Except as noted in § 25.253(c), V_{FC}/M_{FC} may not be less than a speed midway between V_{MO}/M_{MO} and V_{DF}/M_{DF}, except that for altitudes where Mach number is the limiting factor, M_{FC} need not exceed the Mach number at which effective speed warning occurs.

(c) *Maximum speed for stability characteristics in icing conditions.* The maximum speed for stability characteristics with the ice accretions defined in appendix C, at which the

requirements of §§ 25.143(g), 25.147(e), 25.175(b)(1), 25.177, and 25.181 must be met, is the lower of:

(1) 300 knots CAS;

(2) V_{FC}; or

(3) A speed at which it is demonstrated that the airframe will be free of ice accretion due to the effects of increased dynamic pressure.

■ 15. Amend § 25.773 by revising paragraph (b)(1)(ii) to read as follows:

§ 25.773 Pilot compartment view.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(ii) The icing conditions specified in § 25.1419 if certification for flight in icing conditions is requested.

* * * * *

■ 16. Amend § 25.941 by revising paragraph (c) to read as follows:

§ 25.941 Inlet, engine, and exhaust compatibility.

* * * * *

(c) In showing compliance with paragraph (b) of this section, the pilot strength required may not exceed the limits set forth in § 25.143(d), subject to the conditions set forth in paragraphs (e) and (f) of § 25.143.

■ 17. Amend § 25.1419 by revising the introductory text to read as follows:

§ 25.1419 Ice protection.

If the applicant seeks certification for flight in icing conditions, the airplane must be able to safely operate in the continuous maximum and intermittent maximum icing conditions of appendix C. To establish this—

* * * * *

■ 18. Amend appendix C to part 25 by adding a part I heading and a new paragraph (c) to part I; and adding a new part II to read as follows:

Appendix C of Part 25

Part I—Atmospheric Icing Conditions

(a) * * *

(c) *Takeoff maximum icing.* The maximum intensity of atmospheric icing conditions for takeoff (takeoff maximum icing) is defined by the cloud liquid water content of 0.35 g/m3, the mean effective diameter of the cloud droplets of 20 microns, and the ambient air temperature at ground level of minus 9 degrees Celsius (-9(C). The takeoff maximum icing conditions extend from ground level to a height of 1,500 feet above the level of the takeoff surface.

Part II—Airframe Ice Accretions for Showing Compliance With Subpart B.

(a) *Ice accretions—General.* The most critical ice accretion in terms of airplane performance and handling qualities for each flight phase must be used to show compliance with the applicable airplane performance and handling requirements in icing conditions of subpart B of this part. Applicants must demonstrate that the full range of atmospheric icing conditions specified in part I of this appendix have been considered, including the mean effective drop diameter, liquid water content, and temperature appropriate to the flight conditions (for example, configuration, speed, angle-of-attack, and altitude). The ice accretions for each flight phase are defined as follows:

(1) *Takeoffice* is the most critical ice accretion on unprotected surfaces and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, occurring between liftoff and 400 feet above the takeoff surface, assuming accretion starts at liftoff in the takeoff maximum icing conditions of part I, paragraph (c) of this appendix.

(2) *Final takeoff ice* is the most critical ice accretion on unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, between 400 feet and either 1,500 feet above the takeoff surface, or the height at which the transition from the takeoff to the en route configuration is completed and V_{FTO} is reached, whichever is higher. Ice accretion is assumed to start at liftoff in the takeoff maximum icing conditions of part I, paragraph (c) of this appendix.

(3) *En route ice* is the critical ice accretion on the unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, during the en route phase.

(4) *Holding ice* is the critical ice accretion on the unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation, during the holding flight phase.

(5) *Approach ice* is the critical ice accretion on the unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation following exit from the holding flight phase and transition to the most critical approach configuration.

(6) *Landing ice* is the critical ice accretion on the unprotected surfaces, and any ice accretion on the protected surfaces appropriate to normal ice protection system operation following exit from the approach flight phase and transition to the final landing configuration.

(b) In order to reduce the number of ice accretions to be considered when demonstrating compliance with the requirements of § 25.21(g), any of the ice accretions defined in paragraph (a) of this section may be used for any other flight phase if it is shown to be more critical than the specific ice accretion defined for that flight phase. Configuration differences and their effects on ice accretions must be taken into account.

(c) The ice accretion that has the most adverse effect on handling qualities may be used for airplane performance tests provided any difference in performance is conservatively taken into account.

(d) For both unprotected and protected parts, the ice accretion for the takeoff phase may be determined by calculation, assuming the takeoff maximum icing conditions defined in appendix C, and assuming that:

(1) Airfoils, control surfaces and, if applicable, propellers are free from frost, snow, or ice at the start of the takeoff;

(2) The ice accretion starts at liftoff;

(3) The critical ratio of thrust/power-to-weight;

(4) Failure of the critical engine occurs at V_{EF}; and

(5) Crew activation of the ice protection system is in accordance with a normal operating procedure provided in the Airplane Flight Manual, except that after beginning the takeoff roll, it must be assumed that the crew takes no action to activate the ice protection system until the airplane is at least 400 feet above the takeoff surface.

(e) The ice accretion before the ice protection system has been activated and is performing its intended function is the critical ice accretion formed on the unprotected and normally protected surfaces before activation and effective operation of the ice protection system in continuous maximum atmospheric icing conditions. This ice accretion only applies in showing compliance to §§ 25.143(j) and 25.207(h).

Issued in Washington, DC, on July 25, 2007.

Marion C. Blakey,

Administrator.

[FR Doc. E7–14937 Filed 8–7–07; 8:45 am]

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August 8, 2007

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 59

Livestock Mandatory Reporting; Reestablishment and Revision of the Reporting Regulation for Swine, Cattle, Lamb, and Boxed Beef; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 59

[Docket No. AMS–LS–07–0106; LS–07–01]

RIN 0581–AC67

Livestock Mandatory Reporting; Reestablishment and Revision of the Reporting Regulation for Swine, Cattle, Lamb, and Boxed Beef

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: On April 2, 2001, the Agricultural Marketing Service (AMS) implemented the Livestock Mandatory Reporting (LMR) program as required by the Livestock Mandatory Reporting Act of 1999 (1999 Act). The statutory authority for the program lapsed on September 30, 2005. In October 2006, legislation was enacted to reauthorize the 1999 Act until September 30, 2010, and to amend the swine reporting requirements of the 1999 Act (Pub. L. 109–296) (Reauthorization Act). This rulemaking is necessary to re-establish the regulatory authority for the program's continued operation and incorporate the swine reporting changes contained within the Reauthorization Act as well as make other changes to enhance the program's overall effectiveness and efficiency based on AMS' experience in the administration of the program over the last 6 years.

DATES: Written comments on the regulatory provisions of this proposed rule must be received on or before September 7, 2007 to be assured of consideration. Written comments on the information collection and recordkeeping provisions of this proposed rule must be received on or before October 9, 2007 to be assured of consideration.

ADDRESSES: Comments can be submitted on the Internet at: *http://www.regulations.gov.* Written comments can be sent to Warren P. Preston, Chief, Livestock and Grain Market News Branch, Docket No. LS–07–01, 1400 Independence Ave., SW., Room 2619–S, Washington, DC 20250–0252, or by facsimile to (202) 690–3732. All comments received will be posted to the Web site at: *http://www.regulations.gov.* Comments that specifically pertain to the information collection and recordkeeping requirements of this action should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 725, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Warren P. Preston, Chief, Livestock and Grain Market News Branch at (202) 720–6231, fax (202) 690–3732, or e-mail *Warren.Preston@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The 1999 Act was enacted into law on October 22, 1999, (Pub. L. 106–78) as an amendment to the Agriculture Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*). In the December 1, 2000, **Federal Register**, AMS published a final rule implementing the program (65 FR 75464) (2000 final rule) with an effective date of January 30, 2001. This effective date was subsequently delayed until April 2, 2001.

The statutory authority for the program lapsed on September 30, 2005. In October 2006, legislation was passed to reauthorize the 1999 Act until September 30, 2010, and amend swine reporting requirements.

Because reauthorization was not completed by September 30, 2005, AMS sent letters to each packer required to report under the 1999 Act requesting their voluntary cooperation in continuing to submit information. Based on the response to AMS's request for voluntary packer participation in LMR, most reports have continued to be published. The only reports that are not being published are imported boxed lamb cuts and slaughter cow reports. AMS has continued compliance audits during the lapse in authority for the mandatory program for companies that agreed to continue submitting information and will continue this practice until the effective date of this regulatory action.

The 1999 Act as originally passed provided for the mandatory reporting of market information by Federally inspected livestock processing plants that have slaughtered an average number of livestock during the immediately preceding 5 calendar years (125,000 for cattle and 100,000 for swine), including any processing plant that did not slaughter during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the plant's capacity. For entities that did not slaughter during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations, AMS projects the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in this regulation.

The 1999 Act also gave the Secretary of Agriculture (Secretary) the latitude to provide for the reporting of lamb information. Under the 2000 final rule implementing the program, Federally inspected lamb processing plants that slaughtered an average of 75,000 head of lambs or processed an average of 75,000 lamb carcasses during the immediately preceding 5 calendar years were required to submit information to AMS. Additionally, a lamb processing plant that did not slaughter an average of 75,000 lambs or process an average of 75,000 lamb carcasses during the immediately preceding 5 calendar years was required to report information if the Secretary determined the processing plant should be considered a packer based on its capacity. In addition, the final rule also established that for any calendar year, an importer of lamb that imported an average of 5,000 metric tons of lamb meat products per year during the immediately preceding 5 calendar years report information on the domestic sales of imported boxed lamb cuts. Additionally, an importer that did not import an average of 5,000 metric tons of lamb meat products during the immediately preceding 5 calendar years was required to report information if the Secretary determined that the person should be considered an importer based on their volume of lamb imports. On September 2, 2004, AMS published a final rule (69 FR 53783) (2004 final rule) that revised the threshold for importers to 2,500 metric tons and modified the definition of carlot when used in reference to boxed lamb cuts.

Key Components of the Statute

Cattle

The Reauthorization Act did not modify the cattle reporting requirements contained in the 1999 Act. The 1999 Act requires that a cattle packer whose Federally inspected plant slaughtered an average of at least 125,000 cattle per year for the preceding 5 calendar years or did not slaughter cattle during the preceding 5 calendar years but is considered a packer based on plant capacity as determined by the Secretary, report market information to the Secretary. They are required to report the prices for each type of cattle purchase, categorized to clearly delineate imported from domestic market purchases, negotiated purchase, formula marketing arrangement, and forward contract; the quantity of cattle, categorized to clearly delineate imported from domestic market purchases, purchased on a live weight

basis and a carcass basis; and the weight, the quality grade, and premiums and discounts. This information would be reported twice a day not later than 10 a.m. and 2 p.m. central time. The Secretary would issue reports to the public of this information at least three times each day.

The 1999 Act further requires that a packer report marketing information not later than 9 a.m. central time on the first reporting day of each week for cattle bought by the type of purchase for the prior week. In addition, the 1999 Act states that packers must report weekly information on the first reporting day not later than 9 a.m. central time for cattle purchased on a formula or contract marketing arrangement and slaughtered the prior week. However, under this proposed regulation, the required information for the weekly submission for cattle purchased on a formula would be obtained by aggregating packers' daily submissions of this information. Therefore, no additional weekly submission would be required for this purchase type. The Secretary would issue a public report not later than 10 a.m. central time on the first reporting day of the current slaughter week.

The 1999 Act also mandates that a packer report information on boxed beef cut sales to the Secretary at least twice each reporting day not less frequently than once before and once after 12 noon central time. This information includes the price per hundredweight, the quantity in each lot of boxed beef cuts sold, information regarding the characteristics of each lot (i.e., domestic vs. export sale, USDA Quality Grade, etc.), the type of beef cut and the trim specification. The Secretary would report this information to the public twice each reporting day.

Swine

The Reauthorization Act revised the requirements for swine reporting. Under the 1999 Act, the term packer includes a Federally inspected plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding 5 calendar years. Under the Reauthorization Act, the term packer also includes a person that slaughtered an average of at least 200,000 sows, boars, or combination thereof per year during the immediately preceding 5 calendar years. Additionally, in the case of a swine processing plant or person that did not slaughter swine during the immediately preceding 5 calendar years, it shall be considered a packer if the Secretary determines the processing plant or person should be considered a packer under this subpart after considering its capacity.

The Reauthorization Act separated the reporting requirements for sows and boars from barrows and gilts. For barrows and gilts, the packer must report to the Secretary not later than 7 a.m. central time on each reporting day information regarding all swine purchased or priced, during the prior business day of the packer. The Reauthorization Act modified the reporting time for information regarding all barrows and gilts slaughtered during the prior business day from not later than 7 a.m. central time to not later than 9 a.m. central time on each reporting day. The packer must report all purchase data including the number of barrows and gilts purchased, barrows and gilts scheduled for delivery and the base price and purchase data for slaughtered barrows and gilts for which a price has been established. The information also includes all slaughter data for the total number of barrows and gilts slaughtered including information concerning the net price, average net price, lowest net price, highest net price, average carcass weight, average sort loss, average backfat, average lean percentage, and total slaughter quantity. However, the information on the lowest net price and highest net price can be obtained from the LMR system from packers' submissions. Therefore, under this proposed rule, there is no requirement for packers to submit this information separately. Packers reporting the average lean percentage must report the manner in which the average lean percentage is calculated as well as whenever a change in such calculation is made. In doing so, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary will convert to the carcass measurements or lean percentage of the swine of the individual packer to correlate to a common percent lean measurement. Additionally, the information to be reported includes packer purchase commitments, which shall be equal to the number of barrows and gilts scheduled for delivery to a packer for slaughter each of the next 14 calendar days.

The Secretary would publish the information in a prior day report not later than 8 a.m. central time for all swine purchased and 10 a.m. central time for all barrows and gilts slaughtered on the reporting day on which the information is received from the packer. In addition, as required by the Reauthorization Act, the Secretary shall publish a net price distribution for all barrows and gilts slaughtered on the previous day not later than 3 p.m. central time.

The Reauthorization Act also requires packers that process barrows and gilts to report to the Secretary in the morning not later than 10 a.m. central time and in the afternoon not later than 2 p.m. central time each reporting day. The reporting requirements for the morning and afternoon reports contained in the Reauthorization Act for barrows and gilts were not altered from those contained in the 1999 Act. The information to be reported is the same for the morning and afternoon reports and includes an estimate of (1) the total number of barrows and gilts purchased by each method of pricing, (2) the total number of barrows and gilts purchased, and (3) the base price paid for all negotiated purchases of market hogs and the base price paid for each type of purchase of market hogs other than through a negotiated purchase. This information must be submitted for all covered transactions made up to within one half hour of each specified reporting time. Packers completing transactions during the one half hour prior to the previous reporting time will report those transactions at the next prescribed reporting time. The Secretary will make the morning report available to the public not later than 11 a.m. central time and the afternoon report at 3 p.m. central time on each reporting day.

The Reauthorization Act requires each packer of sows and boars to report to the Secretary not later than 9:30 a.m. central time, or such other time as the Secretary considers appropriate, on each reporting day, information regarding all sows and boars purchased or priced during the prior business day of the packer. The information to be reported includes the total number of sows and boars purchased, each divided into at least three weight classes specified by the Secretary, the number of sows and boars that qualify as packer-owned swine, the average price paid for all sows and boars, the average price paid for sows and boars in each weight class, the number of sows and boars for which prices are determined, by each type of purchase, and the average prices for sows and boars for which prices are determined, by each type of purchase. The Secretary would publish the information in a prior day report not later than 11 a.m. central time on the reporting day on which the information is received from the packer. Under the 1999 Act, the reporting requirements for sows and boars were the same as the

reporting requirements for barrows and gilts.

The Secretary will compile and issue a weekly noncarcass merit premium report on the first reporting day of the week not later than 5 p.m. central time. This report would be prepared from information furnished to the Secretary by packers who must report not later than 4 p.m. central time on the first reporting day of the week. The information required includes noncarcass merit premiums used and paid to producers during the prior slaughter week by category.

The 1999 Act provides that the Secretary review the information required to be reported by packers at least once every two years. Also, the 1999 Act directs the Secretary to promulgate regulations that specify additional information to be reported by packers if the Secretary determines information currently reported does not accurately reflect the methods by which swine are valued or priced, or account for the fact that packers that slaughter a significant majority of the swine produced in the United States no longer use backfat or lean percentage factors as indicators of price.

Lamb

The Reauthorization Act did not change the lamb reporting provisions contained in the 1999 Act. The 1999 Act gives the Secretary the authority to establish a mandatory lamb price reporting program that will provide timely, accurate, and reliable market information. It does not specify the requirements for establishing a mandatory lamb price reporting program as it does for cattle and swine. Accordingly, in the 2000 final rule, AMS established a mandatory lamb price reporting program based upon its extensive knowledge of the lamb industry and market news reporting of lamb.

Under the established program, a lamb packer whose Federally inspected plant slaughtered or processed an average of at least the equivalent of 75,000 lambs each year for the preceding 5 calendar years reports to the Secretary once daily the price of each type of lamb purchase, negotiated purchase, formula marketing arrangements, forward contract, quantity of lamb purchased on live weight or carcass weight, a range and average estimated live weights, quality grade, premiums and discounts, class type, pelt type, state of origin, and estimated dressing percentage. The Secretary issues a report to the public on this information not less than once each day.

Lamb packers are required to report to the Secretary on a weekly basis on the second reporting day of the week information from the prior week. This information includes the quantity and certain carcass characteristics of lambs purchased through a formula marketing arrangement or forward contract that were slaughtered, and the quantity and carcass characteristics of packer owned lamb that were slaughtered. Reported information includes, by type of purchase, the quantity of lamb purchased on live weight and carcass weight basis that were slaughtered, the quality grade, premiums and discounts paid, and dressing percentage. In addition, a lamb packer is required to report the quantity and basis level for forward contracts, the range and average of intended premiums and discounts, and the expected slaughter date. Under this proposed rule, packers would also be required to report information on the quantity of lambs purchased on a negotiated basis.

The Secretary makes available to the public the information on the second reporting day of the current slaughter week.

Packers report information on daily sales of carcass lamb and sales of boxed lamb cuts each reporting day. Under this proposed rule, packers would also be required to report carcass purchases. Due to the changing structure of the lamb industry, an increasing number of transactions are not required to be reported under the existing regulation. Requiring packers to also report their carcass purchases would greatly increase the volume of covered transactions.

For sales and purchases of carcass lamb, the information includes prices for each lot, the type of sale, the quantity of each sale quoted in number of carcasses, the USDA grade, the estimated weight range, and delivery date. For sales of boxed lamb cuts, the packer reports the price for each lot, the quantity for each lot quoted by product weight, the type of sale, branded product characteristics, if applicable, the USDA quality and yield grade, the cut of lamb, the product state of refrigeration, the weight range of each cut, and the delivery period. The Secretary issues to the public a report on carcass lamb sales and boxed lamb cut sales once each reporting day.

For any calendar year, a lamb importer who imports an average of 2,500 metric tons of lamb meat products per year during the immediately preceding 5 calendar years reports to the Secretary weekly the prices received for imported lamb cuts sold on the domestic market. Additionally, an importer that does not import an average of 2,500 metric tons of lamb meat products during the immediately preceding 5 calendar years is also required to report the above information, if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

Other Provisions of the Act Involving Administration

The administrative provisions of the 1999 Act set forth the requirements for maintaining confidentiality regarding the packer reporting of proprietary information and list the conditions under which Federal employees can release such information. These administrative provisions also establish that the Secretary can make necessary adjustments in the information reported by packers and take action to verify the information reported, and directs the Secretary to report and publish reports by electronic means to the maximum extent practical. The 1999 Act provides for what constitutes violations of that Act, such as failure to report the required information on time or failure to report accurate information. The Reauthorization Act did not change any of these provisions.

The section on enforcement establishes a civil penalty—$10,000—for each violation and provides for the Secretary's issuance of cease and desist orders. This section also provides for notice and hearing of violations before the Secretary, judicial review, issuance of an injunction or restraining order, and establishes a civil penalty for failure to obey a cease and desist order.

The fees section directs the Secretary to not charge or assess fees for the submission, reporting, receipt, availability, or access to published reports or information collected through this program.

The section on recordkeeping requires each packer to make available to the Secretary on request for 2 years the original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock and livestock products, as well as such records or other information that is necessary or appropriate to verify the accuracy of information required to be reported. Also, the 1999 Act provides that reporting entities will not be required to report new or additional information that they do not generally have available or maintain, or the provisions of which would be unduly burdensome.

Further, the 1999 Act provides that the Secretary may suspend any requirement if the Secretary determines that the application of the requirement would be inconsistent with the Act.

Proposed Requirements

Summary of Changes

The requirements of this proposed regulation are discussed in detail in the sections immediately following. However, for the ease of the reader, this section contains descriptions and rationale of the substantive changes that have been made as compared to the December 1, 2000, and September 2, 2004, (that modified reporting requirements for lamb) final rules that were published in the **Federal Register**.

Recordkeeping

To reduce the recordkeeping burden on lamb importers, the Agency is proposing to modify the recordkeeping requirement to allow lamb importers to maintain a record of sale that evidences only the date the sale occurred rather than the time and date. Because lamb importers are required to report only weekly, the date the sale occurred is sufficient for recordkeeping purposes.

Definitions

The Agency is proposing to modify the definition of the term ''discount'' by adding ''or other characteristic'' to allow for the inclusion of other types of discounts such as a discount for an animal's age, which is currently utilized by several reporting packers.

The Agency is also proposing to modify the definitions of the terms ''negotiated purchased'' and ''negotiated sale'' by removing the language ''and agreement on a delivery day.'' Under the current program, a transaction is not required to be reported if the specific delivery day is not known. Deleting this language would provide for more timely price reporting if the only piece of information not known is the delivery day.

The Agency is proposing to add a definition for the term ''negotiated grid purchase.'' When the LMR program was first implemented on April 2, 2001, negotiated grid purchases, purchases in which the base price is determined by seller-buyer interaction from which premiums are added and discounts are subtracted, were coded in packer submissions as formulas, as the system was not initially configured to allow these two distinct transaction types to be coded separately. The Agency subsequently made a programming change to rectify this problem and is proposing this definition for clarity.

The Agency is proposing to add a definition for the term ''percent lean'' for clarification with respect to cow and bull reporting requirements. The Agency is also proposing to add a definition for the term ''person'' for clarity.

Cattle Reporting

The majority of the changes that are being proposed with respect to cattle reporting relate to the separation of the reporting requirements for cows and bulls. Separation of the reporting requirements for cows and bulls is being proposed to minimize the reporting burden on cow and bull packers where possible and to make the information published for cows and bulls and the resulting meat products more meaningful to the industry.

The Agency is proposing to modify the definition of the term ''boxed beef'' to remove references to age limitations on products and to require packers to report transactions for frozen primals, subprimals, and cuts in addition to the current requirement for packers to submit information on frozen beef trimmings and boneless processing beef. Neither the 1999 Act nor the Reauthorization Act defines the term ''boxed beef.'' Hence the term must be defined by regulation. These proposed modifications to the definition would provide for more complete reporting of the boxed beef trade, consistent with the law's purpose of improving the price and supply reporting conditions of USDA. Although the revised definition of ''boxed beef'' potentially would result in the reporting of more transactions by packers to AMS, the Agency believes that there would be little to practically no increase in the reporting burden to packers. The cost to packers of reporting all trades versus sorting out trades beyond certain parameters is minimal, and in many cases, may even be less burdensome than sorting out transactions prior to submission to AMS.

In the 2000 final rule, the definition of ''boxed beef'' specified that the product not exceed one of three different dates from manufacture, depending on the specific item in question. For example, primals, subprimals, and cuts fabricated from subprimals were not to be older than 14 days from the date of manufacture, while fresh ground beef, beef trimmings, and boneless processing beef were not to be older than 7 days from the date of manufacture. By removing references to these different cutoff dates, there would be less confusion in terms of what information reporting packers are required to submit, and hence, less uncertainty regarding the information that is subsequently reported and disseminated by AMS. In addition, new technologies in packaging and processing continue to extend the shelf life of meat products, and product that may have been considered aged or distressed at the time of the 2000 final rule may now be well within its usable shelf life. Removing references to product age in the definition of ''boxed beef'' would reflect such changes in the state of the industry.

The 2000 final rule defined ''boxed beef'' to include fresh primals, subprimals, cuts fabricated from subprimals, ground beef, beef trimmings, and boneless processing beef. The definition also included frozen beef trimmings and boneless processing beef. By removing the references to fresh or frozen product, the proposed rule would reduce confusion on the part of reporting packers regarding whether or not to submit information on particular trades. AMS believes that this modification of the definition of ''boxed beef'' would result in minimal to virtually no increase in burden to reporting packers. In the case of frozen products, numerous reporting packers already submit information on all frozen products. Due to the nature of their electronic systems, it is in many cases often less burdensome for packers to submit everything rather than having to sort through eligible transactions. AMS believes that reporting of trade in frozen products would provide a more accurate and comprehensive picture of the market for boxed beef, consistent with the purposes of the 1999 Act to improve the price and supply reporting services of USDA. For instance, trading of frozen product picked up with the reopening of foreign markets following the closures that resulted from the discovery of a cow with bovine spongiform encephalopathy in the United States in December 2003. Because a majority of packers are reporting frozen boxed beef trades, AMS has been able to show the number of frozen export loads in its comprehensive boxed beef cutout report. Requiring all packers to submit information on frozen product trades would ensure that such reporting would represent a more complete reflection of market conditions.

Comments are invited on the proposed modifications to the definition of ''boxed beef'' with respect to removing references to the age of the product and whether it is fresh or frozen. In particular, comments are invited on the potential utility of obtaining information on trades that would be excluded under the definition

of ''boxed beef'' in the 2000 final rule and on the change in reporting burden to packers. In any case, the Agency notes that it will accept all data submitted if reporting entities find that it is less burdensome to do so, provided that sufficient information is submitted to allow AMS to sort the information according to definitions in the final rule.

The Agency is proposing to modify the definition of the term ''carlot-based'' such that for cow and bull boxed beef items, the term ''carlot-based'' would include any transaction between a buyer and seller consisting of 5,000 pounds or more of one or more individual items. This modification reflects current industry practice with respect to the marketing of cow and bull products.

The Agency is proposing to modify the definition of the term ''terms of trade'' to clarify that the requirement to report the terms of trade applies only to steers and heifers to coincide with the proposed separation of reporting requirements for cows and bulls from steers and heifers. The definition of ''terms of trade'' has also been modified to require packers to distinguish between negotiated transactions that are scheduled for delivery not later than 14 days and those negotiated transactions that are scheduled for delivery more than 14 days, but fewer than 30 days. Under current guidance provided by AMS, transactions that are for delivery more than 14 days out are to be coded as forward contracts. This proposed modification would not require packers to submit additional transactions, but it would allow AMS to separately identify these types of transactions, which is a concern of some in the industry.

The Agency is proposing to modify the definition of the term ''type of purchase'' to include ''negotiated grid purchase'' as a type of purchase.

The Agency is proposing to add a definition for the term ''white cow'' to provide clarity to the cow and bull reporting requirements.

The Agency has modified and renumbered the sections that relate to the daily and weekly reporting requirements for live cattle. Section 59.101 and section 59.103 contain the daily and weekly reporting requirements for steers and heifers. Section 59.102 contains the daily reporting requirements for cows and bulls.

With regard to section 59.101, packers would no longer be required to report the range of weights of cattle purchased. In addition, the phrase ''or other characteristics'' has been added to the premium and discount reporting requirement to allow for the reporting of other kinds of premiums and discounts such as those associated with an animal's age.

Section 59.102 contains the reporting requirements for cow and bull purchases. In an effort to reduce the reporting burden on cow and bull packers, only the information that pertains to the way cows and bulls are marketed would be required to be reported. For example, cow and bull packers no longer have to report committed and delivered information. In addition, there would no longer be a weekly reporting requirement for cows and bulls.

With regard to section 59.103, packers would be required to report the quantity of cattle purchased on a negotiated basis and on a negotiated grid basis that were slaughtered in addition to the current requirement to report the number of cattle purchased through forward contracts, formula marketing arrangements and the quantity and carcass characteristics of packer-owned cattle that were slaughtered. In addition, packers would be required to provide the basis level month and delivery year for all cattle purchased through forward contracts in addition to the current requirement to report the basis level and delivery month. These changes are necessary to make the information published in AMS market reports more meaningful and useable by the industry by providing a complete picture of the prior week's slaughter with respect to the numbers of cattle harvested under each purchase type. Prices for negotiated purchases and negotiated grid purchases are collected currently, but prior week slaughter numbers for these types of purchases are not now collected. However, the addition of this reporting requirement is expected to have little impact on the reporting burden to packers, while contributing to the completeness of the information disseminated under the program.

Another change under section 59.103 is that packers would be required to provide the basis level month and delivery year for all cattle purchased through forward contracts in addition to the current requirement to report the basis level and delivery month. The basis level month and delivery year are necessary to provide a more accurate picture of the forward contract market and would allow AMS to publish more meaningful information. Also, the added information reflects the current industry practice of sometimes contracting out very far into the future, making it necessary to know the delivery year to categorize transactions properly according to not only the month but also the year of delivery.

Finally, in another effort to reduce the burden on reporting packers, the weekly requirement to report information for cattle purchased through a formula marketing arrangement and slaughtered during the prior slaughter week has been removed as the Agency can obtain this information by aggregating packers' daily submissions.

Swine

As required by the Reauthorization Act, the reporting requirements for sows and boars have been separated from the reporting requirements for barrows and gilts. Thus under this proposed rule, section 59.202 contains the reporting requirements for barrows and gilts and section 59.303 contains the reporting requirements for sows and boars.

The Reauthorization Act also made a few other modifications to the swine reporting provisions. Specifically, the definition of a packer has been modified to also include a person that slaughtered an average of 200,000 head of sows, boars, or combination thereof per year during the immediately preceding 5 calendar years. Under the 1999 Act, a packer was defined as a swine processing plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding 5 calendar years. The Reauthorization Act also changes the reporting timeframe for packers to submit prior day slaughtered swine information from 7 a.m. central time to 9 a.m. central time and requires the Secretary to publish a net price distribution on all barrows and gilts slaughtered the previous day.

In addition to the changes required by the Reauthorization Act, the Agency has made a few other minor modifications to reduce the reporting burden on swine packers. A definition of the term ''inferior hog'' has been added to allow packers to exclude information on inferior hogs, which are discounted in the marketplace, from their data submissions to AMS. Also, the requirement to submit information on the lowest net price and the highest net price has been removed as the Agency can obtain this information from the LMR system from packer submissions.

Lamb

As previously discussed, the Reauthorization Act did not change the reporting provisions for lamb. However, the Agency is proposing a few changes to reduce the reporting burden on lamb packers where possible and to provide more meaningful information in AMS market reports.

The Agency is proposing to delete the definitions for the terms ''lambs committed'' and ''terms of trade'' as the

requirements to submit this information have been deleted to reduce the reporting burden on packers. The Agency is proposing to add a definition for the term ''yield grade lamb carcass reporting'' to add further clarification to the requirement to report yield grade information.

With respect to weekly reporting, the Agency is proposing to require packers to submit information on the quantity of lambs purchased through a negotiated purchase that were slaughtered in addition to the current requirement to submit this type of information on packer-owned lambs, lambs purchased through forward contracts, and lambs purchased under a formula arrangement. This change would allow AMS to publish more meaningful market information in AMS market reports.

With respect to reporting requirements for lamb carcasses, the Agency is proposing to require packers to submit information on their carcass purchases in addition to the current requirement to report carcass sales. Due to the changing structure of the lamb industry, an increasing number of transactions are not required to be reported under the existing regulation. Requiring packers to also report their carcass purchases will greatly increase the volume of covered transactions and will allow AMS to publish more meaningful information in AMS market reports.

General Provisions

Proposed Subpart A of Part 59, General Provisions, covers those requirements pertinent to all aspects of mandatory reporting. Section 59.10 details how packers and importers would be required to report information and how reporting will be handled over weekends and holidays. Electronic reporting would be required for all information collection. Electronic reporting would involve the transfer of data from a packer's or importer's existing electronic recordkeeping system to a centrally located AMS electronic database. The packer or importer would be required to organize the information in an AMS-approved format before electronically transmitting the information to AMS.

Once the required information has been entered into the AMS database, it would be aggregated and processed into various market reports that would be released according to the daily and weekly time schedule set forth in these proposed regulations.

Section 59.20 identifies the recordkeeping requirements imposed by the 1999 Act and these regulations on packers and importers. Reporting packers and importers would be required to maintain and to make available the original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock. In addition, they would be required to maintain such records or other information as is necessary or appropriate to verify the accuracy of the information required to be reported under these regulations. All of the above mentioned paperwork must be maintained by packers and importers for at least 2 years. Further, packers would be required to maintain a record to indicate the time a lot of cattle or swine was purchased, or a unit of boxed beef cuts was sold, as occurring either before 10 a.m. central time, between 10 a.m. and 2 p.m. central time, or after 2 p.m. central time. Lamb packers would be required to maintain a record to indicate the time a lot of lambs was purchased or a lot of lamb carcasses was purchased or sold or boxed lamb cuts was sold, as occurring either before 2 p.m. central time or after 2 p.m. central time. For lamb importers, the record of sale shall evidence the date the sale occurred. However, to allow packers and importers time to collect, assemble and submit the information to AMS by the prescribed deadlines, all covered transactions up to within one half hour of the specified reporting times would be reported.

Lastly, under Subpart A, Section 59.30 details the general definitions of terms used throughout the regulations, which would be applicable to all subparts. The majority of these definitions remain unchanged from those that were published in the 2000 final rule. However, as previously discussed, the following changes have been made: Minor modifications to the definitions of ''discount'', ''negotiated purchase'', and ''negotiated sale''; the addition of a definition for ''negotiated grid purchase''; the addition of a definition of ''percent lean''; and the addition of a definition of ''person''.

Cattle

Proposed Subpart B of Part 59 states what is required to be reported in the cattle and boxed beef sectors. For the most part, the reporting requirements are similar to those published in the December 1, 2000, final rule. The specific changes that are being proposed have been discussed in a previous section in this document. Section 59.100 provides definitions of cattle terms used in Subpart B, including the definition of packer, which identifies which entities would be required to report under this proposed rule. In any calendar year, the term cattle packer includes any Federally inspected cattle plant that slaughtered an average of 125,000 head of cattle a year for the immediately preceding 5 calendar years. Additionally, the term includes any processing plant that did not slaughter cattle during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on its capacity.

For entities that did not slaughter cattle during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations, AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in these regulations.

The definition of ''boxed beef'' includes fresh and frozen primals, subprimals, cuts fabricated from subprimals (with some exclusions), and fresh and frozen ground beef, beef trimmings, and boneless processing beef.

The definition of ''terms of trade'' applies to steers and heifers only and includes the percentage of steers and heifers purchased by a packer as a negotiated purchase that are scheduled to be delivered to the plant for slaughter not later than 14 days and the percentage of slaughter steers and heifers purchased by a packer as a negotiated purchase that are scheduled to be delivered to the plant for slaughter more than 14 days but fewer than 30 days.

The term ''type of purchase'' with respect to cattle, means a negotiated purchase, negotiated grid purchase, a formula market arrangement, and a forward contract.

The term ''white cow'' means a cow on a ration that tends to produce white fat.

As previously discussed, the reporting requirements for cows and bulls have been separated from the reporting requirements for steers and heifers, which will reduce the reporting burden on cow and bull packers. Section 59.101 discusses the daily reporting requirements for steer and heifer transactions, including what information would be reported, when it would be reported, and when it would be published. Steer and heifer plants covered under the rule would report the details of their purchases twice each day to AMS (once by 10 a.m. central time, and once by 2 p.m. central time) and

would include all covered transactions made up to within one half hour of the specified reporting time. Packers completing transactions during the one half hour prior to the previous reporting time would report those transactions at the next prescribed reporting time. The Secretary would publish the information not less than three times each day. Section 59.102 discusses the daily reporting requirements for cows and bulls, including what information would be reported, when it would be reported, and when it would be published. Cow and bull plants covered under this rule would be required to report the base bid price intended to be paid for slaughter cow and bull carcasses on that day not later than 10 a.m. central time and the prices for cattle purchased during the previous day not later than 2 p.m. central time. The Secretary would publish the information within one hour of the required reporting time on the reporting day on which the information is received by the packer. Section 59.103 discusses the requirements for weekly reporting for steers and heifers. Packers would be required to report information regarding the prior slaughter week on the first reporting day of each week not later than 9 a.m. central time. This information includes the quantity of cattle purchased through a negotiated basis that were slaughtered; the quantity of cattle purchased through a negotiated grid basis that were slaughtered; the quantity of cattle purchased through forward contracts that were slaughtered; the quantity of cattle delivered under a formula marketing arrangement that were slaughtered; the quantity and carcass characteristics of packer-owned cattle that were slaughtered; the quantity, basis level, basis level month, and delivery month and year for all cattle purchased through forward contracts; and the range and average of intended premiums and discounts that are expected to be in effect for the current slaughter week. This information would be published by the Secretary on the same day by 10 a.m. central time. Finally, under Subpart B, Section 59.104 details the information required to be reported concerning sales of boxed beef cuts including what would be reported, when it would be reported, and when it would be published. Cattle plants producing boxed beef cuts would be required to report their domestic and export sales of boxed beef cuts including branded boxed beef cuts to AMS twice each reporting day, once by 10 a.m. central time and once by 2 p.m. central time. This should include all covered transactions made up to within one half hour of the specified reporting time. Cattle plants completing transactions during the one half hour prior to the previous reporting time would report those transactions at the next prescribed reporting time. This information would be published by the Secretary twice each day. These plants would be required to reference the Institutional Meat Purchase Specifications (IMPS) for Fresh Beef Products Series 100, United States Department of Agriculture, Agricultural Marketing Service, Livestock and Seed Program, when applicable.

Swine

The Reauthorization Act made several changes to the swine reporting provisions. The Agency made a few other minor modifications, which are discussed in detail in a previous section in this document, for clarity and to reduce the reporting burden on packers.

Proposed Subpart C of Part 59 lists the requirements of swine reporting beginning with Section 59.200, which establishes definitions for terms used throughout the subpart including the definition of a packer. In any calendar year, the term swine packer includes a Federally inspected plant that slaughtered an average of at least 100,000 swine per year during the immediately preceding 5 calendar years and a person that slaughtered an average of at least 200,000 sows, boars, or combination thereof per year during the immediately preceding 5 calendar years. Additionally, in the case of a swine processing plant or person that did not slaughter swine during the immediately preceding 5 calendar years, it shall be considered a packer if the Secretary determines the processing plant or person should be considered a packer under this subpart after considering its capacity. For entities that did not slaughter swine during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations, AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in these regulations.

Section 59.202 discusses the daily reporting requirements for barrows and gilts including what information would be reported, when it would be reported, and when it would be published.

For barrows and gilts, packers required to report under this rule would report the details of their barrows and gilts purchases three times each day including a prior day report not later than 7 a.m. central time, a morning report not later than 10 a.m. central time, and an afternoon report not later than 2 p.m. central time, including all covered transactions made up to within one half hour of each specified reporting time. Packers completing transactions during the one half hour prior to the previous reporting time would report those transactions at the next prescribed reporting time. This information would be published by the Secretary each reporting day not later than 8 a.m. central time, 11 a.m. central time, and 3 p.m. central time, respectively. For barrows and gilts, packers required to report under this rule would also have to report not later than 9 a.m. central time on each reporting day information regarding all barrow and gilts slaughtered during the prior business day. This information would be published by the Secretary each reporting day not later than 10 a.m. central time. In addition, the Secretary would publish a net price distribution for all barrow and gilts slaughtered on the previous day not later than 3 p.m. central time. Section 59.203 details the reporting requirements for sows and boars. Under this proposed rule, each sow and boar packer would report to the Secretary not later than 7 a.m. central time on each reporting day information regarding all sows and boars purchased or priced during the prior business day of the packer. This information would be published by the Secretary each reporting day not later than 8 a.m. central time. Section 59.204 details the requirements for reporting weekly swine information to AMS including what would be reported, when it would be reported, and when it would be published. On the first reporting day of each week, not later than 4 p.m. central time, packers would be required to report information on noncarcass merit premiums used and paid to producers during the prior slaughter week by category. This information would be published on the first reporting day of each week not later than 5 p.m. central time.

Lamb

Proposed Subpart D of Part 59 covers the mandatory reporting of lambs. The 1999 Act gives the Secretary the authority to establish a mandatory lamb price reporting program but does not set forth the requirements. AMS proposes to resume the previously established mandatory lamb price reporting program with some modifications as discussed in a previous section in this document.

Section 59.300 provides definitions for terms used throughout Subpart D including definitions for packer and for

importer, which identifies the entities that would be required to report under this proposed rule. For any calendar year, the term lamb packer includes any Federally inspected lamb processing plant that slaughtered or processed the equivalent of an average of 75,000 head of lambs a year for the immediately preceding 5 calendar years. Additionally, the term includes any processing plant that did not slaughter or process an average of 75,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the capacity of the processing plant.

For entities that did not slaughter lambs during the immediately preceding 5 calendar years, such as a new plant or existing plant that begins operations, AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in these regulations.

For any calendar year, the term lamb importer includes any importer that imported an average of 2,500 metric tons of lamb meat products per year during the immediately preceding 5 calendar years. Additionally, for any calendar year, the term importer includes any lamb importer that did not import an average of 2,500 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

For importers of lamb meat products, AMS will annually review import lamb volume data obtained from the United States Bureau of Customs and Border Protection to determine which importers are required to report imported boxed lamb cut sales information under these regulations.

Under this proposed rule, several changes have been made to the definitions section that was published in the 2000 final rule. To facilitate the publication of more meaningful information in AMS market reports, a definition of ''yield grade lamb carcass reporting'' has been added, which will help clarify the requirements for reporting USDA yield grade information. In addition, the definitions of ''lambs committed'' and ''terms of trade'' have been deleted as the requirement to submit the information associated with these definitions has been removed as it is not used by the industry.

Section 59.301 covers the daily reporting requirements for live lamb transactions including what would be reported, when it would be reported, and when it would be published. Lamb plants covered under the rule would report the details of their live lamb purchases once each day to AMS, to include all covered transactions made up to within one half hour of the specified reporting time. Lamb plants completing transactions during the one half hour prior to the previous reporting time would report those transactions at the next prescribed reporting time. The Secretary would publish this information not less than once each day. Section 59.302 covers the same type of information for weekly reporting of live lamb transactions. Packers would be required to report information regarding the prior slaughter week, including among other things the number of lambs purchased through a negotiated purchase that were slaughtered, on the first reporting day of each week to be published by the Secretary on the same day. Finally, Section 59.303 covers the reporting requirements for transactions of lamb carcasses and boxed lamb cuts including what would be reported, when it would be reported, and when it would be published. Packers would be required to report details of their sales and purchases of carcass lambs once each day and the Secretary would publish the information once each day. Packers would be required to report details of their sales of boxed lamb cuts, including applicable branded product. This information would be published once each day. These plants would be required to reference the Institutional Meat Purchase Specifications (IMPS) for Fresh Lamb and Mutton Series 200, United States Department of Agriculture, Agricultural Marketing Service, Livestock and Seed Program, where applicable.

Importers of boxed lamb cuts would be required to report the required information of their prior week sales of imported boxed lamb cuts on the domestic market, including applicable branded product on the first reporting day of each week and this information would be published by the Secretary on the same day.

OMB Control Numbers

Subpart E of Part 59 covers the OMB control number 0581–0186 assigned pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) for the information collection requirements listed in Subparts B through D of Part 59. All required information must be reported to AMS in a standardized format. The standardized format is embodied in 16 data collection forms that are included in Appendix E at the end of this document. Cattle packers will utilize up to seven of these forms (not all cattle packers must submit all cattle forms) (Appendix A) when reporting information to AMS including four for daily cattle reporting, two for weekly cattle reporting, and one for daily boxed beef cuts reporting. Swine packers will utilize up to three forms (not all swine packers must submit all swine forms) (Appendix B), two for daily reporting of swine purchases and one for weekly reporting of non-carcass merit premium information. Lamb packers will utilize up to six of these forms (not all lamb packers must submit all lamb forms) (Appendix C) when reporting information to AMS, including one for daily lamb reporting, three for weekly lamb reporting, one for daily and weekly boxed lamb cuts reporting, and one for daily lamb carcass reporting. Lamb importers will utilize one of these forms when reporting information to AMS for reporting weekly imported boxed lamb cut sales.

Appendices

The final section of this document contains a series of five appendices. These appendices will not appear in the Code of Federal Regulations. The first three appendices, Appendices A to C, have already been discussed above. They describe the forms that will be used by those required to report information under this program. Appendix D contains guidelines for those entities required to report information on how to use the forms. The actual forms are contained in Appendix E.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. Section 259 of the 1999 Act prohibits States or political subdivisions of a State to impose any requirement that is in addition to, or inconsistent with, any requirement of the 1999 Act with respect to the submission or reporting of information, or the publication of such information, on the prices and quantities of livestock or livestock products. In addition, the 1999 Act does not restrict or modify the authority of the Secretary to administer or enforce the Packers and Stockyards Act of 1921 (7 U.S.C. 181 *et seq.*); administer, enforce, or collect voluntary reports under the 1999 Act or any other law; or access documentary evidence as provided under Sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50). There are no administrative procedures that must be

exhausted prior to any judicial challenge to the provisions of this rule.

Civil Rights Review

AMS has considered the potential civil rights implications of this rule on minorities, women, or persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. This review included persons that are employees of the entities that are subject to this regulation. This proposed rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Further, this proposed rule would not deny any persons or groups the benefits of the program or subject any persons or groups to discrimination.

Executive Order 13132

This proposed rule has been reviewed under Executive Order 13132, Federalism. This Order directs agencies to construe, in regulations and otherwise, a Federal Statute to preempt State law only when the statute contains an express preemption provision. This rule is required by the 1999 Act. Section 259 of the 1999 Act, Federal Preemption, states, ''In order to achieve the goals, purposes, and objectives of this title on a nationwide basis and to avoid potentially conflicting State laws that could impede the goals, purposes, or objectives of this title, no State or political subdivision of a State may impose a requirement that is in addition to, or inconsistent with, any requirement of this subtitle with respect to the submission or reporting of information, or the publication of such information, on the prices and quantities of livestock or livestock products.''

Prior to the passage of the 1999 Act, several States enacted legislation mandating, to various degrees, the reporting of market information on transactions of cattle, swine, and lambs conducted within that particular State. However, since the National program was implemented on April 2, 2001, these State programs are no longer in effect. Therefore, there are no Federalism implications associated with this rulemaking.

Executive Order 12866

This proposed rule has been determined to be significant for purposes of Executive Order 12866 and therefore has been reviewed by the Office of Management and Budget (OMB). In accordance with Executive Order 12866, this preliminary regulatory analysis contains a statement of the need for the proposed rule, an examination of alternative approaches, and an analysis of benefits and costs.

Executive Summary

This proposed rule implements the Reauthorization Act, which reauthorized the 1999 Act and amended the swine reporting provisions of that Act. As stated in the 1999 Act, the purpose of the Act is to establish a program of information regarding the marketing of cattle, swine, lambs, and the products of such livestock that provides information that can be readily understood by producers; improves the price and supply reporting services of the Department of Agriculture; and encourages competition in the marketplace for livestock and livestock products. (7 U.S.C. 1635)

This proposed rule facilitates open, transparent price discovery and provides all market participants, both large and small, with comparable levels of market information. The proposed rule is expected to reduce the time and resources that market participants would otherwise expend to assess current market conditions, reduce risk and uncertainty, and contribute to considerations of fairness and equity to all participants in the marketplace. However, these anticipated benefits are difficult to measure and quantify.

This proposed rule is strictly an informational measure and does not impose any restrictions on the form, timing, or location of procurement and sales arrangements in which subject packers and importers may engage. Therefore, costs of the proposed rule are simply the costs associated with system development and maintenance, data submission, and recordkeeping activities of the packers and importers required to report information under this proposed rule, plus the costs to the Federal government for operation of the program. However, most of the entities that would be required to report under this proposed rule already reported information prior to expiration of the 1999 Act on September 30, 2005, and have since continued to do so voluntarily. As a result, incremental costs for implementation of this proposed rule are negligible relative to total costs associated with the program. Moreover, total costs estimated for this proposed rule are lower than costs estimated in the 2000 final rule expressed in comparable current (May 2007) dollar values.

Total costs to reporting packers and importers are estimated at approximately $724,000 per year, while costs to the Federal government for operation of the program total $6.3 million per year. By comparison, the total costs to reporting packers and importers in the 2000 final rule (65 FR 75464) were estimated at $836,000 per year in current dollars, while costs to the Federal government in FY 2001 were estimated at $6.9 million in current dollars. In current dollar terms, the proposed rule represents a reduction of $112,000 in estimated annual costs to reporting packers and importers, and a reduction of $600,000 in estimated annual costs to the Federal government.

For both respondents and the Federal government, total costs for the proposed rule are estimated at approximately $7.0 million annually, while total costs for the 2000 final rule were estimated at $7.8 million annually in current dollars. Because the Act expires on September 30, 2010, the proposed rule is assumed to have a life cycle of 4 years. At a real discount rate of 3 percent, the discounted present value of the total private and public sector costs for the proposed rule is estimated at $26.9 million for the duration of the program, compared to $29.7 million for the 2000 final rule (expressed in current dollars over a 4-year life cycle). This represents a reduction of $2.8 million over the life of the proposed rule in comparison to the 2000 final rule. At a real discount rate of 7 percent, the discounted present value of the total private and public sector costs for the proposed rule is estimated at $25.5 million for the duration of the program, compared to $28.1 million for the 2000 final rule (expressed in current dollars over a 4-year life cycle). This represents a reduction of more than $2.6 million over the life of the proposed rule in comparison to the 2000 final rule.

Need for Federal Regulatory Action

This proposed rule implements the Reauthorization Act, which reauthorized the 1999 Act and amended the swine reporting provisions of that Act. The 1999 Act first became law on October 22, 1999, as an amendment to the Agricultural Marketing Act of 1946. The first reports disseminated under LMR were issued in April 2001. In December 2004, the 1999 Act was reauthorized through September 30, 2005. The legislative authority lapsed until October 5, 2006, when it was reauthorized through September 30, 2010, with the Reauthorization Act. During the two periods of lapsed mandatory reporting authority, most firms that would have been required to report information under the requirements of LMR continued to

report the same information voluntarily. As a result, AMS continued to release most of the reports that would have been released under the mandatory reporting program.

The 1999 Act as amended by the Reauthorization Act directs the Department of Agriculture (USDA) ''to establish a program of information regarding the marketing of cattle, swine, lambs, and products of such livestock.'' This Act contains specific requirements that provide limited discretionary authority for regulatory implementation of many of the law's provisions. As a result, many of the provisions within this proposed rule represent straightforward implementation of the requirements of this Act.

As stated in the 1999 Act, the purpose of the statute is to establish a program that—

(1) provides information that can be readily understood by producers, packers, and other market participants, including information with respect to the pricing, contracting for purchase, and supply and demand conditions for livestock, livestock production, and livestock products;

(2) improves the price and supply reporting services of the Department of Agriculture; and

(3) encourages competition in the marketplace for livestock and livestock products. (7 U.S.C. 1635)

Increasingly, transactions between livestock producers and meat packers occur by way of private negotiations rather than through public trades. Compared to prices established in public markets, prices established in private transactions are difficult to observe, collect, summarize, and disseminate. Data reported by USDA's Grain Inspection, Packers and Stockyards Administration (GIPSA) show that of total cattle purchases by reporting packers, the share purchased in public markets declined from 30.2 percent in 1977 to 12.0 percent in 2004.1 For hogs, the decline was larger, dropping from 27.5 percent in 1977 to just 1.7 percent in 2004.[1] For sheep and lambs, public market purchases declined from 23.4 percent to 8.3 percent of total purchases by reporting packers over the same period.

Open, transparent price discovery provides all market participants with comparable levels of market information, providing each economic agent with similar information. The decline in public market trading of livestock over the years led to increasingly opaque price discovery in these markets. As stated in the 1999 Act, mandatory livestock reporting provides a means of providing information to market participants and improving the price and supply reporting services of USDA.

Similar to many sectors of the economy, both the livestock production and meat packing industries have undergone substantial consolidation during the past few decades. However, the rate and extent of the consolidation among meat packers has been greater compared to livestock producers.

The four-firm concentration ratio for steer and heifer slaughter increased from 35.7 percent in 1980 to 81.1 percent in 2004.[2] Over the same period, the four-firm concentration ratio for cow and bull slaughter increased from 9.7 percent to 48.0 percent. Hog slaughter concentration by the top four firms increased from 33.6 percent to 61.3 percent over the same period, while sheep and lamb slaughter concentration increased from 55.9 percent to 66.9 percent. Between 1986 and 2005, the number of bonded packers reporting to GIPSA declined from 691 to 312.

According to the National Agricultural Statistics Service (NASS), the number of cattle operations in the United States declined from 1.6 million in 1980 to 983,000 in 2005. Over the same time period, the number of hog and pig operations declined from 667,000 to 67,000, while the number of sheep and lamb operations declined from 120,000 to 68,000. Thus, consolidation occurred among livestock production operations, but the number of livestock operations still far exceeds the number of livestock packers.

For slaughter livestock, the predominant marketing relationship is characterized by comparatively small livestock operations dealing with large meat packing firms. In addition, markets for slaughter livestock are local or regional in geographic scope. The distances over which it is economically rational to transport slaughter livestock is dictated by differences in relative prices for livestock in different geographic areas versus shipping costs. Shipping costs include not only costs of trucking equipment, labor, fuel, insurance and other out-of-pocket expenses, but also include additional stress and weight shrink of animals hauled for greater distances and longer periods of time. In these regionalized trade areas, there typically are relatively large numbers of livestock operations, but only a handful of packers for any given type of slaughter animal. As a result, relatively few packers engage in many, frequent negotiations and completed transactions with a large number of producers. In contrast, even larger livestock operations typically engage in negotiations with a few packers within their economically viable trade area and may only complete transactions with one or two packers. Smaller livestock operations may only engage in sales transactions a few times per year, while packers procure livestock to run their plants every business day of the year. The 1999 Act and the Reauthorization Act were passed by Congress in light of these structural and organizational conditions present in the livestock and meat industries.

The proposed rule does not constitute economic regulation of the permissible business practices in which meat packers and importers may engage. Affected entities are free to conduct their businesses in any manner consistent with other relevant Federal, State, and local laws and regulations. The proposed rule only requires that the subject entities disclose information about their livestock purchases and meat sales to AMS, which will then process, summarize, and disseminate the information. The identity of persons, including parties to a contract, and proprietary business information will be kept confidential in accordance with the 1999 Act.

Alternative Regulatory Approaches

AMS believes that the proposed rule represents the most cost effective means of fulfilling the statutory mandate of 1999 Act as amended by the Reauthorization Act. While this Act provides some discretionary authority for operation of the program, many of the definitions, reporting times, and disclosure requirements are specified in the law itself. Since the program was first implemented in April 2001, experience has proven that electronic reporting is the least-cost means for both subject entities and AMS to comply with the requirements of the Reauthorization Act. During the periods in which mandatory reporting requirements lapsed (including October 2005 through the present), entities that continued to report voluntarily did so through electronic submission of information in the same manner as had been required under mandatory reporting authority.

The LMR system provides two methods for firms to transmit livestock mandatory reporting data to the system: A web interface and electronic data transfer. For most firms, electronic data transfer provides the most efficient

[1] GIPSAQ, USDA. Packers and Stockyards Statistical Report, 2005 Reporting Year. GIPSA SR–07–1, February 2007.

[2] Ibid.

mechanism for transferring required data. USDA provides a software utility for users to transfer comma-delimited ASCII files directly to the LMR system. The comma-delimited files can be generated electronically from livestock purchase and meat sales records. For smaller operations with relatively few transactions, the web interface may be more efficient than electronic data transfer. The web interface module is available over the Internet using a web browser, but requires more manual inputting of data compared to the electronic data transfer option. Nonetheless, the web interface option provides smaller operations with a mechanism for submitting the required data without the need to incur fixed costs of developing a software application to prepare data for electronic data transfer. Historically, about 90 percent of plants and importers have submitted data electronically, with the remaining 10 percent of respondents submitting data through the web interface.

Analysis of Benefits and Costs

The baseline for this analysis is the LMR program as it currently operates. Specifically, the baseline is the LMR program as directed by the 1999 Act and implemented by the 2000 final rule. Although the 2000 final rule expired when the 1999 Act expired on September 30, 2005, the current voluntary participation by most packers allows the LMR program to function nearly identically to how it operated under the mandatory authority of the 1999 Act.

Despite the fundamental role played by market information for private and public decision-making, research, outlook, and analysis, there is comparatively little empirical research on market reporting in and of itself. Likewise, there is a paucity of quantitative research regarding the benefits and costs of LMR specifically.

Perry, et al. note that some local and regional market news reports were no longer available after the implementation of LMR because of the program's confidentiality restrictions.[3] However, the authors also conclude that far more information on formula transactions became available, allowing for comparisons with negotiated transactions that had not been possible before. Formula prices for cattle were found to closely mirror prices for negotiated purchases. The study found that volatility in weekly reported cattle prices rose after implementation of LMR, but was unable to determine whether the change resulted from the change in the reporting system or from changes in cattle markets. The authors observed that the trend toward formula pricing arrangements in cattle markets slowed after LMR was implemented, and cautiously speculated that the program may have played a role in stabilizing the volume of negotiated transactions.

Ward provides perhaps the most comprehensive review and assessment of research relating to LMR.[4] Ward notes that satisfaction or dissatisfaction with mandatory reporting depends on individuals' expectations regarding what the Reauthorization Act would achieve or the problems that it would address. Ward concludes that mandatory reporting provides more information in some areas than what was previously available and has increased transparency and price reporting accuracy. He suggests that satisfaction with the program likely has increased due to increased familiarity with the data and information available through mandatory reporting and enhanced confidence in reported prices.

Benefits. One of the fundamental conditions underlying the theory of competitive markets is that market participants possess relevant information necessary to make the correct economic decisions. This proposed rule seeks to ensure market transparency by providing current and potential participants in livestock and meat markets with timely, accurate, and comprehensive information about prices paid and received for livestock and meat products. Market transparency facilitates market efficiency by reducing search costs for market participants and by reducing risk and uncertainty. Widely available market information reduces the time and resources that market participants would otherwise expend to assess current market conditions. With reliable market information, market participants can make informed marketing decisions and thus reduce exposure to risks associated with buying or selling at prices inconsistent with the prevailing market norms. Unrestricted availability of market information may also contribute to considerations of equity and fairness in the marketplace. Unrestricted dissemination of market news reporting provides all market participants with comparable access to current market information regardless of the size or financial resources of their respective operations.

Livestock mandatory reporting under this proposed rule will provide comprehensive information on slaughter livestock, beef, and lamb meat prices. Using the information submitted by packers under the provisions of the 1999 Act, AMS publishes over 100 daily, weekly, and monthly reports covering market transactions for fed cattle, swine, lamb, beef, and lamb meat. Based on the information available, AMS estimates that reports issued under LMR cover approximately 95 percent of slaughter hogs, 77 percent of the slaughter cattle, 60 percent of slaughter sheep, 41 percent of boxed lamb, 26 percent of the carcass lamb, and 93 percent of boxed beef. AMS market reports are utilized by producers and others in the marketing chain to formulate contracts and make marketing decisions, and by other Government agencies to make policy decisions, settle trade disputes, and in a variety of other functions. Despite the fundamental role played by price information in underpinning fair, competitive, and efficient markets, quantifying the impact of mandatory livestock reporting is difficult. There is a considerable economic literature addressing the value of information, but little research on the economics of market reporting in and of itself.[5] Research mainly has addressed the accuracy and adequacy of price reporting, but no published works have been identified that monetize the benefits of mandatory reporting programs such as that contained in this proposed rule.

Costs. This proposed rule is strictly an informational measure and does not impose any restrictions on the form, timing, or location of procurement and sales arrangements in which subject packers and importers may engage. The proposed rule places no additional limitations on current or future business relationships into which affected firms may enter, although other local, State, and Federal laws and regulations regarding such relationships continue to apply. Therefore, costs of the proposed rule are simply the costs associated with system development and maintenance, data submission, and recordkeeping activities of the packers and importers that would be required to report information under this proposed rule, plus the costs to the Federal government for operation of the program.

[3] Perry, J., J. MacDonald, K. Nelson, W. Hahn, C. Arnade, and G. Plato. ''Did the Mandatory Requirement Aid the Market? Impact of the Livestock Mandatory Reporting Act.'' Economic Research Service, U.S. Department of Agriculture, LDP–M–135–01, September 2005.

[4] Ward, C.E. ''An Assessment of the Livestock Mandatory Reporting Act.'' Paper presented at the NCCC–134 Conference on Applied Commodity Price Analysis, Forecasting, and Market Risk Management, St. Louis, Missouri, April 17–18, 2006.

[5] Ward, op. cit.

Although this proposed rule is not identical to the 2000 final rule, most of the regulatory provisions are the same or only slightly modified from that rule. As such, costs for firms subject to the proposed rule will be similar to costs required to comply with the 2000 final rule. Hence, the methods for developing the cost estimates presented in this preliminary impact analysis largely follow from the methods used in developing the cost estimates contained in the final impact analysis published in the **Federal Register** along with the 2000 final rule. As applicable, estimates of employer costs for employee compensation are updated using recent statistics from the Bureau of Labor Statistics.

For reporting packers and importers, there are essentially three phases required to comply with this proposed rule: (1) Development or modification of a system for electronic reporting of data and periodic system maintenance, updating, and compliance; (2) ongoing submission of required data; and (3) maintenance of records for a period of 2 years following submission of data to AMS. AMS estimates that most costs associated with this proposed rule will result from costs associated with ongoing submission of required data. As explained below, AMS expects that there will be relatively low costs imposed on reporting packers and importers for program startup, systems maintenance and updating, and records maintenance.

AMS estimates that approximately 65 packers and importers, representing approximately 115 plants or establishments, would be required to submit information under this proposed rule. However, most of these firms already have established systems for reporting information to AMS because they were subject to the requirements of the program when it was in effect from 2001 through 2005. Moreover, most firms have continued to report data voluntarily to AMS during the period that the Act expired on September 30, 2005, to the present. These firms will need to modify their current data reporting systems to be compatible with the requirements of the proposed rule.

AMS estimates that there will be an average of about three additional packers and importers annually that will reach the size thresholds for reporting under this proposed rule, but that had not previously reported under the requirements of the Act. Some of these firms will be new entrants to the industry and others will have increased their slaughter volume to the level at which they are required to submit data under the requirements of the law and this proposed rule. These firms will need to develop an electronic interface to translate the information from their existing computerized recordkeeping systems into the standardized format required for automated submission of the data to AMS. Firms with existing reporting systems will need to modify the electronic interface to accommodate changes in reporting requirements. AMS estimates that 15 hours of development and computer programming time per plant will be required to develop or modify the interface.

Electronic data transmission of information is accomplished using an interface with an existing electronic recordkeeping system. In most cases, the information packers and importers are required to report already exists in internal computerized recordkeeping systems. Packers and importers will provide for the translation of the information from their existing electronic recordkeeping system into the required AMS standardized format. Once accomplished, the information will be electronically transmitted to AMS where it will be automatically loaded into an AMS database. AMS estimates that the development and computer programming to establish and maintain this interface will require an industry average of 15 hours per respondent per year. AMS estimates the employer costs for employee total compensation per hour to average $44.82, which is the average for all civilian management, professional, and related occupations for the second quarter of 2006 according to Bureau of Labor Statistics. The management, professional, related occupations category includes the managers who would oversee development and maintenance of the electronic interface and the computer systems and programming personnel who would actually implement and maintain the interface. With 15 hours of time, AMS estimates the total cost, on average, for the electronic interface development and maintenance to be $672.30 per year.

ELECTRONIC SUBMISSION DEVELOPMENT AND ANNUAL SYSTEM MAINTENANCE COST PER RESPONDENT

Hours to develop and maintain interface	15
Employee compensation cost per hour	× $44.82
Total annual cost per respondent	$672.30

* hours required annually to develop and maintain electronic interface between existing company electronic recordkeeping system and AMS required electronic submission format.

Additionally, AMS estimates the annual cost per respondent for the storage of the electronic data files submitted to AMS in compliance with the reporting provisions of this rule to be $1,923.10 (see Paperwork Reduction Act section for a full discussion). This estimate includes the cost of electronic data storage media, backup electronic data storage media, and backup software required to maintain an estimated annual electronic recordkeeping and backup burden of 20 megabytes, on average, per respondent. In addition, this estimate includes the cost per employee to maintain such records which is estimated to average 70 hours per year at $21.33 per hour for a total employee compensation component cost of $1,493.10 per year. For this record maintenance activity, AMS estimates the employer costs for employee total compensation per hour to average $21.33, which is the average for all civilian office and administrative support occupations for the second quarter of 2006 according to data from the Bureau of Labor Statistics.

ANNUAL RECORDKEEPING COST PER RESPONDENT

Labor hours per year	70
Labor cost per hour	× $21.33
Sub-total labor cost per year	$1,493.10
Electronic storage cost*	+ $430.00
Total Recordkeeping Cost	$1,923.10

* includes cost of hard electronic storage (estimated to average 20 Megabytes/year), backup media, backup drive, and backup software.

In this rule, information collection requirements include the submission of the required information on a daily and weekly basis in the standard format provided in the following forms: (1) Live Cattle Daily Report (Current Established Prices), (2) Live Cattle Daily Report (Committed and Delivered Cattle), (3) Live Cattle Weekly Report, (4) Cattle Premiums and Discounts Weekly Report, (5) Cow/Bull Plant Delivered Bids (Dressed Basis), (6) Live Cow/Bull Daily Purchase Report, (7) Boxed Beef Daily Report, (8) Swine Prior Day Report, (9) Swine Daily Report, (10) Swine Noncarcass Merit Premium Weekly Report, (11) Live Lamb Daily Report (Current Established Prices), (12) Live Lamb Weekly Report (13) Live Lamb Weekly Report (Formula Purchases), (14) Lamb Premiums and Discounts Weekly Report, (15) Boxed Lamb Daily Report, and (16) Lamb Carcass Report. Copies of these 16 forms are included in Appendices at the end of this proposed rule.

Cattle packers will utilize up to seven of these forms (Appendix A) when reporting information to AMS including two for daily cattle reporting, three for weekly cattle reporting, and one for daily boxed beef cuts reporting. AMS estimates the total data submission cost burden to cattle packers to be $237,734. In comparison, the annual data submission cost burden to cattle packers was estimated at $266,560 in the 2000 final rule, which took effect in April 2001. According to the Bureau of Labor Statistics CPI inflation calculator, $1.00 in 2001 has the same buying power as $1.17 today. More precisely, the inflation factor to convert the average Consumer Price Index for 2001 to the current (May 2007) value is 1.174. In current dollar terms, then, the estimated data submission cost burden to cattle packers under the 2000 final rule equals $312,941. Thus, the total data submission cost burden to cattle packers is estimated at $75,207 less in the proposed rule compared to the 2000 final rule expressed in comparable current dollar terms.

Swine packers will utilize up to three forms (Appendix B), two for daily reporting of swine purchases and one for weekly reporting of non-carcass merit premium information. AMS estimates the total data submission cost burden to swine packers to be $153,329. In comparison, the annual data submission cost burden to swine packers was estimated at $166,400 in the 2000 final rule. In current dollar terms using the CPI inflation calculator, the estimated data submission cost burden to swine packers under the 2000 final rule would be $195,354. Thus, the total data submission cost burden to swine packers is estimated at $42,025 less in the proposed rule compared to the 2000 final rule expressed in comparable current dollar terms.

Lamb packers will utilize up to six of these forms (Appendix C) when reporting information to AMS including two for daily lamb reporting, three for weekly lamb reporting, one for daily and weekly boxed lamb cuts reporting and one for daily and weekly lamb carcass reporting. Lamb importers will utilize one of these forms when reporting information to AMS for reporting weekly imported boxed lamb cut sales. AMS estimates the total data submission cost burden to lamb packers and lamb importers to be $31,846. In comparison, the annual data submission cost burden to lamb packers and lamb importers was estimated at $48,390 in the 2000 final rule. In current dollar terms using the CPI inflation calculator, the estimated data submission cost burden to lamb packers and lamb importers under the 2000 final rule would be $56,810. Thus, the total data submission cost burden to lamb packers and lamb importers is estimated at $24,964 less in the proposed rule compared to the 2000 final rule expressed in comparable current dollar terms.

The cost estimates for the proposed rule are discussed in detail in the Paperwork Reduction Act Section.

BREAKDOWN OF ESTIMATED DATA SUBMISSION COST BURDEN

Form	Reporting days	×	Responses	=	Total responses
I. Number of Responses per Respondent per Year					
Cattle:					
LS–113	260		2 daily		520
LS–114	260		2 daily		520
LS–115	52		1 weekly		52
LS–117	52		1 weekly		52
LS–126	260		2 daily		520
LS–131	260		1 daily		260
LS–132	260		1 daily		260
Swine:					
LS–118	260		1 daily		260
LS–119	260		2 daily		520
LS–120	52		1 weekly		52
Lamb:					
Domestic:					
LS–121	260		1 daily		260
LS–123	52		1 weekly		52
LS–124	52		1 weekly		52
LS–125	52		1 weekly		52
LS–128	260		1 daily		260
LS–129	260		1 daily		260
Importer:					
LS–128	52		1 weekly		52

Form	Submissions/ year	×	Hours/ submission	=	Total hours/ year
II. Number of Submission Hours per Respondent per Year					
Cattle:					
LS–113	520		.17		88.40
LS–114	520		.17		88.40
LS–115	52		.25		13.00
LS–117	52		.08		4.16
LS–126	520		.125		65.00
LS–131	260		.08		20.80
LS–132	260		.17		44.20
Swine:					
LS–118	260		.25		65.00
LS–119	520		.17		88.40

Form	Submissions/ year	×	Hours/ submission	=	Total hours/ year
LS–120	52		.25		13.00
Lamb:					
Domestic:					
LS–121	260		.34		88.40
LS–123	52		.25		13.00
LS–124	52		.25		13.00
LS–125	52		.08		4.16
LS–128	260		.167		43.42
LS–129	260		.167		43.42
Importer:					
LS–128	52		.084		4.37

Form	Total hours/ year	×	Cost/hour	=	Total dollars/ year
III. Total Submission Cost per Respondent per Year					
Cattle:					
LS–113	88.40		$21.33		$1,886
LS–114	88.40		21.33		1,886
LS–115	13.00		21.33		277
LS–117	4.16		21.33		89
LS–126	65.00		21.33		1,386
LS–131	20.80		21.33		444
LS–132	44.20		21.33		943
Totals	323.96		21.33		6,911
Swine:					
LS–118	65.00		21.33		1,386
LS–119	88.40		21.33		1,886
LS–120	13.00		21.33		277
Totals	166.40		21.33		3,549
Lamb:					
Domestic:					
LS–121	88.40		21.33		1,886
LS–123	13.00		21.33		277
LS–124	13.00		21.33		277
LS–125	4.16		21.33		89
LS–128	43.42		21.33		926
LS–129	43.42		21.33		926
Importer:					
LS–128	4.37		21.33		93
Totals	209.77		21.33		4,474

Form	Total dollars/ year	×	Respondents	=	Total cost
IV. Total Yearly Submission Cost for All Respondents					
Cattle:					
LS–113	$1,886		34		$64,124
LS–114	1,886		34		64,124
LS–115	277		34		9,418
LS–117	89		34		3,026
LS–126	1,386		48		66,528
LS–131	444		22		9,768
LS–132	943		22		20,746
Subtotal					237,734
Swine:					
LS–118	1,386		52		72,072
LS–119	1,886		40		75,440
LS–120	277		21		5,817
Subtotal					153,329
Lamb:					
Domestic:					
LS–121	1,886		6		11,316
LS–123	277		5		1,385

Form	Total dollars/ year	×	Respondents	=	Total cost
LS–124	277		5		1,385
LS–125	89		6		534
LS–128	926		10		9,260
LS–129	926		8		7,408
Importer:					
LS–128	93		6		558
Subtotal					31,846
Grand total					422,909

The total cost burden to packers and importers required to submit information under this proposed rule includes initial startup and annual maintenance costs for electronic submission of data, annual recordkeeping costs, and annual data submission costs. Total reporting costs to cattle packers are estimated to be $7,548 per plant, $5,544 for swine packers, $5,724 for lamb slaughtering plants, and $2,688 for lamb importers. In comparison, total reporting costs in the 2000 final rule were estimated to be $7,420 per plant for cattle packers, $5,308 for swine packers, $7,860 for lamb slaughtering plants, and $2,070 for lamb importers. In current dollar values, however, estimated costs in the 2000 final rule equal $8,711 per plant for cattle packers, $6,232 for swine packers, $9,228 for lamb slaughtering plants, and $2,430 for lamb importers. With the exception of lamb importers, which have an increase of $258, estimated total reporting costs per plant for all respondents are lower in the proposed rule than in the 2000 final rule expressed in comparable current dollar values.

TOTAL ANNUAL COST BURDEN TO RESPONDENTS

	Cost per respondent	×	Number of respondents	=	Total cost *
Cattle:					
Startup/Maintenance	$ 672		48		$32,256
Recordkeeping	1,923		48		92,304
Data Submission	4,953		48		237,734
					362,294
Average Cost per Respondent: $362,294 / 48 = $7,548.					
Swine:					
Startup/Maintenance	$ 672		52		$ 34,944
Recordkeeping	1,923		52		99,996
Data Submission	2,949		52		153,329
					288,269
Average Cost per Respondent: $288,269 / 52 = $5,544.					
Lamb:					
Domestic:					
Startup/Maintenance	$ 672		10		$6,720
Recordkeeping	1,923		10		19,230
Data Submission	3,129		10		31,288
					57,238
Average Cost per Respondent: $57,238 / 10 = $5,724.					
Importer:					
Startup/Maintenance	$ 672		6		$ 4,032
Recordkeeping	1,923		6		11,538
Data Submission	93		6		558
					16,128
Average Cost per Respondent: $16,128 / 6 = $2,688.					
Grand total, all species					$723,929

* Totals may reflect differences in numerical rounding.

In addition to these costs to packers for submitting information, the mandatory price reporting program will cost approximately $6.3 million per fiscal year to the Federal government. The 50 staff years required to administer and produce high quality mandatory price reports include reporters, auditors, clerical personnel, and computer specialists. These employees will be located in three AMS offices located across the country. Salary-related costs

are estimated at $4.9 million per year. Other costs include approximately $0.3 million for travel and transportation; and $1.1 million for miscellaneous costs such as office space, utilities, communications costs, printing, training, office supplies, equipment (including computers, software, and licenses), and contractual services necessary to maintain the system. In the 2000 final rule, costs to the Federal government for the program were estimated at $5.9 million for fiscal year 2001, which equals $6.9 million in current dollar value. Thus, estimated costs to the Federal government are $600,000 less in the proposed rule compared to the 2000 final rule expressed in current dollar values.

The authority for the Act expires on September 30, 2010. Therefore, this proposed rule would be effective for approximately 4 years (2007–2010). Annual costs for this proposed rulemaking are estimated at approximately $7.0 million per year: $723,929 for respondents to submit and maintain data plus $6.3 million to USDA for operation of the LMR program. At a real discount rate of 3 percent, the discounted present value of the total cost to the private sector and the Federal government for the life of the program would be $26.9 million. Using estimated costs from the 2000 final rule and assuming the same 4-year duration, the comparable discounted present value for the life of the program would be $29.7 million expressed in current dollars. Thus, estimated total program costs are reduced by $2.8 million over the life cycle of the proposed rule in comparison to the 2000 final rule at the 3 percent discount rate. At a real discount rate of 7 percent, the discounted present value of the total cost to the private sector and the Federal government for the life of the program would be $25.5 million. Using estimated costs from the 2000 final rule and assuming the same 4-year duration, the comparable discounted present value for the life of the program would be $28.1 million expressed in current dollars. Estimated total program costs are reduced by more than $2.6 million over the life cycle of the proposed rule in comparison to the 2000 final rule at the 7 percent discount rate. The present values for the 4-year life of the program assume that all costs are incurred at the beginning of each year of the program.

Regulatory Flexibility Act

In General. This proposed rule has been reviewed under the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*). The purpose of the RFA is to consider the economic impact of a rule on small business entities. Alternatives, which would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the marketplace, have been evaluated. Regulatory action should be appropriate to the scale of the businesses subject to the action. The collection of information is necessary for the proper performance of the functions of AMS concerning the mandatory reporting of livestock information. The Act requires AMS to collect and publish livestock market information. The required information is only available directly from those entities required to report under these proposed regulations and exists nowhere else. Therefore, this proposed rule does not duplicate market information reasonably accessible to the Agency.

Objectives and Legal Basis. The objective of this proposed rule is to improve the price and supply reporting services of USDA in order to increase the amount of information available to participants. This is accomplished through the establishment of a program of information regarding the marketing of cattle, swine, lambs, and products of such livestock as specifically directed by the Reauthorization Act and these regulations, as described in detail in the background section.

Estimated Number of Small Businesses. AMS estimates that approximately 65 firms operating approximately 115 plants will be required to report market information under this proposed rule. AMS estimates that 60 of these firms represent cattle, swine, and sheep slaughtering companies, with approximately 5 additional firms that import lamb carcasses and lamb meat.

According to Small Business Administration (SBA) definitions, a meat packing firm having fewer than 500 employees is a small business. This criterion applies to most of the firms required to report under the proposed rule, including all of the cattle and swine packers. Some of the lamb importers required to report under this proposed rule are brokerage operations that do not slaughter lambs. For meat and meat product merchant wholesalers, the SBA defines a firm having fewer than 100 employees as a small business.

In formulating this proposed rule, particular consideration was given to reducing the burden on entities while still achieving the objectives of the rule. Under the proposed rule, thresholds are set that define those entities that are required to report information on purchases of live cattle, swine and lambs, as well as information on domestic and export sales of boxed beef cuts including applicable branded product, and sales of lamb carcasses, boxed lamb cuts including applicable branded product, and imported boxed lamb cuts including applicable branded product.

These packers and importers are required to report to AMS the details of all transactions involving purchases of livestock, domestic and export sales of boxed beef cuts including applicable branded product, sales of domestic boxed lamb cuts including applicable branded product, imported boxed lamb cuts including applicable branded product, and lamb carcasses. Cattle and swine information will be reported to AMS according to the schedule directed by this proposed rule with purchases of swine reported three times each day, purchases of cattle twice each day, and sales of domestic and exported boxed beef cuts, including applicable branded product, reported twice each day. Lamb information will be reported to AMS according to the schedule mandated by this rule with purchases of lambs reported once each day and sales of lamb carcasses reported once each day. Previous week sales of imported boxed lamb cuts including applicable branded boxed lamb cuts will be reported once weekly on the first reporting day of the week.

In any calendar year, only Federally inspected cattle plants that slaughtered an average of 125,000 head of cattle a year for the immediately preceding 5 calendar years are required to report. Additionally, any Federally inspected cattle plant that did not slaughter cattle during the immediately preceding 5 calendar years is required to report if the Secretary determines that the plant should be considered a packer required to report based on its capacity. For entities that did not slaughter cattle during the immediately preceding 5 calendar years, such as a new plant or existing plant that resumes operations, the AMS will project the plant's annual slaughter or production based upon the plant's estimate of annual slaughter capacity to determine which entities meet the definition of a packer as defined in the law and these proposed regulations. This accounts for an expected 49 out of 636 Federally inspected cattle plants or 7.7 percent of all Federally inspected cattle plants.

For any calendar year, any Federally inspected swine plant that slaughtered an average of 100,000 head of swine a year for the immediately preceding 5 calendar years is required to report information, as is any person that

slaughtered and average of at least 200,000 sows, boars, or any combination thereof, per year during the immediately preceding 5 calendar years. Additionally, any Federally inspected swine plant or person that did not slaughter swine during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the capacity of the processing plant is required to report. This accounts for an expected 52 out of 614 Federally inspected swine plants or 8.5 percent of all Federally inspected swine plants.

In any calendar year, a Federally inspected lamb plant that slaughtered the equivalent of an average of 75,000 head of lambs a year for the immediately preceding 5 calendar years is considered a packer and required to report. A packer includes a Federally inspected processing plant that purchases and processes an average of 75,000 lamb carcasses annually rather than slaughter live lambs. Additionally, any Federally inspected processing plant that did not slaughter an average of 75,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the plant should be considered a packer based on the capacity of the processing plant is required to report. This accounts for an expected 10 lamb plants and 6 importers. The expected total of 10 out of 484 lamb plants amounts to 2.1 percent of all Federally inspected lamb plants.

For any calendar year, lamb importers that imported an average of 2,500 metric tons of lamb meat products per year during the immediately preceding 5 calendar years are required to report. Additionally, any lamb importer that did not import an average of 2,500 metric tons of lamb meat products during the immediately preceding 5 calendar years if the Secretary determines that the person should be considered an importer based on the volume of lamb imports is required to report. Some lamb plants may also be importers.

An estimated 92.3 percent of all Federally inspected cattle plants, 91.5 percent of all Federally inspected swine plants, and 97.9 percent of all Federally inspected lamb plants in the U.S. are exempted by this proposed rule from reporting information. For all livestock species, there were 793 slaughter plants under Federal inspection and 2,060 slaughter plants under other forms of inspection (such as State inspection) on January 1, 2007. Plants that are not under Federal inspection are smaller operations that would be considered small businesses. An estimated 110 livestock slaughter plants will be required to report under this proposed rule. Conversely, 2,743 or 96.1 percent of all livestock plants in the United States would be exempt from mandatory reporting under this proposed rule.

According to U.S. Census Bureau Statistics of U.S. Businesses, there were 1,718 animal (except poultry) slaughtering[6] firms with payroll in the United States in 2004. These firms operated 1,816 establishments. Of these concerns, there were 46 firms with 500 employees or more, accounting for 136 establishments. Conversely, there were 1,672 firms with fewer than 500 employees, accounting for 1,680 establishments.

The companies required to report under the Act and this proposed rule represent the largest slaughtering operations in each respective species. This proposed rule will require mandatory reporting by an estimated 60 livestock slaughtering firms representing the largest cattle, swine, and sheep slaughtering companies. This fact, coupled with the Statistics of U.S. Businesses data leads to the conclusion that 46 of the livestock slaughtering firms required to report under this proposed rule have 500 employees or more. Therefore, AMS estimates that 14 of the 60 livestock slaughtering firms required to report under this proposed rule are small businesses as defined by SBA. In percentage terms, about 23 percent of the animal slaughtering companies required to report under this proposed rule are small businesses. In terms of the industry, this rule requires reporting by only 0.8 percent of all small businesses in the animal (except poultry) slaughtering industry. Moreover, the firms required to report are the largest of the firms in the industry classified as small businesses.

U.S. Census Bureau statistics are not sufficiently disaggregated to enable inferences to be drawn about the small business classification of the lamb carcass and lamb meat importers required to report under the proposed rule. However, based on its knowledge of the industry and previous experience with livestock mandatory reporting, AMS estimates that all of the lamb importers would be classified as small businesses under the SBA size standard of fewer than 100 employees for meat and meat product merchant wholesalers.[7] In combination with the animal slaughtering firms, AMS estimates that a total of 19 firms out of 65 firms required to report under this proposed rule meet the SBA definition for small businesses. In percentage terms, about 29 percent of the firms required to report under this proposed rule would be classified as small businesses. Although classified as small businesses, these firms are the largest firms in their respective specialties.

Projected Reporting. This proposed rule requires the reporting of specific market information regarding the buying and selling of livestock and livestock products. The information will be reported to AMS by electronic means. Electronic reporting involves the transfer of data from a packer's or importer's electronic recordkeeping system to a centrally located AMS electronic database. The packer or importer is required to organize the information in an AMS-approved format before electronically transmitting the information to AMS (Appendices A–C).

Once the required information has been entered into the AMS database, it will be aggregated and processed into various market reports which will be released according to the daily and weekly time schedule set forth in these regulations.

As an alternative, based on prior experience, AMS found that some of the smaller entities covered under mandatory reporting would benefit from a web-based system for data submission. Accordingly, AMS developed a system that will be available to firms that find it to be more cost effective than developing an electronic interface to submit data to AMS.

AMS estimates the total annual burden on each cattle packer and boxed beef processing firm to average $7,548, including $4,953 for annual costs associated with electronically submitting data, $672 for startup/annual maintenance costs, and $1,923 for the storage and maintenance of electronic files that were submitted to AMS. This figure was calculated by estimating the time required to complete the necessary data submission and factoring by the

[6] North American Industry Classification System (NAICS) code 311611. U.S. Census Bureau 2004 Nonemployer Statistics show that there were 1,921 nonemployer establishments in the animal slaughtering and processing industry (NAICS code 31161), but nonemployer statistics at the more disaggregated NAICS six-digit level are not reported. A nonemployer is a business without paid employees that is subject to federal income tax. Most nonemployers are self-employed individuals operating very small unincorporated businesses. The NASS data on the number of livestock slaughter plants includes businesses with payroll as well as nonemployer firms, but does not report the size of firms nor the number of employees. Therefore, the NASS data provides the most accurate measure of the number of businesses potentially subject to the proposed rule, while the Census Bureau data provide a means for estimating the number of small businesses potentially subject to the proposed rule.

[7] North American Industry Classification System code 424470.

number of times reporting is required per day for an estimated total of 260 reporting days in a year (see Paperwork Reduction Act section for a complete, detailed discussion). Because data submission costs are directly associated with the volume of data submissions, total annual costs for smaller operations likely will be less than the average, while costs for larger operations likely will exceed the average.

AMS estimates the total annual burden on each swine packing firm to be $5,544, including $2,949 for annual costs associated with electronically submitting data, $672 for startup/annual maintenance costs, and $1,923 for the storage and maintenance of electronic files that were submitted to AMS. This estimate does not include costs associated with reporting sales of pork products, which are not required to be reported. As with cattle packers, annual costs for smaller swine packing operations likely will be less than the average, while costs for larger operations likely will exceed the average.

AMS estimates the total annual burden on each lamb packer to be $5,724 including $3,129 for annual costs associated with electronically submitting data, $672 for startup/annual maintenance costs, and $1,923 for the storage and maintenance of electronic files that were submitted to AMS. AMS estimates the total annual burden on each importer of lamb to be $2,688, including $93 for annual costs associated with electronically submitting data, $672 for startup/annual maintenance costs, and $1,923 for the storage and maintenance of electronic files that were submitted to AMS.

Projected Recordkeeping. Each packer and importer required to report information to the Secretary must maintain such records as are necessary to verify the accuracy of the information provided to AMS. This includes information regarding price, class, head count, weight, quality grade, yield grade, and other factors necessary to adequately describe each transaction. These records are already kept by the industry. Reporting packers and importers are required by these regulations to maintain and to make available the original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock. Reporting packers and importers are also required to maintain copies of the information provided to AMS. All of the above-mentioned paperwork must be kept for at least 2 years. Packers and importers are not required to report any other new or additional information that they do not generally have available or maintain. Further, they are not required to keep any information that would prove unduly burdensome to maintain. The paperwork burden that is imposed on the packers and importers is further discussed in the section entitled Paperwork Reduction Act that follows.

In addition, AMS has not identified any relevant Federal rules that are currently in effect that duplicate, overlap, or conflict with this proposed rule. AMS will continue to report market information collected through its voluntary market reporting program provided the collection of such information does not duplicate the information collection requirements of this proposed rule.

Professional skills required for recordkeeping under this proposed rule are not different than those already employed by the reporting entities. Reporting will be accomplished using computers or similar electronic means. AMS believes the skills needed to maintain such systems are already in place in those small businesses affected by this proposed rule.

Alternatives. This proposed rule, as directed by the Reauthorization Act, requires cattle and swine packing plants of a certain size to report information to the Secretary at prescribed times throughout the day and week. Further, lamb slaughter and processing plants and lamb importers of a certain size are required by these proposed regulations to report information to the Secretary at prescribed times throughout the day and week. The Act and these proposed regulations exempt the vast majority of small businesses by the establishment of slaughter, processing, and import capacity thresholds.

AMS recognizes that most economic impact of this proposed rule on those small entities required to report involves the manner in which information must be reported to the Secretary. However, in developing this proposed rule, AMS considered other means by which the objectives of this rule could be accomplished, including reporting the required information by telephone, facsimile and regular mail. AMS believes these alternatives are not capable of meeting the program objectives, especially timely reporting. The Reauthorization Act prescribes specific times that reporting entities must report to AMS and similarly prescribes specific times for publication of reports by AMS. AMS believes electronic submission to be the only method capable of allowing AMS to collect, review, process, aggregate and publish reports while complying with the specific time-frames set forth in the Act.

To respond to concerns of smaller operations, AMS developed a web-based input forms for submitting data online. Based on prior experience, AMS found that some of the smaller entities covered under mandatory price reporting would benefit from such a web-based submission system. Accordingly, AMS developed such a system for program implementation.

Additionally, to further assist small businesses, AMS may provide for an exception to electronic reporting in emergencies, such as power failures or loss of Internet accessibility, or in cases when an alternative is agreeable to AMS and the reporting entity.

Other than these alternatives, there are no other practical and feasible alternatives to the methods of data transmission that are less burdensome to small businesses. AMS will work actively with those small businesses required to report to minimize the burden on them to the maximum extent practicable.

To assist the industry in achieving compliance with this rule, during the period between publication of this proposed rule and its effective date, AMS will provide assistance and training to covered entities as needed to ensure that they have been given the technical information necessary to comply with the electronic data transmission requirements.

Paperwork Reduction Act.

In accordance with OMB regulation (5 CFR Part 1320) that implements the Paperwork Reduction Act (44 U.S.C. 3501–3520) (PRA), the information collection requirements associated with this program have been previously approved by OMB and assigned OMB control number 0581–0186. A revised information collection package has been submitted to OMB for approval of a 2,862 hour decrease in total burden hours. In accordance with 5 CFR Part 1320, we have included below a description of the reporting and recordkeeping requirements and an estimate of the annual burden on packers that would be required to report information under this proposed rule.

Title: Livestock Mandatory Reporting Act of 1999.

OMB Number: 0581–0186.

Expiration Date: December 31, 2007.

Type of Request: Revision of currently approved information collection.

Abstract: The information collection and recordkeeping requirements in this regulation are essential to operating a

mandatory program of livestock and livestock products reporting. Based on the information available, AMS estimates that there are 48 beef packer plants, 52 pork packer plants, 12 lamb packer plants and 6 lamb importers that are required to report market information under this rule (1 lamb entity is both a packer and an importer). These companies have similar recordkeeping systems and business operation practices and conduct their operations in a similar manner. AMS believes that all of the information required under this rule can be collected from existing materials and systems. In addition, most of these firms already have established systems for reporting information to AMS because they were subject to the requirements of the program when it was in effect from April 2, 2001, through September 30, 2005. Moreover, most firms have continued to report data voluntarily to AMS. These firms will have minimal startup costs, requiring only minor modifications of their current data reporting systems to be compatible with the requirements of the proposed rule. The PRA also requires AMS to measure the recordkeeping burden. Under this proposed rule, each packer and importer required to report must maintain and make available upon request for 2 years such records as are necessary to verify the accuracy of the information required to be reported. These records include original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock. Under this proposed rule, the electronic data files which the packers are required to utilize when submitting information to AMS will have to be maintained as these files provide the best record of compliance. The recordkeeping burden includes the amount of time needed to store and maintain records. AMS estimates that, since records of original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock are stored and maintained as a matter of normal business practice by these companies for a period in excess of 2 years, additional annual costs will be nominal. AMS estimates the annual cost per respondent for the storage of the electronic data files which were submitted to AMS in compliance with the reporting provisions of this rule to be $1,923.10. This estimate includes the cost of electronic data storage media, backup electronic data storage media, and backup software required to maintain an estimated annual electronic recordkeeping and backup burden of 20 megabytes, on average, per respondent. In addition, this estimate includes the cost per employee to maintain such records, which is estimated to average 70 hours per year at $21.33 per hour for a total salary component cost of $1,493.10 per year.

ANNUAL RECORDKEEPING COST PER RESPONDENT

Labor hours per year	70
Labor cost per hour	× $21.33
Sub-total labor cost per year	$1,493.10
Electronic storage cost*	+ $430.00
Total Recordkeeping Cost	$1,923.10

*Includes cost of hard electronic storage (estimated to average 20 Mb/year), backup tape media, backup tape drive, and backup software.

In this rule, information collection requirements include the submission of the required information on a daily and weekly basis in the standard format provided in the following forms: (1) Live Cattle Daily Report (Current Established Prices), (2) Live Cattle Daily Report (Committed and Delivered Cattle), (3) Live Cattle Weekly Report, (4) Cattle Premiums and Discounts Weekly Report, (5) Cow/Bull Plant Delivered Bids (Dressed Basis), (6) Live Cow/Bull Daily Purchase Report, (7) Boxed Beef Daily Report, (8) Swine Prior Day Report, (9) Swine Daily Report, (10) Swine Noncarcass Merit Premium Weekly Report, (11) Live Lamb Daily Report (Current Established Prices), (12) Live Lamb Weekly Report, (13) Live Lamb Weekly Report (Formula Purchases), (14) Lamb Premiums and Discounts Weekly Report, (15) Boxed Lamb Daily Report, and (16) Lamb Carcass Report. Copies of these 16 forms are included in Appendices at the end of this rule. Cattle packers will utilize up to seven of these forms (not all cattle packers must submit all cattle forms) (Appendix A) when reporting information to AMS, including four for daily cattle reporting, two for weekly cattle reporting, and one for daily boxed beef cuts reporting. Swine packers will utilize up to three forms (not all swine packers must submit all swine forms) (Appendix B), two for daily reporting of swine purchases and one for weekly reporting of non-carcass merit premium information. Lamb packers will utilize up to six of these forms (not all lamb packers must submit all lamb forms) (Appendix C) when reporting information to AMS, including one for daily lamb reporting, three for weekly lamb reporting, one for daily and weekly boxed lamb cuts reporting, and one for daily lamb carcass reporting. Lamb importers will utilize one of these forms when reporting information to AMS for reporting weekly imported boxed lamb cut sales.

These information collection requirements have been designed to minimize disruption to the normal business practices of the affected entities. Each of these forms requires the minimal amount of information necessary to properly describe each reportable transaction, as required under this proposed rule. The number of forms is a result of an attempt to reduce the complexity of each form.

Live Cattle Daily Report (Current Established Prices): Form LS–113

Estimate of Burden: Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live cattle purchases to the Secretary.

Estimated Number of Respondents: 34 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 3,006 hours.

Total Cost: $64,118.

Live Cattle Daily Report (Committed and Delivered Cattle): Form LS–114

Estimate of Burden: Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live cattle purchases to the Secretary.

Estimated Number of Respondents: 34 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 3,006 hours.

Total Cost: $64,118.

Live Cattle Weekly Report: Form LS–115

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live cattle purchases to the Secretary.

Estimated Number of Respondents: 34 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 442 hours.

Total Cost: $9,428.

Cattle Premiums and Discounts Weekly Report: Form LS–117

Estimate of Burden: Public reporting burden for collection of information is estimated to be .08 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live cattle purchases to the Secretary.

Estimated Number of Respondents: 34 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 141 hours.

Total Cost: $3,008.

Cow/Bull Plant Delivered Bids (Dressed Basis): Form LS–131

Estimate of Burden: Public reporting burden for collection of information is estimated to be .08 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on bid prices for cows and bulls to the Secretary.

Estimated Number of Respondents: 22 plants.

Estimated Number of Responses per Respondent: 260 (1 per day for 260 days).

Estimated Total Annual Burden on Respondents: 458 hours.

Total Cost: $9,769.

Live Cow/Bull Daily Purchase Report: Form LS–132

Estimate of Burden: Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on cow and bull purchases to the Secretary.

Estimated Number of Respondents: 22 plants.

Estimated Number of Responses per Respondent: 260 (1 per day for 260 days).

Estimated Total Annual Burden on Respondents: 972 hours.

Total Cost: $20,733.

Boxed Beef Daily Report: Form LS–126

Estimate of Burden: Public reporting burden for collection of information is estimated to be .125 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on domestic and export boxed beef cut sales to the Secretary.

Estimated Number of Respondents: 48 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 3,120 hours.

Total Cost: $66,550.

Swine Prior Day Report: Form LS–118

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live swine purchases to the Secretary.

Estimated Number of Respondents: 52 plants.

Estimated Number of Responses per Respondent: 260 (1 per day for 260 days).

Estimated Total Annual Burden on Respondents: 3,380 hours.

Total Cost: $72,095.

Swine Daily Report: Form LS–119

Estimate of Burden: Public reporting burden for collection of information is estimated to be .17 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live swine purchases to the Secretary.

Estimated Number of Respondents: 40 plants.

Estimated Number of Responses per Respondent: 520 (2 per day for 260 days).

Estimated Total Annual Burden on Respondents: 3,536 hours.

Total Cost: $75,423.

Swine Noncarcass Merit Premium Weekly Report: Form LS–120

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live swine purchases to the Secretary.

Estimated Number of Respondents: 21 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 273 hours.

Total Cost: $5,823.

Live Lamb Daily Report (Current Established Prices): Form LS–121

Estimate of Burden: Public reporting burden for collection of information is estimated to be .34 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live lamb purchases to the Secretary.

Estimated Number of Respondents: 6 plants.

Estimated Number of Responses per Respondent: 260 (1 per day for 260 days).

Estimated Total Annual Burden on Respondents: 530 hours.

Total Cost: $11,305.

Live Lamb Weekly Report: Form LS–123

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live lamb purchases to the Secretary.

Estimated Number of Respondents: 5 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 65 hours.

Total Cost: $1,386.

Live Lamb Weekly Report (Formula Purchases): Form LS–124

Estimate of Burden: Public reporting burden for collection of information is estimated to be .25 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live lamb purchases to the Secretary.

Estimated Number of Respondents: 5 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 65 hours.

Total Cost: $1,386.

Lamb Premiums and Discounts Weekly Report: Form LS–125

Estimate of Burden: Public reporting burden for collection of information is estimated to be .08 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on live lamb purchases to the Secretary.

Estimated Number of Respondents: 6 plants.

Estimated Number of Responses per Respondent: 52 (1 per week for 52 weeks).

Estimated Total Annual Burden on Respondents: 25 hours.

Total Cost: $533.

Boxed Lamb Report: Form LS–128

Estimate of Burden: Public reporting burden for collection of information is estimated to be .167 hours per

electronically submitted response for domestic packing plants and .084 hours per electronically submitted response for importers.

Respondents: Packer processing plants and importers required to report information on boxed lamb cut sales to the Secretary.

Estimated Number of Respondents: 16 entities (including 1 entity that both processes and imports).

Estimated Number of Responses per Respondent: 260 (1 per day for 260 days) for domestic packing plants; 52 (1 per week for 52 weeks) for importers.

Estimated Total Annual Burden on Respondents: 434 hours for domestic packing plants and 26 hours for importers.

Total Cost: $9,257 for domestic packing plants and $555 for importers for a total of $9,812.

Lamb Carcass Report: Form LS–129

Estimate of Burden: Public reporting burden for collection of information is estimated to be .167 hours per electronically submitted response.

Respondents: Packer processing plants required to report information on lamb carcass sales to the Secretary.

Estimated Number of Respondents: 8 entities.

Estimated Number of Responses per Respondent: 260 (1 per day for 260 days).

Estimated Total Annual Burden on Respondents: 347 hours.

Total Cost: $7,402.

BREAKDOWN OF ESTIMATED DATA SUBMISSION COST BURDEN

Form	Reporting days	×	Responses	=	Total responses
I. Number of Responses per Respondent per Year					
Cattle:					
LS–113	260		2 daily		520
LS–114	260		2 daily		520
LS–115	52		1 weekly		52
LS–117	52		1 weekly		52
LS–126	260		2 daily		520
LS–131	260		1 daily		260
LS–132	260		1 daily		260
Swine:					
LS–118	260		1 daily		260
LS–119	260		2 daily		520
LS–120	52		1 weekly		52
Lamb:					
Domestic:					
LS–121	260		1 daily		260
LS–123	52		1 weekly		52
LS–124	52		1 weekly		52
LS–125	52		1 weekly		52
LS–128	260		1 daily		260
LS–129	260		1 daily		260
Importer:					
LS–128	52		1 weekly		52

Form	Submissions/ year	×	Hours/submis- sion	=	Total hours/ year
II. Number of Submission Hours per Respondent per Year					
Cattle:					
LS–113	520		.17		88.40
LS–114	520		.17		88.40
LS–115	52		.25		13.00
LS–117	52		.08		4.16
LS–126	520		.125		65.00
LS–131	260		.08		20.80
LS–132	260		.17		44.20
Swine:					
LS–118	260		.25		65.00
LS–119	520		.17		88.40
LS–120	52		.25		13.00
Lamb:					
Domestic:					
LS–121	260		.34		88.40
LS–123	52		.25		13.00
LS–124	52		.25		13.00
LS–125	52		.08		4.16
LS–128	260		.167		43.42
LS–129	260		.167		43.42
Importer:					
LS–128	52		.084		4.37

Form	Total hours/ year	×	Cost/hour	=	Total dollars/ year
III. Total Submission Cost per Respondent per Year					
Cattle:					
LS–113	88.40		$21.33		$1,886
LS–114	88.40		21.33		1,886
LS–115	13.00		21.33		277
LS–117	4.16		21.33		89
LS–126	65.00		21.33		1,386
LS–131	20.80		21.33		444
LS–132	44.20		21.33		943
Totals	323.96		21.33		6,911
Swine:					
LS–118	65.00		21.33		1,386
LS–119	88.40		21.33		1,886
LS–120	13.00		21.33		277
Totals	166.40		21.33		3,549
Lamb:					
Domestic:					
LS–121	88.40		21.33		1,886
LS–123	13.00		21.33		277
LS–124	13.00		21.33		277
LS–125	4.16		21.33		89
LS–128	43.42		21.33		926
LS–129	43.42		21.33		926
Importer:					
LS–128	4.37		21.33		93
Totals	209.77		21.33		4,474

Form	Total dollars/ year	×	Respondents	=	Total Cost
IV. Total Yearly Submission Cost for All Respondents					
Cattle:					
LS–113	$1,886		34		$ 64,124
LS–114	1,886		34		64,124
LS–115	277		34		9,418
LS–117	89		34		3,026
LS–126	1,386		48		66,528
LS–131	444		22		9,768
LS–132	943		22		20,746
Subtotal					237,734
Swine:					
LS–118	1,386		52		72,072
LS–119	1,886		40		75,440
LS–120	277		21		5,817
Subtotal					153,329
Lamb:					
Domestic:					
LS–121	1,886		6		11,316
LS–123	277		5		1,385
LS–124	277		5		1,385
LS–125	89		6		534
LS–128	926		10		9,260
LS–129	926		8		7,408
Importer:					
LS–128	93		6		558
Subtotal					31,846
Grand total					422,909

Estimated Total Annual Burden on Respondents by Species:

Live Cattle and Boxed Beef: $362,302 including $237,723 for annual costs associated with electronically submitted responses (11,145 annual hours @ $21.33 per hour), electronic submission development and annual system maintenance costs of $32,270 ($672.30 per 48 respondents), and $92,309 ($1,923.10 per 48 respondents) for the

storage and maintenance of electronic files that were submitted to AMS.

Live Swine: $288,302 including $153,341 for annual costs associated with electronically submitted responses (7,189 annual hours @ $21.33 per hour), electronic submission development and annual system maintenance costs of $34,960 ($672.30 per 52 respondents), and $100,001 ($1,923.10 per 52 respondents) for the storage and maintenance of electronic files that were submitted to AMS.

Live Lambs, Boxed Lamb, and Lamb Carcasses: $83,620 including $57,224 for packers ($31,270 for annual costs associated with electronically submitted responses (1,466 annual hours @ $21.33 per hour), electronic submission development and annual system maintenance costs of $6,723 ($672.30 per 10 respondents), and $19,231 ($1,923.10 per 10 respondents) for the storage and maintenance of electronic files that were submitted to AMS) and $16,128 for importers ($555 for annual costs associated with electronically submitted responses (26 annual hours @ $21.33 per hour), electronic submission development and annual system maintenance costs of $4,034 ($672.30 per 6 respondents), and $11,539 ($1,923.10 per 6 respondents) for the storage and maintenance of electronic files that were submitted to AMS).

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.

AMS is inviting comments from all interested parties concerning the information collection and recordkeeping requirements contained in this proposed rule. Comments are specifically invited on: (1) The accuracy of the Agency's burden estimate of the proposed collection of information including the validity of the methodology and the assumptions used; (2) ways to minimize the burden of the collection of information on those who would be required to respond, including through the use of appropriate electronic collection methods; (3) whether the proposed collection of information was sufficient or necessary for the proper performance of the functions of the agency as mandated by the Act; and (4) ways to enhance the quality, utility, and clarity of the information to be collected. Comments can be submitted on the Internet at: *http://www.regulations.gov*. Written comments can be sent to Warren P. Preston, Chief, Livestock and Grain Market News Branch, Docket No. LS–07–01, 1400 Independence Ave. SW., Room 2619–S, Washington, DC 20250–0252, or by facsimile to (202)–690–3732. All comments received will be posted to Web site at: *http://www.regulations.gov.* Comments that specifically pertain to the information collection and recordkeeping requirements of this action should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 725, Washington, DC 20503, and should reference the date and page number of this issue of the **Federal Register**. All responses to this action will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

A 30-day comment period is provided for interested persons to comment on the regulatory provisions of this proposed rule. The 30-day period is deemed appropriate in order to provide a sufficient amount of time to comment while resuming the program's operation under the Act as soon as possible. The comment period for the information collection and recordkeeping requirements contained in this proposed rule is 60 days.

List of Subjects in 7 CFR Part 59

Cattle, Hogs, Sheep, Livestock, Lamb.

For the reasons set forth in the preamble, it is proposed that Title 7, Chapter I of the Code of Federal Regulations be amended as follows:

1. Part 59 is revised to read as follows:

PART 59—LIVESTOCK MANDATORY REPORTING

Subpart A—General Provisions

Sec.
59.10 General administrative provisions.
59.20 Recordkeeping.
59.30 Definitions.

Subpart B—Cattle Reporting

59.100 Definitions.
59.101 Mandatory daily reporting for steers and heifers.
59.102 Mandatory daily reporting for cows and bulls.
59.103 Mandatory weekly reporting for steers and heifers.
59.104 Mandatory reporting of boxed beef sales.

Subpart C—Swine Reporting

59.200 Definitions.
59.201 General reporting provisions.
59.202 Mandatory daily reporting for barrows and gilts.
59.203 Mandatory daily reporting for sows and boars.
59.204 Mandatory weekly reporting for swine.

Subpart D—Lamb Reporting

59.300 Definitions.
59.301 Mandatory daily reporting for lambs.
59.302 Mandatory weekly reporting for lambs.
59.303 Mandatory reporting of lamb carcasses and boxed lamb.

Subpart E—OMB Control Number

59.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

Authority: 7 U.S.C. 1635–1636h

Subpart A—General Provisions

§ 59.10 General administrative provisions.

(a) *Reporting by Packers and Importers.* A packer or importer shall report all information required under this Part on an individual lot basis.

(b) *Reporting Schedule.* Whenever a packer or importer is required to report information on transactions of livestock and livestock products under this Part by a set time, all covered transactions up to within one half hour of the reporting deadline shall be reported. Transactions completed during the one half hour prior to the previous reporting time, but not reported in the previous report, shall be reported at the next scheduled reporting time.

(c) *Regional Reporting and Aggregation.* The Secretary shall make information obtained under this Part available to the public only in a manner that:

(1) Ensures that the information is published on a national and a regional or statewide basis as the Secretary determines to be appropriate;

(2) Ensures that the identity of a reporting person or the entity which they represent is not disclosed; and

(3) Market information reported to the Secretary by packers and importers shall be aggregated in such a manner that the market reports issued will not disclose the identity of persons, packers and importers, including parties to a contract and packer's and importer's proprietary information.

(d) *Adjustments.* Prior to the publication of any information required under this Part, the Secretary may make reasonable adjustments in information reported by packers and importers to reflect price aberrations or other unusual or unique occurrences that the Secretary determines would distort the published information to the detriment of producers, packers, or other market participants.

(e) *Reporting of Activities on Weekends and Holidays.* Livestock and livestock products committed to a packer, or importer, or purchased, sold, or slaughtered by a packer or importer on a weekend day or holiday shall be

reported to the Secretary in accordance with the provisions of this Part and reported by the Secretary on the immediately following reporting day. A packer shall not be required to report such actions more than once on the immediately following reporting day.

(f) *Reporting Methods.* Whenever information is required to be reported under this Part, it shall be reported by electronic means and shall adhere to a standardized format established by the Secretary to achieve the objectives of this Part, except in emergencies or in cases when an alternative method is agreeable to the entity required to report and AMS.

§ 59.20 Recordkeeping.

(a) *In General.* Each packer or importer required to report information to the Secretary under the Act and this Part shall maintain for 2 years and make available to the Secretary the following information on request:

(1) The original contracts, agreements, receipts, and other records associated with any transaction relating to the purchase, sale, pricing, transportation, delivery, weighing, slaughter, or carcass characteristics of all livestock or livestock products; and

(2) Such records or other information as is necessary or appropriate to verify the accuracy of the information required to be reported under the Act and this Part.

(b) *Purchases of Cattle and Swine and Sales of Boxed Beef Cuts.* A record of a purchase of a lot of cattle or swine, or a sale of a unit of boxed beef cuts, by a packer shall evidence whether the purchase or sale occurred:

(1) Before 10 a.m. central time;

(2) Between 10 a.m. and 2 p.m. central time; or

(3) After 2 p.m. central time.

(c) *Purchases of Lambs.* A record of a purchase of a lot of lambs by a packer shall evidence whether the purchase occurred:

(1) Before 2 p.m. central time; or

(2) After 2 p.m. central time.

(d) *Sales of Lamb Carcasses and Sales of Boxed Lamb Cuts.* A record of a sale by a packer of lamb carcasses and cuts, shall evidence time and date the sale occurred:

(1) Before 2 p.m. central time; or

(2) After 2 p.m. central time.

A record of sale by an importer of lamb cuts shall evidence the date the sale occurred.

(e) *Reporting Sales of Boxed Beef Cuts and Sales of Boxed Lamb Cuts.* (1) Beef packers must report all sales of boxed beef items by the applicable Institutional Meat Purchase Specifications (IMPS) item number or the boxed beef items' cutting and trimming specifications.

(3) Lamb packers and importers must report all sales of boxed lamb items by the applicable Institutional Meat Purchase Specifications (IMPS) item number or the boxed lamb items' cutting and trimming specifications.

§ 59.30 Definitions.

The following definitions apply to this part.

Act. The term ''Act'' means Subtitle B of the Agricultural Marketing Act of 1946, as amended; 7 U.S.C. 1635–1636h.

Base price. The term 'base price' means the price paid for livestock, delivered at the packing plant, before application of any premiums or discounts, expressed in dollars per hundred pounds of hot carcass weight.

Basis level. The term 'basis level' means the agreed on adjustment to a future price to establish the final price paid for livestock.

Current slaughter week. The term 'current slaughter week' means the period beginning Monday, and ending Sunday, of the week in which a reporting day occurs.

Discount. The term 'discount' means the adjustment, expressed in dollars per one hundred pounds, subtracted from the base price due to weight, quality characteristics, yield characteristics, livestock class, dark cutting, breed, dressing percentage, or other characteristic.

Exported. The term 'exported' means livestock or livestock products that are physically shipped to locations outside of the 50 States.

F.O.B. The term 'F.O.B.' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer (e.g., F.O.B. Plant, F.O.B. Feedlot).

Imported. The term 'imported' means livestock that are raised to slaughter weight outside of the 50 States or livestock products produced outside of the 50 States.

Institutional Meat Purchase Specifications. Specifications describing various meat cuts, meat products, and meat food products derived from all livestock species, commonly abbreviated ''IMPS'', and intended for use by any meat procuring activity. Copies of the IMPS may be obtained from the U.S. Department of Agriculture, Agricultural Marketing Service, Livestock and Seed Program located at Room 2603 South Building, 1400 Independence Ave, SW., Washington, DC 20250. Phone (202) 720–4486 or Fax (202) 720–1112. Copies may also be obtained over the Internet at: *http://www.ams.usda.gov/lsg/stand/st-pubs.htm.*

Livestock. The term 'livestock' means cattle, swine, and lambs.

Lot. (1) When used in reference to livestock, the term 'lot' means a group of one or more livestock that is identified for the purpose of a single transaction between a buyer and a seller;

(2) When used in reference to lamb carcasses, the term 'lot' means a group of one or more lamb carcasses sharing a similar weight range category and comprising a single transaction between a buyer and seller; or

(3) When used in reference to boxed beef and lamb, the term 'lot' means a group of one or more boxes of beef or lamb items sharing cutting and trimming specifications and comprising a single transaction between a buyer and seller.

Marketing. The term 'marketing' means the sale or other disposition of livestock, livestock products, or meat or meat food products in commerce.

Negotiated purchase. The term 'negotiated purchase' means a cash or spot market purchase by a packer of livestock from a producer under which the base price for the livestock is determined by seller-buyer interaction. The livestock are scheduled for delivery to the packer not more than 14 days after the date on which the livestock are committed to the packer.

Negotiated grid purchase. The term 'negotiated grid purchase' in reference to cattle means the negotiation of a base price determined by seller-buyer interaction from which premiums are added and discounts are subtracted. The livestock are scheduled for delivery to the packer not more than 14 days after the date on which the livestock are committed to the packer.

Negotiated sale. The term 'negotiated sale' means a cash or spot market sale by a producer of livestock to a packer under which the base price for the livestock is determined by seller-buyer interaction. The livestock are scheduled for delivery to the packer not later than 14 days after the date on which the livestock are committed to the packer. When used in reference to sales of boxed beef or lamb cuts or lamb carcasses the term 'negotiated sale' means a sale by a packer selling boxed beef or lamb cuts or lamb carcasses to a buyer of boxed beef or lamb cuts or lamb carcasses under which the price for the boxed beef or lamb cuts or lamb carcasses is determined by seller-buyer interaction.

Origin. The term 'origin' means the State where the livestock were fed to slaughter weight.

Percent lean. The term 'percent lean' means the value equal to the average percentage of the carcass weight comprised of lean meat.

Person. The term 'person' means any individual, group of individuals, partnership, corporation, association, or other entity.

Premium. The term 'premium' means the adjustment, expressed in dollars per one hundred pounds, added to the base price due to weight, quality characteristics, yield characteristics, livestock class, and breed.

Priced. The term 'priced' means the time when the final price is determined either through buyer-seller interaction and agreement or as a result of some other price determining method.

Prior slaughter week. The term 'prior slaughter week' means the Monday through Sunday prior to a reporting day.

Producer. The term 'producer' means any person engaged in the business of selling livestock to a packer for slaughter (including the sale of livestock from a packer to another packer).

Purchased. The term 'purchased' means the agreement on a price, or the method for calculating a price, determined through buyer-seller interaction and agreement.

Reporting day. The term 'reporting day' means a day on which a packer conducts business regarding livestock committed to the packer, or livestock purchased, sold, or slaughtered by the packer; the Secretary is required to make such information available to the public; and the Department of Agriculture is open to conduct business.

Secretary. The term 'Secretary' means the Secretary of Agriculture of the United States or any other officer or employee of the Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Secretary's stead.

State. The term 'State' means each of the 50 States.

Subpart B—Cattle Reporting

§ 59.100 Definitions.

The following definitions apply to this subpart.

Boxed Beef. The term 'boxed beef' means those carlot-based portions of a beef carcass including fresh and frozen primals, subprimals, cuts fabricated from subprimals (excluding portion-control cuts such as chops and steaks similar to those portion cut items described in the Institutional Meat Purchase Specifications (IMPS) for Fresh Beef Products Series 100), thin meats (*e.g.* inside and outside skirts, pectoral meat, cap and wedge meat, and blade meat), and fresh and frozen ground beef, beef trimmings, and boneless processing beef.

Branded. The term 'branded' means boxed beef cuts produced and marketed under a corporate trademark (for example, products that are marketed on their quality, yield, or breed characteristics), or boxed beef cuts produced and marketed under one of USDA's Meat Grading and Certification Branch, Certified Beef programs.

Carcass characteristics. The term 'carcass characteristics' means the range and average carcass weight in pounds, the quality grade and yield grade (if applicable), and the average cattle dressing percentage.

Carlot-based. The term 'carlot-based' means any transaction between a buyer and a seller destined for two or less delivery stops consisting of one or more individual boxed beef items. When used in reference to cow and bull boxed beef items, the term 'carlot-based' means any transaction between a buyer and seller consisting of 5,000 pounds or more of one or more individual items.

Cattle committed. The term 'cattle committed' means cattle that are scheduled to be delivered to a packer within the 7-day period beginning on the date of an agreement to sell the cattle.

Cattle type. The term 'cattle type' means the following types of cattle purchased for slaughter:

(1) Fed steers;

(2) Fed heifers;

(3) Fed Holsteins and other fed dairy steers and heifers;

(4) Cows; and

(5) Bulls.

Established. The term 'established', when used in connection with prices, means that point in time when the buyer and seller agree upon a net price.

Formula marketing arrangement. (1) When used in reference to live cattle, the term 'formula marketing arrangement' means the advance commitment of cattle for slaughter by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

(2) When used in reference to boxed beef, the term 'formula marketing arrangement' means the advance commitment of boxed beef by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

Forward contract. (1) When used in reference to live cattle, the term 'forward contract' means an agreement for the purchase of cattle, executed in advance of slaughter, under which the base price is established by reference to prices quoted on the Chicago Mercantile Exchange, or other comparable publicly available prices.

(2) When used in reference to boxed beef, the term 'forward contract' means an agreement for the sale of boxed beef, executed in advance of manufacture, under which the base price is established by reference to publicly available quoted prices.

Packer. The term 'packer' means any person engaged in the business of buying cattle in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from cattle for sale or shipment in commerce, or of marketing meats or meat food products from cattle in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. For any calendar year, the term 'packer' includes only a federally inspected cattle processing plant that slaughtered an average of 125,000 head of cattle per year during the immediately preceding 5 calendar years. Additionally, in the case of a cattle processing plant that did not slaughter cattle during the immediately preceding 5 calendar years, it shall be considered a packer if the Secretary determines the processing plant should be considered a packer under this subpart after considering its capacity.

Packer-owned cattle. The term 'packer-owned cattle' means cattle that a packer owns for at least 14 days immediately before slaughter.

Prices for cattle. The term 'prices for cattle' includes the price per hundredweight; the purchase type; the quantity on a live and a dressed weight basis; the estimated live weight range; the average live weight; the estimated percentage of cattle of a USDA quality grade Choice or better; beef carcass classification; any premiums or discounts associated with weight, quality grade, yield grade, or type of purchase; cattle State of origin; estimated cattle dressing percentage; and price basis as F.O.B. feedlot or delivered at the plant.

Terms of trade. The term 'terms of trade' means, with respect to the purchase of steers and heifers for slaughter:

(1) Whether a packer provided any financing agreement or arrangement with regard to the steers and heifers;

(2) Whether the delivery terms specified the location of the producer or the location of the packer's plant;

(3) Whether the producer is able to unilaterally specify the date and time during the business day of the packer that the cattle are to be delivered for slaughter; and

(4) The percentage of steers and heifers purchased by a packer as a negotiated purchase that are scheduled to be delivered to the plant for slaughter not later than 14 days and the percentage of slaughter steers and heifers purchased by a packer as a negotiated purchase that are scheduled to be delivered to the plant for slaughter more than 14 days, but fewer than 30 days.

Type of purchase. The term 'type of purchase' with respect to cattle, means a negotiated purchase, negotiated grid purchase, a formula market arrangement, and a forward contract.

Type of sale. The term 'type of sale' with respect to boxed beef, means a negotiated sale, a formula market arrangement, and a forward contract.

White cow. Cow on a ration that tends to produce white fat.

§ 59.101 Mandatory daily reporting for steers and heifers.

(a) *In General.* The corporate officers or officially designated representatives of each steer and heifer packer processing plant shall report to the Secretary at least two times each reporting day not later than 10 a.m. central time and not later than 2 p.m. central time the following information, inclusive since the last reporting, categorized to clearly delineate domestic from imported market purchases as described in 59.10(b).

(1) The prices for cattle (per hundredweight) established on that day, categorized by:

(i) The type of purchase;

(ii) The quantity of cattle purchased on a live weight basis;

(iii) The quantity of cattle purchased on a dressed weight basis;

(iv) The estimated weights of cattle purchased;

(v) An estimate of the percentage of the cattle purchased that were of a quality grade of Choice or better; and

(vi) Any premiums or discounts associated with weight, quality grade, yield grade, or other characteristic expressed in dollars per hundredweight on a dressed basis.

(2) The quantity of cattle delivered to the packer (quoted in numbers of head) on that day, categorized by:

(i) The type of purchase;

(ii) The quantity of cattle delivered on a live weight basis; and

(iii) The quantity of cattle delivered on a dressed weight basis.

(3) The quantity of cattle committed to the packer (quoted in numbers of head) as of that day, categorized by:

(i) The type of purchase;

(ii) The quantity of cattle committed on a live weight basis; and

(iii) The quantity of cattle committed on a dressed weight basis.

(4) The terms of trade regarding the cattle, as applicable.

(b) *Publication.* The Secretary shall make the information available to the public not less frequently than three times each reporting day.

§ 59.102 Mandatory daily reporting for cows and bulls.

(a) *In General.* The corporate officers or officially designated representatives of each cow and bull packer processing plant shall report to the Secretary each reporting day the following information for each cattle type, inclusive since the last reporting, categorized to clearly delineate domestic from imported market purchases as described in § 59.10(b).

(1) The base bid price (per hundredweight) intended to be paid for slaughter cow and bull carcasses on that day not later than 10 a.m. central time categorized by:

(i) Weight; and

(ii) For slaughter cows, percent lean (e.g., breaker, boner, cutter (lean)).

(2) The prices for cattle (per hundredweight) purchased during the previous day not later than 2 p.m. central time categorized by:

(i) The type of purchase;

(ii) The quantity of cattle purchased on a live weight basis;

(iii) The quantity of cattle purchased on a dressed weight basis;

(iv) The estimated weight of the cattle purchased;

(v) The quality classification; and

(vi) Any premiums or discounts associated with weight or quality expressed in dollars per hundredweight on a dressed basis.

(3) The volume of cows and bulls slaughtered the previous day.

(b) *Publication.* The Secretary shall make the information available to the public within one hour of the required reporting time on the reporting day on which the information is received from the packer.

§ 59.103 Mandatory weekly reporting for steers and heifers.

(a) *In General.* The corporate officers or officially designated representatives of each steer and heifer packer processing plant shall report to the Secretary on the first reporting day of each week, not later than 9 a.m. central time, the following information applicable to the prior slaughter week, categorized to clearly delineate domestic from imported market purchases:

(1) The quantity of cattle purchased through a negotiated basis that were slaughtered;

(2) The quantity of cattle purchased through a negotiated grid basis that were slaughtered;

(3) The quantity of cattle purchased through forward contracts that were slaughtered;

(4) The quantity of cattle delivered under a formula marketing arrangement that were slaughtered;

(5) The quantity and carcass characteristics of packer-owned cattle that were slaughtered;

(6) The quantity, basis level, basis level month, and delivery month and year for all cattle purchased through forward contracts;

(7) The range and average of intended premiums and discounts (including those associated with weight, quality grade, yield grade, or type of cattle) that are expected to be in effect for the current slaughter week.

(b) *Publication.* The Secretary shall make available to the public the information obtained under paragraph (a) of this section on the first reporting day of the current slaughter week by 10 a.m. central time.

§ 59.104 Mandatory reporting of boxed beef sales.

(a) *Daily Reporting.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least twice each reporting day (once by 10 a.m. central time, and once by 2 p.m. central time) the following information on total boxed beef domestic and export sales established on that day inclusive since the last reporting as described in § 59.10(b):

(1) The price for each lot of each boxed beef sale, quoted in dollars per hundredweight on a F.O.B. plant basis;

(2) The quantity for each lot of each sale, quoted by number of pounds sold; and

(3) The information regarding the characteristics of each sale is as follows:

(i) The type of sale;

(ii) The branded product characteristics, if applicable;

(iii) The grade for steer and heifer beef (e.g., USDA Prime, USDA Choice or better, USDA Choice, USDA Select, ungraded no-roll product);

(iv) The grade for cow beef or packer yield and/or quality sort for cow beef (e.g., Breakers, Boners, White Cow, Cutters (lean));

(v) The cut of beef, referencing the most recent version of the Institutional Meat Purchase Specifications (IMPS), when applicable;

(vi) The trim specification;

(vii) The weight range of the cut;

(viii) The product delivery period; and

(ix) The beef type (steer/heifer, dairy steer/heifer, or cow).

(b) *Publication.* The Secretary shall make available to the public the information obtained under paragraph (a) of this section not less frequently than twice each reporting day.

Subpart C—Swine Reporting

§ 59.200 Definitions.

The following definitions apply to this subpart.

Affiliate. The term 'affiliate', with respect to a packer, means:

(1) A person that directly or indirectly owns, controls, or holds with power to vote, 5 percent or more of the outstanding voting securities of the packer;

(2) A person 5 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the packer; and

(3) A person that directly or indirectly controls, or is controlled by or under common control with, the packer.

Applicable reporting period. The term 'applicable reporting period' means the period of time prescribed by the prior day report, the morning report, and the afternoon report, as provided in § 59.202.

Average carcass weight. The term 'average carcass weight' means the weight obtained by dividing the total carcass weight of the swine slaughtered at the packing plant during the applicable reporting period by the number of these same swine.

Average lean percentage. The term 'average lean percentage' means the value equal to the average percentage of the carcass weight comprised of lean meat for the swine slaughtered during the applicable reporting period. Whenever the packer changes the manner in which the average lean percentage is calculated, the packer shall make available to the Secretary the underlying data, applicable methodology and formulae, and supporting materials used to determine the average lean percentage, which the Secretary may convert either to the carcass measurements or lean percentage of the swine of the individual packer to correlate to a common percent lean measurement.

Average net price. The term 'average net price' means the quotient (stated per hundred pounds of carcass weight of swine) obtained by dividing the total amount paid for the swine slaughtered at a packing plant during the applicable reporting period (including all premiums and less all discounts) by the total carcass weight of the swine (in hundred pound increments).

Average sort loss. The term 'average sort loss' means the average discount (in dollars per hundred pounds carcass weight) for swine slaughtered during the applicable reporting period, resulting from the fact that the swine did not fall within the individual packer's established carcass weight range or lot variation range.

Backfat. The term 'backfat' means the fat thickness (in inches) measured between the third and fourth rib from the last rib, 7 centimeters from the carcass split (or adjusted from the individual packer's measurement to that reference point using an adjustment made by the Secretary) of the swine slaughtered during the applicable reporting period.

Barrow. The term 'barrow' means a neutered male swine, with the neutering performed before the swine reached sexual maturity.

Base market hog. The term 'base market hog' means a barrow or gilt for which no discounts are subtracted from and no premiums are added to the base price.

Base price. The term 'base price' means the price from which no discounts are subtracted and no premiums are added.

Boars. The term 'boar' means a sexually-intact male swine.

Bred female swine. The term 'bred female swine' means any female swine, whether a sow or gilt, that has been mated or inseminated, or has been confirmed, to be pregnant.

Formula price. The term 'formula price' means a price determined by a mathematical formula under which the price established for a specified market serves as the basis for the formula.

Gilt. The term 'gilt' means a young female swine that has not produced a litter.

Hog Class. The term 'hog class' means, as applicable, barrows or gilts; sows; or boars or stags.

Inferior hogs. The term 'inferior hogs' means swine that are discounted in the market place due to light-weight, health, or physical conditions that affects their value.

Loin depth. The term 'loin depth' means the muscle depth (in inches) measured between the third and fourth ribs from the last rib, 7 centimeters from the carcass split (or adjusted from the individual packer's measurement to that reference point using an adjustment made by the Secretary) of the swine slaughtered during the applicable reporting period.

Net price. The term 'net price' means the total amount paid by a packer to a producer (including all premiums, less all discounts) per hundred pounds of carcass weight of swine delivered at the plant. The total amount paid shall include any sum deducted from the price (per hundredweight) paid to a producer that reflects the repayment of a balance owed by the producer to the packer or the accumulation of a balance to later be repaid by the packer to the producer. The total amount paid shall exclude any sum earlier paid to a producer that must be repaid to the packer.

Noncarcass merit premium. The term 'noncarcass merit premium' means an increase in the base price of the swine offered by an individual packer or packing plant, based on any factor other than the characteristics of the carcass, if the actual amount of the premium is known before the sale and delivery of the swine.

Other market formula purchase. The term 'other market formula purchase' means a purchase of swine by a packer in which the pricing mechanism is a formula price based on any market other than the market for swine, pork, or a pork product. The term 'other market formula purchase' includes a formula purchase in a case which the price formula is based on 1 or more futures or options contracts.

Other purchase arrangement. The term 'other purchase arrangement' means a purchase of swine by a packer that is not a negotiated purchase, swine or pork market formula purchase, or other market formula purchase; and does not involve packer-owned swine.

Packer. The term 'packer' means any person engaged in the business of buying swine in commerce for purposes of slaughter, of manufacturing or preparing meats or meat food products from swine for sale or shipment in commerce, or of marketing meats or meat food products from swine in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce. For any calendar year, the term 'packer' includes only a federally inspected swine processing plant that slaughtered an average of 100,000 head of swine per year during the immediately preceding 5 calendar years and a person that slaughtered an average of 200,000 head of sows, boars, or combination thereof per year during the immediately preceding 5 calendar years. Additionally, in the case of a swine processing plant or person that did not slaughter swine during the immediately preceding 5 calendar years, it shall be considered a packer if the Secretary determines the processing plant or person should be considered a packer

under this subpart after considering its capacity.

Packer-owned swine. The term 'packer-owned swine' means swine that a packer (including a subsidiary or affiliate of the packer) owns for at least 14 days immediately before slaughter.

Packer-sold swine. The term 'packer-sold swine' means the swine that are owned by a packer (including a subsidiary or affiliate of the packer) for more than 14 days immediately before sale for slaughter; and sold for slaughter to another packer.

Pork. The term 'pork' means the meat of a porcine animal.

Pork product. The term 'pork product' means a product or byproduct produced or processed in whole or in part from pork.

Purchase data. The term 'purchase data' means all of the applicable data, including base price and weight (if purchased live), for all swine purchased during the applicable reporting period, regardless of the expected delivery date of the swine, reported by:

(1) Hog class;

(2) Type of purchase; and

(3) Packer-owned swine.

Slaughter data. The term 'slaughter data' means all of the applicable data for all swine slaughtered by a packer during the applicable reporting period, regardless of whether the price of the swine was negotiated or otherwise determined, reported by:

(1) Hog class;

(2) Type of purchase; and

(3) Packer-owned swine.

Sow. The term 'sow' means an adult female swine that has produced 1 or more litters.

Stag. The term 'stag' means a male swine that was neutered after reaching sexual maturity.

Swine. The term 'swine' means a porcine animal raised to be a feeder pig, raised for seedstock, or raised for slaughter.

Swine committed. The term 'swine committed' means swine scheduled and delivered to a packer within the 14-day period beginning on the date of an agreement to sell the swine.

Swine or pork market formula purchase. The term 'swine or pork market formula purchase' means a purchase of swine by a packer in which the pricing mechanism is a formula price based on a market for swine, pork, or a pork product, other than a future or option for swine, pork, or a pork product.

Type of purchase. The term 'type of purchase,' with respect to swine, means:

(1) A negotiated purchase;

(2) Other market formula purchase;

(3) A swine or pork market formula purchase; and

(4) Other purchase arrangement.

§ 59.201 General reporting provisions.

(a) *Packer-Owned Swine.* Information required under this section for packer-owned swine shall include quantity and carcass characteristics, but not price.

(b) *Type of Purchase.* If information regarding the type of purchase is required under this section, the information shall be reported according to the numbers and percentages of each type of purchase comprising:

(1) Packer-sold swine; and

(2) All other swine.

§ 59.202 Mandatory daily reporting for barrows and gilts.

(a) *Prior Day Report.* The corporate officers or officially designated representatives of each packer that processes barrows and gilts shall report to the Secretary for each business day of the packer not later than 7 a.m. central time on each reporting day information regarding all barrows and gilts purchased or priced, during the prior business day of the packer, and not later than 9 a.m. central time on each reporting day information regarding all barrows and gilts slaughtered, excluding inferior swine, as specified in § 59.10(b):

(1) All purchase data, reported by lot, including:

(i) The total number of barrows and gilts purchased;

(ii) The total number of barrows and gilts scheduled for delivery to a packer for slaughter;

(iii) The base price and weight for all barrows and gilts purchased on a live weight basis; and

(iv) The base price and premiums and discounts paid for carcass characteristics for all barrows and gilts purchased on a carcass basis for which a price has been established. For barrows and gilts that were not priced, this information shall be reported on the next prior day report after the price is established.

(2) The following slaughter data for the total number of barrows and gilts slaughtered:

(i) The average net price;

(ii) The average carcass weight;

(iii) The average sort loss;

(iv) The average backfat;

(v) The average loin depth;

(vi) The average lean percentage; and

(vii) Total quantity slaughtered.

(3) Packer purchase commitments, which shall be equal to the number of barrows and gilts scheduled for delivery to a packer for slaughter for each of the next 14 calendar days.

(4) The Secretary shall publish the information obtained under this paragraph (a) in a prior day report not later than 8 a.m. central time for all barrows and gilts purchased and 10 a.m. central time for all barrows and gilts slaughtered on the reporting day on which the information is received from the packer. In addition, the Secretary shall publish a net price distribution for all barrows and gilts slaughtered on the previous day not later than 3 p.m. central time.

(b) *Morning Report.* The corporate officers or officially designated representatives of each packer processing plant that processes barrows and gilts shall report to the Secretary not later than 10 a.m. central time each reporting day as described in § 59.10(b):

(1) The packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, expected to be purchased throughout the reporting day through each type of purchase;

(2) The total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(3) All purchase data for base market hogs purchased up to that time of the reporting day through negotiated purchases; and

(4) All purchase data for base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis. The packer shall report information on such purchases on the first reporting day or scheduled reporting time on a reporting day after the price has been determined.

(5) The Secretary shall publish the information obtained under this paragraph (b) in the morning report as soon as practicable, but not later than 11 a.m. central time, on each reporting day.

(c) *Afternoon Report.* The corporate officers or officially designated representatives of each packer processing plant that processes barrows and gilts shall report to the Secretary not later than 2 p.m. central time each reporting day as described in § 59.10(b):

(1) The packer's best estimate of the total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine expected to be purchased throughout the reporting day through each type of purchase;

(2) The total number of barrows and gilts, and barrows and gilts that qualify as packer-owned swine, purchased up to that time of the reporting day through each type of purchase;

(3) The base price paid for all base market hogs purchased up to that time

of the reporting day through negotiated purchases; and

(4) The base price paid for all base market hogs purchased through each type of purchase other than negotiated purchase up to that time of the reporting day, unless such information is unavailable due to pricing that is determined on a delayed basis. The packer shall report information on such purchases on the first reporting day or scheduled reporting time on a reporting day after the price has been determined.

(5) The Secretary shall publish the information obtained under this paragraph (c) in the afternoon report as soon as practicable, but not later than 3 p.m. central time, on each reporting day.

§ 59.203 Mandatory daily reporting for sows and boars.

(a) *Prior Day Report.* The corporate officers or officially designated representatives of each packer of sows and boars shall report to the Secretary for each business day of the packer not later than 7 a.m. central time on each reporting day information regarding all sows and boars purchased or priced, excluding inferior swine, during the prior business day of the packer. All purchase data, reported by lot, including:

(1) The total number of sows and boars purchased divided into at least three weight groups as specified by the Secretary;

(2) The average price paid by each purchase type for all sows in each weight class specified by the Secretary; and

(3) The average price paid by each purchase type for all boars in each weight class specified by the Secretary.

(4) The packer is required to report only the volume of sows and boars that qualify as packer owned swine and shall omit packer owned sows and boars from all average price calculations.

(5) The Secretary shall publish the information obtained under this paragraph (a) as soon as practicable, but not later than 8 a.m. central time, on the reporting day on which the information is received from the packer.

(b) [Reserved]

§ 59.204 Mandatory weekly reporting for swine.

(a) *Weekly Noncarcass Merit Premium Report.* Not later than 4 p.m. central time in accordance with § 59.10(b) on the first reporting day of each week, the corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary a noncarcass merit premium report that lists:

(1) Each category of standard noncarcass merit premiums used by the packer in the prior slaughter week; and

(2) The dollar value (in dollars per hundred pounds of carcass weight) paid to producers by the packer, by category.

(b) *Premium List.* A packer shall maintain and make available to a producer, on request, a current listing of the dollar values (per hundred pounds of carcass weight) of each noncarcass merit premium used by the packer during the current or the prior slaughter week.

(c) *Publication.* The Secretary shall publish the information obtained under this subsection as soon as practicable, but not later than 5 p.m. central time, on the first reporting day of each week.

Subpart D—Lamb Reporting

§ 59.300 Definitions.

The following definitions apply to this subpart.

Boxed Lamb. The term 'boxed lamb' means those carlot-based portions of a lamb carcass including fresh primals, subprimals, cuts fabricated from subprimals (excluding portion-control cuts such as chops and steaks similar to those portion cut items described in the Institutional Meat Purchase Specifications (IMPS) for Fresh Lamb and Mutton Series 200, and thin meats (e.g. inside and outside skirts, pectoral meat, cap and wedge meat, and blade meat) not older than 14 days from date of manufacture; fresh ground lamb, lamb trimmings, and boneless processing lamb not older than 7 days from date of manufacture; frozen primals, subprimals, cuts fabricated from subprimals, and thin meats not older than 180 days from date of manufacture; and frozen ground lamb, lamb trimmings, and boneless processing lamb not older than 90 days from date of manufacture.

Branded. The term 'branded' means boxed lamb cuts produced and marketed under a corporate trademark (for example, products that are marketed on their quality, yield, or breed characteristics), or boxed lamb cuts produced and marketed under one of USDA's Meat Grading and Certification Branch, Certified programs.

Carcass characteristics. The term 'carcass characteristics' means the range and average carcass weight in pounds, the quality grade and yield grade (if applicable), and the lamb average dressing percentage.

Carlot-based. The term 'carlot-based' means any transaction between a buyer and a seller destined for three or less delivery stops consisting of any combination of carcass weights. When used in reference to boxed lamb cuts the term 'carlot-based' means any transaction between a buyer and seller consisting of 1,000 pounds or more of one or more individual boxed lamb items.

Established. The term 'established', when used in connection with prices, means that point in time when the buyer and seller agree upon a net price.

Formula marketing arrangement. (1) When used in reference to live lambs, the term 'formula marketing arrangement' means the advance commitment of lambs for slaughter by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

(2) When used in reference to boxed lamb, the term 'formula marketing arrangement' means the advance commitment of boxed lamb by any means other than through a negotiated purchase or a forward contract, using a method for calculating price in which the price is determined at a future date.

Forward contract. (1) When used in reference to live lambs, the term 'forward contact' means an agreement for the purchase of lambs, executed in advance of slaughter, under which the base price is established by reference to publicly available prices.

(2) When used in reference to boxed lamb, the term 'forward contract' means an agreement for the sale of boxed lamb, executed in advance of manufacture, under which the base price is established by reference to publicly available quoted prices.

Importer. The term 'importer' means any person engaged in the business of importing lamb meat products who takes ownership of such lamb meat products with the intent to sell or ship in U.S. commerce. For any calendar year, the term includes only those that imported an average of 2,500 metric tons of lamb meat products per year during the immediately preceding 5 calendar years. Additionally, the term includes those that did not import an average of 2,500 metric tons of lamb meat products during the immediately preceding 5 calendar years, if the Secretary determines that the person should be considered an importer based on their volume of lamb imports.

Packer. The term 'packer' means any person engaged in the business of buying lambs in commerce for purposes of slaughter, of manufacturing or preparing meat products from lambs for sale or shipment in commerce, or of marketing meats or meat products from lambs in an unmanufactured form acting as a wholesale broker, dealer, or

distributor in commerce. For any calendar year, the term includes only a federally inspected lamb processing plant which slaughtered or processed the equivalent of an average of 75,000 head of lambs per year during the immediately preceding 5 calendar years. Additionally, the term includes a lamb processing plant that did not slaughter or process an average of 75,000 lambs during the immediately preceding 5 calendar years if the Secretary determines that the processing plant should be considered a packer after considering its capacity.

Packer-owned lambs. The term 'packer-owned lambs' means lambs that a packer owns for at least 14 days immediately before slaughter.

Type of purchase. The term 'type of purchase' means a negotiated purchase, a formula market arrangement, and a forward contract.

Type of sale. The term 'type of sale' with respect to boxed lamb, means a negotiated sale, a formula market arrangement, and a forward contract.

Yield grade lamb carcass reporting. The term 'yield grade lamb carcass reporting' means if the lot includes 80 percent or more of one yield grade, the lot will be considered a single yield grade lot. If the lot contains less than 80 percent of one yield grade, the lot will be considered a mixed grade lot and all yield grades comprising 10 percent or more will be used to describe the lot.

§ 59.301 Mandatory daily reporting for lambs.

(a) *In General.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary at least once each reporting day not later than 2 p.m. central time the following information for lamb, categorized to clearly delineate domestic from imported market purchases as described in § 59.10(b):

(1) The prices for lambs (per hundredweight) established on that day as F.O.B. feedlot or delivered at the plant, categorized by:

(i) The type of purchase;

(ii) The class of lamb;

(iii) The quantity of lambs purchased on a live weight basis;

(iv) The quantity of lambs purchased on a dressed weight basis;

(v) A range and average of estimated live weights of lambs purchased;

(vi) An estimate of the percentage of the lambs purchased that were of a quality grade of Choice or better;

(vii) Any premiums or discounts associated with weight, quality grade, yield grade, or any type of purchase;

(viii) Lamb State of origin;

(ix) The pelt type; and

(x) The estimated lamb dressing percentage.

(2) The Secretary shall make the information available to the public not less than once each reporting day.

(b) [Reserved]

§ 59.302 Mandatory weekly reporting for lambs.

(a) *In General.* The corporate officers or officially designated representatives of each packer processing plant shall report to the Secretary the following information applicable to the prior slaughter week contained in paragraphs (a)(1) through (a)(5) and (a)(7) of this section not later than 9 a.m. central time on the second reporting day of the current slaughter week, and the following information applicable to the prior slaughter week contained in paragraph (a)(6) of this section not later than 9 a.m. central time on the first reporting day of the current slaughter week categorized to clearly delineate domestic from imported market purchases:

(1) The quantity of lambs purchased through a negotiated purchase that were slaughtered;

(2) The quantity of lambs purchased through forward contracts that were slaughtered;

(3) The quantity of lambs delivered under a formula marketing arrangement that were slaughtered;

(4) The quantity and carcass characteristics of packer-owned lambs that were slaughtered;

(5) The quantity, basis level, and delivery month for all lambs purchased through forward contracts;

(6) The following information applicable to the current slaughter week. The range and average of intended premiums and discounts (including those associated with weight, quality grade, yield grade, or type of lamb) that are expected to be in effect for the current slaughter week; and

(7) The following information for lambs purchased through a formula marketing arrangement and slaughtered during the prior slaughter week, categorized to clearly delineate domestic from imported market purchases:

(i) The quantity (quoted in both numbers of head and pounds) of lambs;

(ii) The weighted average price paid for a carcass, including applicable premiums and discounts;

(iii) The range of premiums and discounts paid;

(iv) The weighted average of premiums and discounts paid; and

(v) The range of prices paid.

(b) *Publication.* The Secretary shall make available to the public the information obtained under paragraphs (a)(1) through (a)(5) and (a)(7) of this section on the second reporting day of the current slaughter week and information obtained in paragraph (a)(6) of this section on the first reporting day of the current slaughter week.

§ 59.303 Mandatory reporting of lamb carcasses and boxed lamb.

(a) *Daily Reporting of Lamb Carcass Transactions.* The corporate officers or officially designated representatives of each packer shall report to the Secretary each reporting day the following information on total carlot-based lamb carcass transactions not later than 3 p.m. central time in accordance with § 59.10(b):

(1) The price for each lot of each lamb carcass transaction, quoted in dollars per hundredweight on an F.O.B. plant basis;

(2) The quantity for each lot of each transaction, quoted by number of carcasses sold and purchased; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of transaction;

(ii) The USDA quality grade of lamb;

(iii) The USDA yield grade;

(iv) The estimated weight range of the carcasses; and

(v) The product delivery period.

(b) *Daily Reporting of Domestic Boxed Lamb Sales.* The corporate officers or officially designated representatives of each packer shall report to the Secretary each reporting day the following information on total domestic boxed lamb cut sales not later than 2:30 p.m. central time as described in § 59.10(b):

(1) The price for each lot of each boxed lamb cut sale, quoted in dollars per hundredweight on a F.O.B. plant basis;

(2) The quantity for each lot of each sale, quoted by product weight sold; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of sale;

(ii) The branded product characteristics, if applicable;

(iii) The USDA quality grade of lamb;

(iv) The cut of lamb, referencing the most recent version of the Institutional Meat Purchase Specifications (IMPS), when applicable;

(v) USDA yield grade, if applicable;

(vi) The product state of refrigeration;

(vii) The weight range of the cut; and

(viii) The product delivery period.

(c) *Weekly Reporting of Imported Boxed Lamb Sales.* The corporate officers or officially designated representatives of each lamb importer shall report to the Secretary on the first

reporting day of each week the following information applicable to the prior week for imported boxed lamb cut sales not later than 10 a.m. central time:

(1) The price for each lot of a boxed lamb cut sale, quoted in dollars per hundredweight on a F.O.B. plant basis;

(2) The quantity for each lot of a transaction, quoted by product weight sold; and

(3) The following information regarding the characteristics of each transaction:

(i) The type of sale;

(ii) The branded product characteristics, if applicable;

(iii) The cut of lamb, referencing the most recent version of the Institutional Meat Purchase Specifications (IMPS), when applicable;

(iv) The product state of refrigeration;

(v) The weight range of the cut; and

(vi) The product delivery period.

(d) *Publication.* The Secretary shall make available to the public the information required to be reported in paragraphs (a) and (b) of this section not less frequently than once each reporting day and the information required to be reported in paragraph (c) of this section on the first reporting day of the current slaughter week.

Subpart E—OMB Control Number

§ 59.400 OMB control number assigned pursuant to the Paperwork Reduction Act.

The information collection and recordkeeping requirements of this part have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581–0186.

Dated: July 27, 2007.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

Note: The following Appendices will not appear in the Code of Federal Regulations.

Appendix A—Cattle Mandatory Reporting Forms

The following 7 forms referenced in Subpart B Part 59 visually represent the mandatory cattle and boxed beef market information that is required to be reported to the Agricultural Marketing Service.

Cattle

LS–113 Live Cattle Daily Report (Current Established Prices).

LS–114 Live Cattle Daily Report (Committed and Delivered Cattle).

LS–115 Live Cattle Weekly Report.

LS–117 Cattle Premiums and Discounts Weekly Report.

LS–131 Cow/Bull Plant Delivered Bids (Dressed Basis).

LS–132 Live Cow/Bull Daily Purchase Report.

LS–126 Boxed Beef Daily Report.

Appendix B—Swine Mandatory Reporting Forms

The following 3 forms referenced in Subpart C of Part 59 visually represent the mandatory swine market information that is required to be reported electronically to the Agricultural Marketing Service.

Swine

LS–118 Swine Prior Day Report.

LS–119 Swine Daily Report.

LS–120 Swine Noncarcass Merit Premium Weekly Report.

Appendix C—Lamb Mandatory Reporting Forms

The following 6 forms referenced in Subpart D of Part 59 visually represent the mandatory lamb market information that is required to be reported electronically to the Agricultural Marketing Service.

Lamb

LS–121 Live Lamb Daily Report (Current Established Prices).

LS–123 Live Lamb Weekly Report.

LS–124 Live Lamb Weekly Report (Formula Purchases).

LS–125 Lamb Premiums and Discounts Report.

LS–128 Boxed Lamb Report.

LS–129 Lamb Carcass Report.

Appendix D—Mandatory Reporting Forms Guideline

The following mandatory reporting form guidelines will be used by persons required to report electronically transmitted mandatory market information to the Agricultural Marketing Service.

The first 10 fields of each mandatory reporting form provide the following information: identification number (plant establishment number or importer ID number), company name (name of parent company), plant street address (street address for plant), plant city (city where plant is located), plant state (state where plant is located), plant zip code (zip code where plant is located), contact name (the name of the corporate representative contact at the plant), phone number (full phone number for the plant including area code), reporting date (date the information was submitted (mm/dd/yyyy), and reporting time, if applicable (the submission time corresponding to the 10 a.m. and the 2 p.m. reporting requirements). The reporting time requirement is only applicable to forms LS–113 Live Cattle Daily Report (current established prices), LS–114 Live Cattle Daily Report (Committed and Delivered Cattle), LS–126 Boxed Beef Daily Report, LS–131 Cow/Bull Plant Delivered Bids (Dressed Basis) (10 a.m. submission only), LS–132 Live Cow/Bull Daily Purchase Report, and LS–119 Swine Daily Report.

(a) *Cattle Mandatory Reporting Forms.* (See Appendix E for samples).

(1) LS–113— Live Cattle Daily Report (current established prices).

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Source (12). Enter '1', domestic, if cattle were purchased inside of the 50 States, or '2', imported, if cattle were purchased outside of the 50 States.

(iii) Purchase type code (13). Enter the code that describes the type of purchase.

(iv) Class code (14). Enter the code that best describes the type of cattle.

(v) Selling basis (15a–b). For 15a, enter '1' if cattle were purchased on a live basis or '2' if cattle were purchased on a dressed basis. For 15b, enter '1' if cattle are shipped on an FOB feedlot basis or '2' if cattle are delivered at the plant.

(vi) Head count (16). Enter the quantity of cattle in the lot in number of head.

(vii) Estimated average weight (17). Enter the estimated average weight of the lot in pounds.

(viii) Average price (18). Enter the price established on that day for the lot in dollars per hundredweight.

(I) For negotiated purchases, enter the price that was agreed upon.

(II) For formula purchases, enter the base price when established (with estimated grading information if not yet known). Then enter the final net price with all actual grading information when it is known.

(III) For forward contract purchases, enter the base price when established (with estimated grading information if not yet known). Then enter the final net price paid on the contract with actual grading information.

(IV) For negotiated grid purchases, enter the base price when established (with estimated grading information if not yet known). Then enter the final net price with all actual grading information.

(ix) Percent Choice or better (19). Enter the percentage of the number of cattle in the lot of a quality grade of Choice or better.

(x) Classification code (20). Enter the code which best describes the quality of the majority of the cattle in the lot.

(xi) Dressing percentage (21). Enter an average dressing percentage for the cattle in the lot. For negotiated purchases, enter an estimate. For all other purchase types, enter the actual average dressing percentage.

(xii) Origin (22). Enter the 2-letter postal abbreviation for the State in which the cattle were fed to slaughter weight. For imported cattle enter ''CN'' for Canada.

(xiii) Premiums and discounts paid (23a–h). Enter the total net value of the adjustment for the lot (in dollars per hundredweight) for any premiums associated with weight, quality, yield or other expressed as a positive value and for any discounts associated with weight, quality, yield or other expressed as a negative value in parenthesis.

(xiv) Terms of Trade (24a–d).

(I) Packer financing (24a). Enter '1' (yes) or '2' (no) in response to: ''Did packer provide financing agreement or arrangement with regards to the cattle?''

(II) Delivery location (24b). Enter '1' if delivery terms specify producer location, '2' if they specify packer's plant location.

(III) Delivery Date (24c). Enter '1' if producer sets date of delivery for slaughter unilaterally; otherwise enter '2' for packer.

(IV) Delivered (24d). Enter '1' if negotiated purchased cattle are to be delivered for slaughter 14 or less days from the committed, purchased, or priced date. Enter '2' if they are

to be delivered for slaughter between 15 and 30 days from the date the cattle were committed, purchased, or priced.

(2) LS–114—Live Cattle Daily Report (committed and delivered cattle).

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Purchasing basis (12). Enter '1' if cattle are delivered or '2' if cattle are committed.

(iii) Source (13). Enter '1', domestic, if cattle are purchased within the 50 States or '2', imported, if cattle are purchased outside of the 50 States.

(iv) Purchase type code (14). Enter the code that best describes the type of purchase.

(v) Class Code (15). Enter the code that best describes the type of cattle in the lot.

(vi) Selling basis (16). Enter '1' if cattle were purchased on a live basis or a '2' if cattle were purchased on a dressed basis.

(vii) Head count (17). Enter the quantity of cattle in the lot in number of head.

(viii) Origin (18). Enter the 2-letter postal abbreviation for the State in which the cattle were fed to slaughter weight. For imported cattle, enter ''CN'' for Canada.

(ix) Terms of Trade (19a–d). Enter when applicable, otherwise leave blank.

(I) Packer financing (19a). Enter '1' (yes) or '2' (no) in response to: ''Did packer provide financing agreement or arrangement with regards to the cattle?''

(II) Delivery location (19b). Enter '1' if delivery terms specify producer location, '2' if they specify packer's plant location.

(III) Delivery Date (19c). Enter '1' if producer sets date of delivery for slaughter unilaterally; otherwise enter '2' for packer.

(IV) Delivered (19d). Enter '1' if negotiated purchased cattle are to be delivered for slaughter 7 or less days from the committed, purchased, or priced date. Enter '2' if they are to be delivered for slaughter between 8 and 14 days from the date the cattle were committed, purchased, or priced.

(3) LS–115—Live Cattle Weekly Report

(i) Packer-Owned lot identification (11). Enter code used to identify the lot of packer-owned cattle to the packer.

(ii) Packer-Owned source (12). Enter '1', domestic, if packer-owned cattle are from within the 50 States or '2', imported, if cattle are from outside of the 50 States.

(iii) Packer-Owned head count (13). Enter the quantity of packer-owned cattle in the lot in number of head.

(iv) Packer-Owned actual carcass weight range (14). Enter the actual average carcass weight of the lot in pounds.

(v) Packer-Owned average dressing percentage (15). Enter the average dressing percentage of the lot of packer-owned cattle.

(vi) Percentage yield grade 3 or better (16). Enter the percentage of packer-owned cattle in the lot of a yield grade of 3 or better.

(vii) Quality grade percentage (17). Enter the percentage of packer-owned cattle in the lot of a quality grade of Choice or better.

(viii) Prior week slaughtered cattle head counts ( ) (18–25). Enter the total number of head of cattle slaughtered for the prior week that were purchased through forward contracts, the total number of head for cattle purchased through formula arrangements, the total number of head of cattle purchased through negotiated cash, and the total number of head purchased through negotiated grids, categorized by domestic or imported sources. Enter this information once per each week's submission.

(ix) Forward contract purchases lot identification ( ) (26). Enter code used to identify forward contracted cattle to the packer.

(x) Forward contract purchases head count (27). Enter quantity of forward contracted cattle in the lot in number of head.

(xi) Forward contract purchases basis level (28). Enter the agreed upon adjustment to a future price to establish the final price of the forward contracted cattle in dollars per one hundred pounds.

(xii) Forward contract purchases delivery month (29). Enter the delivery month of the cattle purchased through forward contracts as a 3-letter abbreviation.

(xiii) Forward contract purchases delivery year (30).

(xiv) Forward contract purchases basis level month (31). Enter the basis month which the contract was based off of. Use 3-letter abbreviation.

(4) LS–117—Cattle Premiums and Discounts Weekly Report.

(i) Enter the premiums and discounts (in dollars per hundredweight) expected to be in effect for the current slaughter week for each applicable category of premium and discount (11–34). For 'other' categories (35–39), provide a brief description of the basis for the premium/ discount along with the value of the premium/discount. Enter negative values in parenthesis.

(5) LS–131—Cow/Bull Plant Delivered Bids.

Enter the plant delivered bids the plant expects to have in effect for that day in dollars per cwt. for each category.

(6) LS–132—Live Cow/Bull Daily Purchase report.

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Source (12). Enter '1', domestic, if cattle were purchased inside of the 50 States, or '2', imported, if cattle were purchased outside of the 50 States.

(iii) Purchase type code (13). Enter the code that describes the type of purchase.

(iv) Class code (14). Enter the code that best describes the type of cattle.

(v) Selling basis (15a–b). For 15a, enter '1' if cattle were purchased on a live basis or '2' if cattle were purchased on a dressed basis. For 15b, enter '1' if cattle are shipped on an FOB feedlot basis or '2' if cattle are delivered at the plant.

(vi) Head count (16). Enter the quantity of cattle in the lot in number of head.

(vii) Estimated average weight (17). Enter the estimated average weight of the lot in pounds.

(viii) Average price (18). Enter the price established on that day for the lot in dollars per hundredweight.

(I) For negotiated purchases, enter the final net price that was paid.

(II) For formula purchases, enter the base price when established (with estimated grading info if not yet known). Then enter the final net price with all actual grading information when it is known.

(III) For forward contract purchases, enter the base price when established (estimated grading info if not yet known). Then enter the final net price paid on the contract with actual grading information.

(V) For negotiated grid purchases, enter the base price when established (estimated grading info if not yet known). Then enter the final net price with all actual grading information.

(ix) Classification code (19). Enter the code which best describes the quality of the majority of the cattle in the lot.

(x) Origin (20). Enter the 2-letter postal abbreviation for the State in which the cattle were fed to slaughter weight. For imported cattle enter ''CN'' for Canada.

(xi) Premiums and discounts paid (21a–f). Enter the total net value of the adjustment for the lot (in dollars per hundredweight) for any premiums associated with weight, quality, yield or other expressed as a positive value and for any discounts associated with weight, quality, yield or other expressed as a negative value in parenthesis.

(7) LS–126—Boxed Beef Daily Report. For lots comprising multiple items, provide information for each item in a separate record identified with the same lot identification or purchase order number.

(i) Lot identification or purchase order number (11). Enter code used to identify the lot to the packer.

(ii) Destination (12). Enter '1', domestic, for product shipped within the 50 States; or '2', exported, for product shipped overseas; or '3', exported, for product shipped NAFTA (Canada or Mexico).

(iii) Purchase type code (13). Enter the code corresponding to the sale type of the lot of boxed beef.

(iv) Delivery period code (14). Enter the code corresponding to the delivery time period of the lot of boxed beef.

(v) Refrigeration (15). Enter '1' if the product is sold in a fresh condition or '2' if the product is sold in a frozen condition.

(vi) Class code (16). Enter the code that best describes the class of cattle from which the boxed beef was produced.

(vii) Classification code (17). Enter the code corresponding to the grade of the boxed beef.

(viii) Beef cut (18a–b). Enter the numerical code corresponding to the Institutional Meat Purchase Specifications (IMPS) (3 to 4 characters) (18a) or the internal corporate descriptor used to identify the product (18b). Descriptors must be entered consistently for all submissions.

(ix) Trim spec code (19). Enter the code corresponding to the trim level of the boxed beef.

(x) Weight (20). Enter the code corresponding to the relative weight of the product. Where weight is a factor, enter '1' to signify the lighter weight range, '2' to signify the middle weight range, or '3' to signify the heavier weight range. Where weight is not a factor, enter '4' to signify all weights or mixed.

(xi) Total product weight (21). Enter the total weight of the boxed beef cut in the lot in pounds.

(xii) Price (22). Enter the price received for each boxed beef cut in the lot in dollars per one hundred pounds, FOB Plant basis.

(xiii) USDA Certified schedule code (23). Enter the code for the USDA Certified

Program schedule, if applicable (e.g.; G1, G2, etc.); otherwise leave blank.

(xiv) Branded product code (24a–b). Enter the quality grade code (24a) and the yield grade code (24b) that best describes the brand. Leave blank if not applicable.

(b) *Swine Mandatory Reporting Forms (see Appendix E for samples).*

(1) LS–118—Swine Prior Day Report.

(i) Slaughtered swine lot identification (11). Enter code used to identify the lot of slaughtered swine to the packer.

(ii) Slaughtered swine class code (12). Enter the code that best describes the type of slaughtered swine in the lot.

(iii) Slaughtered swine purchase type code (13). Enter the code that describes the type of purchase for the slaughtered swine in the lot.

(iv) Slaughtered swine head count (14). Enter the quantity of slaughtered swine in the lot in number of head.

(v) Slaughtered swine base price (15). Enter the base price established on that day for the lot of slaughtered swine in dollars per one hundred pounds.

(vi) Slaughtered swine average net price (16). Enter the average net price established on that day for the lot of slaughtered swine in dollars per one hundred pounds.

(vii) Slaughtered swine average live weight (17). Enter the average live weight of the lot of swine in pounds if slaughtered swine were purchased on a live basis, otherwise leave blank.

(viii) Slaughtered swine average carcass weight (18). Enter the average carcass weight of the lot of slaughtered swine in pounds.

(ix) Slaughtered swine average sort loss (19). Enter the average sort loss for the lot of slaughtered swine in dollars per one hundred pounds.

(x) Slaughtered swine average backfat (20). Enter the average backfat measurement for the lot of slaughtered swine in inches rounded to the nearest tenth of an inch.

(xi) Slaughtered swine average loin depth (21). Enter the average loin depth measurement for the lot of slaughtered swine in inches rounded to the nearest tenth of an inch.

(xii) Slaughtered swine average lean percentage (22). Enter the average lean percentage for the lot of slaughtered swine.

(xiii) Purchased swine lot identification (23). Enter code used to identify the lot of purchased swine to the packer.

(xiv) Purchased swine ownership code (24). Enter code which best describes the source of the purchased swine whether packer-owned, purchased from another packer, or all other swine.

(xv) Purchased swine class code (25). Enter the code that best describes the type of purchased swine.

(xvi) Purchased swine purchase type code (26). Enter the code that describes the type of purchase for the purchased swine.

(xvii) Purchased swine head count (27). Enter the quantity of purchased swine in the lot.

(xviii) Purchased swine average live weight (28). Enter the average live weight of the lot of swine in pounds if swine were purchased on a live basis, otherwise leave blank.

(xix) Purchased swine base price (29). Enter the base price established on that day for the lot of purchased swine in dollars per one hundred pounds.

(xx) Purchased swine origin (30). Enter the 2-letter postal abbreviation for the State in which the swine were fed to slaughter weight.

(xxi) Scheduled swine (31–44). Enter the number of head of purchase commitment swine that were scheduled for delivery for each of the next 14 days. Enter the total quantity currently scheduled for each day at the time of reporting for each submission.

(2) LS–119—Swine Daily Report.

(i) Purchased swine lot identification (11). Enter code used to identify the lot of purchased swine to the packer.

(ii) Purchased swine purchase type code (12). Enter the code that describes the type of purchase for the swine in the lot.

(iii) Purchased swine average live weight (13). Enter the average live weight of the lot of swine in pounds if swine were purchased on a live basis, otherwise leave blank.

(iv) Purchased swine class code (14). Enter the code that best describes the type of swine in the lot.

(v) Purchased swine head count (15). Enter the quantity of swine in the lot in number of head.

(vi) Purchased swine base price (16). Enter the base price established on that day for the lot of swine in dollars per one hundred pounds.

(vii) Purchased swine origin (17). Enter the 2-letter postal abbreviation for the State in which the swine were fed to slaughter weight.

(viii) Packer-sold swine purchases (18–25). Enter the best estimate of the total number of packer-sold swine expected to be purchased throughout the reporting day for each purchase type and the total number of packer-sold swine purchased up to that time of the reporting day for each purchase type.

(ix) All other swine purchases (26–33). Enter the best estimate of the total number of all other swine expected to be purchased throughout the reporting day for each purchase type and the total number of all other swine purchased up to that time of the reporting day for each purchase type.

(3) LS–120—Swine Noncarcass Merit Premium Weekly Report.

Enter the standard noncarcass merit premiums used during the prior slaughter week (11–15) in dollars per hundredweight. If a range of standard noncarcass merit premiums was used, enter the low side of the range (a) and the high side of the range (b). If only one value was used, enter the same number in (a) and (b). If no value for the specified merit was used, leave blank. For 'other' categories (16–20), provide a brief description of the basis for the premium along with the value of the premium.

(c) *Lamb Mandatory Reporting Forms. (See Appendix E for samples).*

(1) LS–121—Live Lamb Daily Report (current established prices).

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Source (12). Enter '1', domestic, if lambs were purchased inside of the 50 States, or '2', imported, if lambs were purchased outside of the 50 States.

(iii) Purchase type code (13). Enter the code that describes the type of purchase.

(iv) Class code (14). Enter the code that best describes the type of lambs.

(v) Selling basis (15a–b). For 15a, enter '1' if lambs were purchased on a live basis or '2' if lambs were purchased on a dressed basis. For 15b, enter '1' if lambs are shipped on an FOB feedlot basis or '2' if lambs are delivered at the plant.

(vi) Head count (16). Enter the quantity of lambs in the lot in number of head.

(vii) Weight range (17a & 17b). Enter the lowest (17a) and highest (17b) weights for lambs in the lot in pounds.

(viii) Estimated average weight (18). Enter the estimated average weight of the lot in pounds.

(ix) Average price (19). Enter the price established on that day for the lot in dollars per hundredweight.

(I) For negotiated purchases, enter the final (net) price paid.

(II) For formula purchases, enter the net price.

(III) For forward contract purchases, enter the final (net) price paid.

(x) Percent Choice or better (20). Enter the percentage of the number of lambs in the lot of a quality grade of Choice or better.

(xi) Classification code (21). Enter the code which best describes the quality of the majority of the lambs in the lot.

(xii) Dressing percentage (22). Enter an average dressing percentage for the lambs in the lot. For negotiated purchases, enter an estimate. For all other purchase types, enter the actual average dressing percentage.

(xiii) Origin (23). Enter the 2-letter postal abbreviation for the State in which the lambs were fed to slaughter weight. Enter 'CN' if lambs originate from Canada.

(xiv) Pelt Code (24). Enter the code that best describes the type of pelt for the majority of lambs in the lot.

(xv)Premiums and discounts paid (25a–f). Enter the total net value of the adjustment for the lot (in dollars per hundredweight) for any premiums associated with weight, quality, or yield expressed as a positive value and for any discounts associated with weight, quality, or yield expressed as a negative value in parenthesis.

(2) LS–123—Live Lamb Weekly Report.

(i) Packer-Owned lot identification (11). Enter code used to identify the lot of packer-owned lambs to the packer.

(ii) Packer-Owned source (12). Enter '1', domestic, if packer-owned lambs are from within the 50 States or '2', imported, if lambs are from outside of the 50 States.

(iii) Packer-Owned head count (13). Enter the quantity of packer-owned lambs in the lot in number of head.

(iv) Packer-Owned actual carcass weight range (14a & 14b). Enter the lowest (14a) and highest (14b) actual carcass weights for lambs in the lot in pounds.

(v) Packer-Owned actual average carcass weight (15). Enter the actual average carcass weight of the lot of packer-owned lambs in pounds.

(vi) Packer-Owned average dressing percentage (16). Enter the average dressing percentage of the lot of packer-owned lambs.

(vii) Percentage yield grade 3 or better (17). Enter the percentage of packer-owned lambs in the lot of a yield grade of 3 or better.

(viii) Quality grade percentage (18–). Enter the percentage of packer-owned lambs in the lot of a quality grade of Choice or better.

(ix) Prior week slaughtered lambs head counts ( ) (19–24). Enter the total number of head of lambs slaughtered for the prior week that were purchased through forward contracts, the total number of head for lambs purchased through formula arrangements, and the total number of head of lambs purchased through negotiated cash, categorized by domestic or imported sources. Enter this information once per each week's submission.

(x) Forward contract purchases lot identification (25). Enter code used to identify forward contracted lambs to the packer.

(xi) Forward contract purchases head count (26). Enter quantity of forward contracted lambs in the lot in number of head.

(xii) Forward contract purchases basis level (27). Enter the agreed upon adjustment to a future price to establish the final price of the forward contracted lambs in dollars per one hundred pounds.

(xiii) Forward contract purchases delivery month (28). Enter the delivery month of the lambs purchased through forward contracts as a 3-letter abbreviation.

(3) LS–124—Live Lamb Weekly Report (formula purchases).

(i) Lot identification (11). Enter code used to identify the lot to the packer.

(ii) Source (12). Enter '1', domestic, if lambs are purchased within the 50 States or '2', imported, if lambs are purchased outside of the 50 States.

(iii) Head count (13). Enter the quantity of lambs in the lot in number of head.

(iv) Total pounds (14). Enter the total quantity of lambs in the lot in pounds.

(v) Weighted average carcass price (15). Enter the average weighted average carcass price for the lambs in the lot in dollars per hundredweight.

(vi) Range of prices paid (16a–b). Enter the lowest (16a) and the highest (16b) prices paid for the lambs in the lot in dollars per hundredweight.

(vii) Range of premiums and discounts paid (17a–b). Enter the lowest (17a) and the highest (17b) premium and discount paid for the lot of lambs in dollars per hundredweight. Enter negative values in parenthesis.

(viii) Weighted average of premiums and discounts paid (18). Enter the weighted average of the premiums and discounts paid for the lot of lambs in dollars per hundredweight. Enter negative values in parenthesis.

(4) LS–125—Lamb Premiums and Discounts Weekly Report.

Enter the premiums and discounts (in dollars per hundredweight) expected to be in effect for the current slaughter week for each applicable category of premium and discount (11–32). For 'other' categories (33–37), provide a brief description of the basis for the premium/discount along with the value of the premium/discount. Enter negative values in parenthesis.

(5) LS–128—Boxed Lamb Daily Report. For lots comprising multiple items, provide information for each item in a separate record identified with the same lot identification or purchase order number.

(i) Lot identification or purchase order number (11). Enter code used to identify the lot to the packer.

(ii) Destination/Source (12). Enter '1', domestic, for product originating within the 50 States or '2', imported, for product originating from outside of the 50 States.

(iii) Sale type code (13). Enter the code corresponding to the sale type of the lot of boxed lamb.

(iv) Delivery period code (14). Enter the code corresponding to the delivery time period of the lot of boxed lamb.

(v) Refrigeration (15). Enter '1' if the product is sold in a fresh condition or '2' if the product is sold in a frozen condition.

(vi) Classification code (16). Enter the code corresponding to the grade of the boxed lamb, if applicable.

(vii) Lamb cut (17a–b). Enter the numerical code corresponding to the Institutional Meat Purchase Specifications (IMPS) (3 to 4 characters)(17a) or the internal corporate descriptor used to identify the product (17b). Descriptors must be entered consistently for all submissions.

(viii) Weight (18). Enter the code corresponding to the relative weight of the product. Where weight is a factor, enter '1' to signify the lighter weight range, '2' to signify the middle weight range, or '3' to signify the heavier weight range. Where weight is not a factor, enter '4' to signify all weights or mixed.

(ix) Total product weight (19). Enter the total weight of the boxed lamb cut in the lot in pounds.

(x) Price (20). Enter the price received for each boxed lamb cut in the lot in dollars per one hundred pounds, FOB Plant basis.

(xi) USDA Certified schedule code (21). Enter the code for the USDA Certified Program schedule, if applicable (e.g. CL, etc.); otherwise leave blank.

(xii) Branded product code (22a–b). Enter the quality grade code (22a) and the yield grade code (22b) that best describes the brand. Leave blank if not applicable.

(6) LS–129—Lamb Carcass Report. For lots comprised of distinct carcass weight range categories with different prices, provide information for each weight range in a separate record identified with the same lot identification or purchase order number.

(i) Lot identification or purchase order number (11). Enter code used to identify the lot to the packer.

(ii) Transaction type code (12). Enter the code corresponding to the transaction type of the lot of carcass lamb.

(iii) FOB Plant Price (13). Enter the price received for the lamb carcasses in dollars per one hundred pounds, FOB Plant basis.

(iv) Number of carcasses (14). Enter the total number of lamb carcasses in the lot.

(v) Classification code (15) Enter the corresponding USDA quality grade code.

(vi) Yield grade code (16). Enter the corresponding USDA yield grade code.

(vii) Estimated carcass weight range (17a–b). Enter the lowest (17a) and highest (17b) weights (in pounds) that best describes the majority of the lamb carcasses in the lot.

(viii) Delivery period code (18). Enter the code corresponding to the time period the lamb carcasses will deliver.

(ix) Transaction basis (19). Enter '1' for purchased carcasses or '2' for sold carcasses.

Appendix E—Mandatory Reporting Forms

The cattle, swine, and lamb mandatory reporting forms follow:

BILLING CODE 3410–02–P

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE CATTLE DAILY REPORT
(Current Established Prices)

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	
11. LOT IDENTIFICATION	
12. SOURCE (1 = Domestic; 2 = Imported)	
13. PURCHASE TYPE CODE	
14. CLASS CODE	
15a. SELLING BASIS (1 = Live; 2 = Dressed)	
15b. SELLING BASIS - Shipment (1 = FOB; 2 = Delivered)	
16. HEAD COUNT	
17. ESTIMATED AVERAGE WEIGHT (pounds)	
18. AVERAGE PRICE ($/cwt)	
19. % CHOICE OR BETTER	
20. CLASSIFICATION CODE	
21. DRESSING PERCENTAGE	
22. ORIGIN (2-Letter State postal abbr.)	

PURCHASE TYPE CODE	CLASS CODE	CLASSIFICATION CODE
1 = NEGOTIATED CASH 2 = FORMULA NET 3 = FORWARD CONTRACT NET 4 = NEGOTIATED GRID NET 5 = FORMULA BASE 6 = FORWARD CONTRACT BASE 7 = NEGOTIATED GRID BASE	1 = MIXED STEER/HEIFER 2 = STEER 3 = HEIFER 4 = DAIRYBRED STR/HFR 5 = MIXED STR/HFR/COW	1 = PRIME 2 = CHOICE 3 = SELECT 4 = STANDARD 5 = PREMIUM WHITE 6 = CUTTER/CANNER 90% 7 = BONER 85% 8 = BREAKER 75% 9 = BULL 92%

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23a. PREMIUM PAID - WEIGHT ($/cwt.)	
23b. PREMIUM PAID - QUALITY ($/cwt.)	
23c. PREMIUM PAID - YIELD ($/cwt.)	
23d. PREMIUM PAID - OTHER ($/cwt.)	
23e. DISCOUNT PAID - WEIGHT ($/cwt.)	
23f. DISCOUNT PAID - QUALITY ($/cwt.)	
23g. DISCOUNT PAID - YIELD ($/cwt.)	
23h. DISCOUNT PAID - OTHER ($/cwt.)	
24a. PACKER FINANCING (1 = yes; 2 = no)	
24b. DELIVERY LOCATION (1 = producer; 2 = packer)	
24c. DELIVERY DATE (1 = producer, 2 = packer)	
24d. DELIVERED (1 = 1-14, 2 = 15-30)	

LS-113 (05-07) *Destroy previous edition dated 04-07.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE CATTLE DAILY REPORT
(Committed and Delivered Cattle)

1. IDENTIFICATION NUMBER	
2. COMPANY NAMEF	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	

PURCHASE TYPE CODE	CLASS CODE
1 = NEGOTIATED 2 = FORMULA NET 3 = FORWARD CONTRACT NET 4 = NEGOTIATED GRID NET 5 = FORMULA BASE 6 = FORWARD CONTRACT BASE 7 = NEGOTIATED GRID BASE	1 = MIXED STEER/HEIFER 2 = STEER 3 = HEIFER 4 = DAIRYBRED STEER/HEIFER 5 = MIXED STR/HFR/COW

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11. LOT IDENTIFICATION		17. HEAD COUNT	
12. PURCHASING BASIS (1 = Delivered; 2 = Committed)		18. ORIGIN (2-Letter State postal abbr.)	
13. SOURCE (1 = Domestic; 2 = Imported)		19a. PACKER FINANCING (1 = yes; 2 = no)	
14. PURCHASE TYPE CODE		19b. DELIVERY LOCATION (1 = producer; 2 = packer)	
15. CLASS CODE		19c. DELIVERY DATE (1 = producer; 2 = packer)	
16. SELLING BASIS (1 = Live; 2 = Dressed)		19d. DELIVERED (1 = Less than 7; 2 = greater than 7 less than 14)	

LS-114 (04-07) *Destroy previous edition dated 07-00.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE CATTLE WEEKLY REPORT
(Forward Contract and Packer-Owned)

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	*(NOT APPLICABLE)*
SLAUGHTERED PACKER-OWNED CATTLE	
11. LOT IDENTIFICATION	
12. SOURCE (1 = Domestic; 2 = Imported)	
13. HEAD COUNT	
14. ACTUAL AVERAGE CARCASS WEIGHT	
15. AVERAGE DRESSING PERCENTAGE	
16. % YIELD GRADE 3 OR BETTER	
17. % QUALITY GRADE CHOICE OR BETTER	

PRIOR WEEK SLAUGHTERED CATTLE HEAD COUNTS
(Data in this block to be entered once per weekly submission.)

18. DOMESTIC, FORMULA ARRANGEMENT	Head Count	
19. IMPORTED, FORMULA ARRANGEMENT	Head Count	
20. DOMESTIC, NEGOTIATED	Head Count	
21. IMPORTED, NEGOTIATED	Head Count	
22. DOMESTIC, NEGOTIATED GRID	Head Count	
23. IMPORTED, NEGOTIATED GRID	Head Count	
24. DOMESTIC, FORWARD CONTRACT	Head Count	
25. IMPORTED, FORWARD CONTRACT	Head Count	

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FORWARD CONTRACT PURCHASED CATTLE

26. LOT IDENTIFICATION	
27. HEAD COUNT	
28. BASIS LEVEL ($/cwt.)	
29. DELIVERY MONTH (abbreviated)	
30. DELIVERY YEAR (yyyy)	
31. BASIS LEVEL MONTH (abbreviatied)	

LS-115 (04-07) *Destroy previous edition dated 07-00.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

CATTLE PREMIUMS AND DISCOUNTS WEEKLY REPORT

1. IDENTIFICATION NUMBER		NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights,1400 Independence Avenue, S.W.,Washington,D.C.20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.
2. COMPANY NAME		
3. PLANT STREET ADDRESS		
4. PLANT CITY		
5. PLANT STATE		
6. PLANT ZIP CODE		
7. CONTACT NAME		
8. PHONE NUMBER (include area code)		
9. REPORTING DATE (mm/dd/yyyy)		27. PREMIUM/DISCOUNT - 400-500 lbs. Carcass
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	*(NOT APPLICABLE)*	28. PREMIUM/DISCOUNT - 500-550 lbs. Carcass
11. PREMIUM/DISCOUNT - Prime		29. PREMIUM/DISCOUNT - 550-600 lbs. Carcass
12. PREMIUM/DISCOUNT - Choice		30. PREMIUM/DISCOUNT - 600-900 lbs. Carcass
13. PREMIUM/DISCOUNT - Select		31. PREMIUM/DISCOUNT - 900-950 lbs. Carcass
14. PREMIUM/DISCOUNT - Standard		32. PREMIUM/DISCOUNT - 950-1000 lbs. Carcass
15. PREMIUM/DISCOUNT - Certified Angus Beef		33. PREMIUM/DISCOUNT - over 1000 lbs. Carcass.
16. PREMIUM/DISCOUNT - Dairy-Type		34. PREMIUM/DISCOUNT - Over 30 months
17. PREMIUM/DISCOUNT - Bullock/Stag		35a. PREMIUM/DISCOUNT - Other Description
18. PREMIUM DISCOUNT - Hardbone		35b. PREMIUM/DISCOUNT - Other Value
19. PREMIUM/DISCOUNT - Dark Cutter		36a. PREMIUM/DISCOUNT - Other Description
20. PREMIUM/DISCOUNT - YG 1.0-2.0 (<=.1" Fat)		36b. PREMIUM/DISCOUNT - Other Value
21. PREMIUM/DISCOUNT - YG 2.0-2.5 (<=.2" Fat)		37a. PREMIUM/DISCOUNT - Other Description
22. PREMIUM/DISCOUNT - YG 2.5-3.0 (<=.4" Fat)		37b. PREMIUM/DISCOUNT - Other Value
23. PREMIUM/DISCOUNT - YG 3.0-3.5 (<=.6" Fat)		38a. PREMIUM/DISCOUNT - Other Description
24. PREMIUM/DISCOUNT - YG 3.5-4.0 (<=.8" Fat)		38b. PREMIUM/DISCOUNT - Other Value
25. PREMIUM/DISCOUNT - YG 4.0-5.0 (<=1.2" Fat)		39a. PREMIUM/DISCOUNT - Other Description
26. PREMIUM/DISCOUNT - YG 5.0/up (>=1.2" Fat)		39b. PREMIUM/DISCOUNT - Other Value

LS-117 (04-07) *Destroy previous edition dated 07-00.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

COW/BULL PLANT DELIVERED BIDS
(Dressed Basis)

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. PREMIUM WHITE (All Weights)	
11. BREAKER 75% (500 and up)	
12. BREAKER 75% (400-500 lbs)	
13. BREAKER 75% (350-400 lbs)	
14. BREAKER 75% (Under 350 lbs)	
15. BONER 85% (500 and up)	
16. BONER 85% (400-500 lbs)	
17. BONER 85% (350-400 lbs)	
18. BONER 85% (Under 350 lbs)	
19. CUTTER (Lean) 90% (500 lbs and up)	
20. CUTTER (Lean) 90% (400-500 lbs)	
21. CUTTER (Lean) 90% (350-400 lbs)	
22. CUTTER (Lean) 90% (Under 350 lbs)	
23. BULL (Over 600 lbs)	
24. BULL (Under 600 lbs)	

NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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LS-131 (05-07)

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE COW/BULL DAILY PURCHASE REPORT

		PURCHASE TYPE CODE	CLASS CODES	CLASSIFICATION CODE
1. IDENTIFICATION NUMBER		1 = NEGOTIATED 2 = FORMULA NET 3 = FORWARD CONTRACT NET 4 = NEGOTIATED GRID NET 5 = FORMULA BASE 6 = FORWARD CONTRACT BASE 7 = NEGOTIATED GRID BASE	6 = DAIRY COW 7 = BEEF COW 8 = MIXED COW 9 = BULL	5 = PREMIUM WHITE 6 = CUTTER/CANNER 90% 7 = BONER 85% 8 = BREAKER 75% 9 = BULL 92%
2. COMPANY NAME				
3. PLANT STREET ADDRESS				
4. PLANT CITY				
5. PLANT STATE				
6. PLANT ZIP CODE				
7. CONTACT NAME				
8. PHONE NUMBER (include area code)				
9. REPORTING DATE (mm/dd/yyyy)				
10. LOT IDENTIFICATION				
11. SOURCE (1=Domestic, 2=Imported)				
12. PURCHASE TYPE CODE				
13. CLASS CODE				
14. SELLING BASIS (1 = Live; 2 = Dressed)				
15. SHIPMENT BASIS (1 = FOB, 2 = Delivered)				
16. HEAD COUNT				
17. ESTIMATED AVERAGE WEIGHT				
18. AVERAGE NET PRICE ($/cwt)				
19. CLASSIFICATION CODE				
20. ORIGIN (2 Letter State Postal Abbr.)				
21a. PREMIUM PAID - Weight ($/cwt.)				
21b. PREMIUM PAID - Quality ($/cwt.)				
21c. PREMIUM PAID - Yield ($/cwt.)				
21d. DISCOUNT PAID - Weight ($/cwt.)				
21e. DISCOUNT PAID - Quality ($/cwt.)				
21f. DISCOUNT PAID - Yield ($/cwt.)				

NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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LS-132 (04-07)

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

BOXED BEEF DAILY REPORT

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	
11. LOT IDENTIFICATION OR PURCHASE ORDER NUMBER	
12. DESTINATION (1 = Domestic; 2 = Export Overseas, 3 = Export NAFTA)	
13. SALES TYPE CODE	
14. DELIVERY PERIOD CODE	
15. REFRIGERATION (1 = Fresh; 2 = Frozen)	
16. CLASS CODE	
17. CLASSIFICATION CODE	
18a. BEEF CUT - IMPS Code	

DELIVERY PERIOD	CLASS CODE	CLASSIFICATION CODE	TRIM SPEC CODE
1 = 0-21 DAYS 2 = 22-60 DAYS 3 = 61-90 DAYS 4 = 91/UP DAYS	1 = MIXED STEER/HEIFER 2 = STEER 3 = HEIFER 4 = DAIRYBRED STR/HFR 5 = MIXED STR/HFR/COW 6 = DAIRY COW 7 = BEEF COW 8 = MIXED COW 9 = BULL	1 = PRIME 2 = CHOICE 3 = SELECT 4 = PREMIUM WHITE 5 = CUTTER/CANNER 80% 6 = BONER 85% 7 = BREAKER 75% 8 = BULL 92% 9 = UNGRADED	1 = 3/4" AVG; 1" MAX 2 = 1/4" AVG; 1/2" MAX 3 = 1/8" AVG; 1/4" MAX 4 = PRACTICALLY FREE; 1/8" MAX 5 = PEELED/DENUDED; 1/8" MAX 6 = PEELED/DENUDED SURFACE MEMBRANE REMOVED; 1/8" MAX 7 = GROUND BEEF 8 = TRIMMINGS 9 = BONELESS PROCESSING BEEF

SALES TYPE CODE	BRANDED PRODUCT CODE	
	QUALITY	YIELD
1 = NEGOTIATED 2 = FORMULA MARKETING ARRANGEMENT 3 = FORWARD CONTRACT	1 = PRIME 2 = UPPER 2/3 CHOICE 3 = LOWER 1/3 CHOICE 4 = SELECT	1 = YIELD GRADE 1-3 2 = YIELD GRADE 4

NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 8 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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18b. BEEF CUT - Description (if IMPS not applicable)	
19. TRIM SPECIFICATION CODE	
20. WEIGHT (1=Light; 2=Medium; 3= Heavy; 4=Mixed)	
21. TOTAL PRODUCT WEIGHT (pounds)	
22. FOB PLANT PRICE ($/cwt.)	
23. USDA CERTIFIED SCHEDULE CODE (if applicable)	
24a. BRANDED PRODUCT CODE - Quality	
24b. BRANDED PRODUCT CODE - Yield	

LS-126 (04-07) *Destroy previous edition dated 07-00.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

SWINE PRIOR DAY REPORT

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)
11. SLAUGHTERED SWINE - Lot Identification	
12. SLAUGHTERED SWINE - Class Code	
13. SLAUGHTERED SWINE - Purchase Type Code	
14. SLAUGHTERED SWINE - Head Count	
15. SLAUGHTERED SWINE - Base Price ($/cwt.)	
16. SLAUGHTERED SWINE - Average Net Price ($/cwt.)	
17. SLAUGHTERED SWINE - Average Live Weight (pounds)	
18. SLAUGHTERED SWINE - Avg. Carcass Weight (pounds)	
19. SLAUGHTERED SWINE - Average Sort Loss ($/cwt.)	
20. SLAUGHTERED SWINE - Average Backfat (inches)	
21. SLAUGHTERED SWINE - Average Loin Depth (inches)	
22. SLAUGHTERED SWINE - Average Lean Percentage	
23. PURCHASED SWINE - Lot Identification	
24. PURCHASED SWINE - Ownership Code	

CLASS CODE	PURCHASE TYPE CODE	OWNERSHIP CODE
1 = BARROWS/GILTS 2 = SOW 3 = BOARS/STAGS	1 = NEGOTIATED 2 = OTHER MARKET FORMULA 3 = SWINE OR PORK MARKET FORMULA 4 = OTHER PURCHASE ARRANGEMENT 5 = PACKER-SOLD NEGOTIATED 6 = PACKER-SOLD OTHER MARKET FORMULA 7 = PACKER-SOLD SWINE OR PORK MARKET FORMULA 8 = PACKER-SOLD OTHER PURCHASE ARRANGEMENT 9 = PACKER-OWNED	1 = PACKER-OWNED 2 = PACKER-SOLD 3 = ALL OTHER

NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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25. PURCHASED SWINE - Class Code	
26. PURCHASED SWINE - Purchase Type Code	
27. PURCHASED SWINE - Head Count	
28. PURCHASED SWINE - Avg. Live Weight (pounds)	
29. PURCHASED SWINE - Base Price ($/cwt.)	
30. PURCHASED SWINE - Origin (2 - letter State postal abbr.)	

LS-118 (04-07) *Destroy previous edition dated 08-00.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

SWINE PRIOR DAY REPORT

NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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31. SCHEDULED SWINE - Head Count for Day 1		38. SCHEDULED SWINE - Head Count for Day 8	
32. SCHEDULED SWINE - Head Count for Day 2		39. SCHEDULED SWINE - Head Count for Day 9	
33. SCHEDULED SWINE - Head Count for Day 3		40. SCHEDULED SWINE - Head Count for Day 10	
34. SCHEDULED SWINE - Head Count for Day 4		41. SCHEDULED SWINE - Head Count for Day 11	
35. SCHEDULED SWINE - Head Count for Day 5		42. SCHEDULED SWINE - Head Count for Day 12	
36. SCHEDULED SWINE - Head Count for Day 6		43. SCHEDULED SWINE - Head Count for Day 13	
37. SCHEDULED SWINE - Head Count for Day 7		44. SCHEDULED SWINE - Head Count for Day 14	

LS-118 Reverse (04-07) *Destroy previous edition dated 08-00.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
MARKETING SERVICE

SWINE DAILY REPORT

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	

CLASS CODE	PURCHASE TYPE CODE
1 = BARROWS/GILTS 2 = SOW 3 = BOARS/STAGS	1 = NEGOTIATED 2 = OTHER MARKET FORMULA 3 = SWINE OR PORK MARKET FORMULA 4 = OTHER PURCHASE ARRANGEMENT 5 = PACKER-SOLD NEGOTIATED 6 = PACKER-SOLD OTHER MARKET FORMULA 7 = PACKER-SOLD SWINE OR PORK MARKET FORMULA 8 = PACKER-SOLD OTHER PURCHASE ARRANGEMENT

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11. PURCHASED SWINE - Lot Identification		15. PURCHASED SWINE - Head Count	
12. PURCHASED SWINE - Purchase Type Code		16. PURCHASED SWINE - Base Price ($/cwt.)	
13. PURCHASED SWINE - Average Live Weight		17. PURCHASED SWINE - Origin (2-letter State postal abbr.)	
14. PURCHASED SWINE - Class Code			

PACKER-SOLD SWINE PURCHASES		ALL OTHER SWINE PURCHASES	
18. EST. NEGOTIATED PURCHASES Head Count		26. EST. NEGOTIATED PURCHASES Head Count	
19. EST. OTHER MARKET FORMULA PURCHASES Head Count		27. EST. OTHER MARKET FORMULA PURCHASES Head Count	
20. EST. SWINE/PORK MARKET FORMULA PURCHASES Head Count		28. EST. SWINE/PORK MARKET FORMULA PURCHASES Head Count	
21. EST. OTHER ARRANGEMENT PURCHASES Head Count		29. EST. OTHER ARRANGEMENT PURCHASES Head Count	
22. ACT. NEGOTIATED PURCHASES Head Count		30. ACT. NEGOTIATED PURCHASES Head Count	
23. ACT. OTHER MARKET FORMULA PURCHASES Head Count		31. ACT. OTHER MARKET FORMULA PURCHASES Head Count	
24. ACT. SWINE/PORK MARKET FORMULA PURCHASES Head Count		32. ACT. SWINE/PORK MARKET FORMULA PURCHASES Head Count	
25. ACT OTHER ARRANGEMENT PURCHASES Head Count		33. ACT OTHER ARRANGEMENT PURCHASES Head Count	

LS-119 (01-07) *Destroy previous edition dated 08-00.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

WEEKLY NONCARCASS MERIT PREMIUM SWINE REPORTING

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)

NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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11a. NONCARCASS MERIT - Volume - Low Range		17a. NONCARCASS MERIT - Other Description	
11b. NONCARCASS MERIT - Volume - High Range		17b. NONCARCASS MERIT - Other Value - Low Range	
12a. NONCARCASS MERIT - Transportation - Low Range		17c. NONCARCASS MERIT - Other Value - High Range	
12b. NONCARCASS MERIT - Transportation - High Range		18a. NONCARCASS MERIT - Other Description	
13a. NONCARCASS MERIT - Delivery Timing - Low Range		18b. NONCARCASS MERIT - Other Value - Low Range	
13b. NONCARCASS MERIT - Delivery Timing - High Range		18c. NONCARCASS MERIT - Other Value - High Range	
14a. NONCARCASS MERIT - Breed - Low Range		19a. NONCARCASS MERIT - Other Description	
14b. NONCARCASS MERIT - Breed - High Range		19b. NONCARCASS MERIT - Other Value - Low Range	
15a. NONCARCASS MERIT - Pork Quality Assurance Low Range		19c. NONCARCASS MERIT - Other Value - High Range	
15b. NONCARCASS MERIT - Pork Quality Assurance High Range		20a. NONCARCASS MERIT - Other Description	
16a. NONCARCASS MERIT - Other Description		20b. NONCARCASS MERIT - Other Value - Low Range	
16b. NONCARCASS MERIT - Other Value - Low Range		20c. NONCARCASS MERIT - Other Value - High Range	
16c. NONCARCASS MERIT - Other Value - High Range			

LS-120 (04-07) *Destroy previous edition dated 07-00.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL MARKETING SERVICE

LIVE LAMB DAILY REPORT

(Current Established Prices)

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)
11. LOT IDENTIFICATION	
12. SOURCE (1 = Domestic; 2 = Imported)	
13. PURCHASE TYPE CODE	
14. CLASS CODE	
15a. SELLING BASIS (1 = Live; 2 = Dressed)	
15b. SELLING BASIS SHIPMENT (1 = FOB; 2 = Delivered)	
16. HEAD COUNT	
17a. WEIGHT RANGE - LOW (pounds)	
17b. WEIGHT RANGE - HIGH (pounds)	
18. ESTIMATED AVERAGE WEIGHT (pounds)	
19. AVERAGE PRICE ($/cwt.)	
20. % CHOICE OR BETTER	
21. CLASSIFICATION CODE	

PURCHASE TYPE CODE	CLASS CODE	CLASSIFICATION CODE	PELT CODE
1 = NEGOTIATED 2 = FORMULA MARKETING ARRANGEMENT 3 = FORWARD CONTRACT	1 = SLAUGHTER LAMBS, 2 = EWES 3 = RAMS/STAGS	1 = PRIME 2 = CHOICE 3 = GOOD 4 = UTILITY 5 = CULL	1 = WOOLED 2 = #1 FALL SHORN 3 = #2 4 = #3-4

NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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22. DRESSING PERCENTAGE	
23. ORIGIN (2-letter State postal abbr.)	
24. PELT CODE	
25a. PREMIUM PAID - WEIGHT ($/cwt.)	
25b. PREMIUM PAID - QUALITY ($/cwt.)	
25c. PREMIUM PAID - YIELD ($/cwt.)	
25d. DISCOUNT PAID - WEIGHT ($/cwt.)	
25e. DISCOUNT PAID - QUALITY ($/cwt.)	
25f. DISCOUNT PAID - YIELD ($/cwt.)	

LS-121 (05-07) *Destroy previous edition dated 04-07.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE LAMB WEEKLY REPORT

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)
SLAUGHTERED PACKER-OWNED LAMBS	
11. LOT IDENTIFICATION	
12. SOURCE (1 = Domestic; 2 = Imported)	
13. HEAD COUNT	
14a. ACTUAL CARCASS WEIGHT RANGE - LOW	
14b. ACTUAL CARCASS WEIGHT RANGE - HIGH	
15. ACTUAL AVERAGE CARCASS WEIGHT	
16. AVERAGE DRESSING PERCENTAGE	
17. % YIELD GRADE 3 OR BETTER	
18. % QUALITY GRADE CHOICE OR BETTER	

PRIOR WEEK SLAUGHTERED LAMB HEAD COUNTS
(Data in this block to be entered once per weekly submission.)

19. DOMESTIC, FORWARD CONTRACT	Head Count	
20. IMPORTED, FORWARD CONTRACT	Head Count	
21. DOMESTIC, FORMULA ARRANGEMENT	Head Count	
22. IMPORTED, FORMULA ARRANGEMENT	Head Count	
23. DOMESTIC, NEGOTIATED	Head Count	
24. MPORTED, NEGOTIATED	Head Count	

NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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FORWARD CONTRACT PURCHASED LAMBS

25. LOT IDENTIFICATION	
26. HEAD COUNT	
27. BASIS LEVEL ($/cwt.)	
28. DELIVERY MONTH (3-letter abbreviation)	

LS-123 (05-07) *Destroy previous edition dated 04-07.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LIVE LAMB WEEKLY REPORT
(Formula Purchases)

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)

NOTE: According to the Paperwork Reduction Act of 1995, 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 OMB control number. The valid OMB control number for this information collection is 0581-0186. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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11. LOT IDENTIFICATION		17a. PREMIUM/DISCOUNT RANGE - LOW ($/cwt.)	
12. SOURCE (1 = Domestic; 2 = Imported)		17b. PREMIUM/DISCOUNT RANGE - HIGH ($/cwt.)	
13. HEAD COUNT		18. PREMIUM/DISCOUNT WEIGHTED AVERAGE ($/cwt.)	
14. TOTAL POUNDS			
15. WEIGHTED AVERAGE CARCASS PRICE ($/cwt.)			
16a. PRICE RANGE - LOW ($/cwt.)			
16b. PRICE RANGE - HIGH ($/cwt.)			

LS-124 (05-07) *Destroy previous edition dated 04-07.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LAMB PREMIUMS AND DISCOUNTS WEEKLY REPORT

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME (1 = 10:00 a.m.; 2 = 2:00 p.m.)	(NOT APPLICABLE)

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11. PREMIUM/DISCOUNT - Prime		27. PREMIUM/DISCOUNT - 75-85 lbs. Carcass	
12. PREMIUM/DISCOUNT - Choice		28. PREMIUM/DISCOUNT - Over 85 lbs. Carcass	
13. PREMIUM/DISCOUNT - Good		29. PREMIUM/DISCOUNT - Wooled Pelt	
14. PREMIUM/DISCOUNT - Standard		30. PREMIUM/DISCOUNT - #1 Fall Shorn Pelt	
15. PREMIUM/DISCOUNT - Choice YG 2 or Better		31. PREMIUM/DISCOUNT - #2 Fall Shorn Pelt	
16. PREMIUM/DISCOUNT - Bucky		32. PREMIUM/DISCOUNT - #3-4 Fall Shorn Pelt	
17. PREMIUM/DISCOUNT - Yearling or Older		33a. PREMIUM/DISCOUNT - Other Description	
18. PREMIUM DISCOUNT - YG 1.0-2.0 (<=.16" Fat)		33b. PREMIUM/DISCOUNT - Other Value	
19. PREMIUM/DISCOUNT - YG 2.0-3.0 (<=.26" Fat)		34a. PREMIUM/DISCOUNT - Other Description	
20. PREMIUM/DISCOUNT - YG 3.0-4.0 (<=.36" Fat)		34b. PREMIUM/DISCOUNT - Other Value	
21. PREMIUM/DISCOUNT - YG 4.0-5.0 (<=.46" Fat)		35a. PREMIUM/DISCOUNT - Other Description	
22. PREMIUM/DISCOUNT - YG 5.0/up (>=.46" Fat)		35b. PREMIUM/DISCOUNT - Other Value	
23. PREMIUM/DISCOUNT - Under 45 lbs. Carcass		36a. PREMIUM/DISCOUNT - Other Description	
24. PREMIUM/DISCOUNT - 45-55 lbs. Carcass		36b. PREMIUM/DISCOUNT - Other Value	
25. PREMIUM/DISCOUNT - 55-65 lbs Carcass		37a. PREMIUM/DISCOUNT - Other Description	
26. PREMIUM/DISCOUNT - 65-75 lbs. Carcass		37b. PREMIUM/DISCOUNT - Other Value	

LS-125 (05-07) *Destroy previous edition dated 04-07.*

FORM APPROVED. - OMB NO. 0581-0186

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

BOXED LAMB DAILY REPORT

1. IDENTIFICATION NUMBER	
2. COMPANY NAME	
3. PLANT STREET ADDRESS	
4. PLANT CITY	
5. PLANT STATE	
6. PLANT ZIP CODE	
7. CONTACT NAME	
8. PHONE NUMBER (include area code)	
9. REPORTING DATE (mm/dd/yyyy)	
10. REPORTING TIME	(NOT APPLICABLE)
11. LOT IDENTIFICATION OR PURCHASE ORDER NUMBER	
12. SOURCE (1 = Domestic; 2 = Imported)	
13. SALE TYPE CODE	
14. DELIVERY PERIOD CODE	
15. REFRIGERATION (1 = Fresh; 2 = Frozen)	
16. CLASSIFICATION CODE	
17a. LAMB CUT - IMPS Code	
17b. LAMB CUT - Description (if IMPS not applicable)	

SALE TYPE CODE	DELIVERY PERIOD CODE	CLASSIFICATION CODE
1 = NEGOTIATED 2 = FORMULA MARKETING ARRANGEMENT 3 = FORWARD CONTRACT	1 = 0-21 DAYS 2 = 22-60 DAYS 3 = 61-90 DAYS 4 = 91/UP DAYS	1 = PRIME 2 = CHOICE 3 = PRIME/CHOICE 4 = GOOD 5 = UNGRADED

BRANDED PRODUCT CODE	
QUALITY	YIELD
1 = PRIME 2 = CHOICE	1 = YIELD GRADE 2 or BETTER 2 = YIELD GRADE 1-3 3 = YIELD GRADE 4

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18. WEIGHT (1=Light; 2=Medium; 3= Heavy; 4=Mixed)	
19. TOTAL PRODUCT WEIGHT (pounds)	
20. FOB PLANT PRICE ($/cwt.)	
21. USDA CERTIFIED SCHEDULE CODE (if applicable)	
22a. BRANDED PRODUCT CODE - Quality	
22b. BRANDED PRODUCT CODE - Yield	

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USDA

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

LAMB CARCASS REPORT

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		TRANSACTION TYPE CODE	DELIVERY PERIOD CODE	CLASSIFICATION CODE	YIELD GRADE CODE
1. IDENTIFICATION NUMBER		1 = NEGOTIATED 2 = FORMULA MARKETING ARRANGEMENT 3 = FORWARD CONTRACT	1 = 0-14 DAYS 2 = 15 + Days	1 = PRIME 2 = CHOICE 3 = PRIME/CHOICE 4 = GOOD 5 = UNGRADED	1 = YG 1 2 = YG 2 3 = YG 3 4 = YG 4 5 = YG 5 6 = YG 1-2 7 = YG 2-3 8 = YG 3-4 9 = YG 4-5
2. COMPANY NAME					
3. PLANT STREET ADDRESS					
4. PLANT CITY					
5. PLANT STATE					
6. PLANT ZIP CODE					
7. CONTACT NAME					
8. PHONE NUMBER (include area code)					
9. REPORTING DATE (mm/dd/yyyy)					
10. REPORTING TIME	(NOT APPLICABLE)				

11. LOT IDENTIFICATION OR PURCHASE ORDER NUMBER		16. YIELD GRADE CODE	
12. TRANSACTION TYPE CODE		17a. EST. CARCASS WEIGHT RANGE - Low	
13. FOB PLANT PRICE ($/cwt.)		17b. EST. CARCASS WEIGHT RANGE - High	
14. NUMBER OF CARCASSES		18. DELIVERY PERIOD CODE	
15. CLASSIFICATION CODE		19. TRANSACTION BASIS (1 = Purchase; 2 = Sale)	

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INTERIOR DEPARTMENT

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Federal Aviation Administration

Airworthiness directives:

Boeing; comments due by 8-17-07; published 7-3-07 [FR E7-12818]

Cirrus Design Corp.; comments due by 8-13-07; published 6-13-07 [FR E7-11386]

Eurocopter France; comments due by 8-13-07; published 6-13-07 [FR E7-11388]

Hawker Beechcraft Corp.; comments due by 8-13-07; published 6-12-07 [FR E7-11244]

McDonnell Douglas; comments due by 8-17-07; published 7-23-07 [FR E7-14042]

PIAGGIO AERO INDUSTRIES; comments due by 8-15-07; published 7-16-07 [FR E7-13713]

Class E airspace; comments due by 8-17-07; published 7-3-07 [FR E7-12793]

LIST OF PUBLIC LAWS

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 "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 1927/P.L. 110–55

Protect American Act of 2007 (Aug. 5, 2007; 121 Stat. 552)

H.R. 3311/P.L. 110–56

To authorize additional funds for emergency repairs and reconstruction of the Interstate I-35 bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007, to waive the $100,000,000 limitation on emergency relief funds for those emergency repairs and reconstruction, and for other purposes. (Aug. 6, 2007; 121 Stat. 558)

Last List August 6, 2007

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