9–24–07 Monday
Vol. 72 No. 184 Sept. 24, 2007

Pages 54207–54340

Federal Register

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 72 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

Printed on recycled paper.

Contents

Federal Register

Vol. 72, No. 184

Monday, September 24, 2007

Editorial Note: In the printed version of the **Federal Register** Table of Contents for Friday, September 21, 2007, the page numbers for all entries were inadvertently replaced with **Federal Register** document numbers. A corrected Table of Contents for the September 21, 2007, issue appears after the Reader Aids section at the back of today's **Federal Register.**

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
301.....54207

10 CFR
32.....54207
35.....54207

21 CFR
610.....54208
1308.....54208

Proposed Rules:
610.....54226
1308.....54226

23 CFR
637.....54210

32 CFR
199.....54212

33 CFR
165.....54214

40 CFR

Proposed Rules:
300.....54230

47 CFR
54.....54214

50 CFR
600.....54219
622.....54223

Rules and Regulations

Federal Register
Vol. 72, No. 184
Monday, September 24, 2007

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS–2007–0051]

Mexican Fruit Fly; Removal of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by removing a portion of Webb County, TX, from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from that area. The interim rule was necessary to relieve restrictions that were no longer needed to prevent the spread of the Mexican fruit fly into noninfested areas of the United States.

DATES: Effective on September 24, 2007, we are adopting as a final rule the interim rule published at 72 FR 34595–34596 on June 25, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Burnett, Domestic Coordinator, Fruit Fly Exclusion and Detection, PPQ, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737–1231; (301) 734–4387.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule [1] effective and published in the **Federal Register** on May 18, 2007 (72 FR 27949–27951, Docket No. APHIS–2007–0051), we amended the Mexican fruit fly regulations contained in 7 CFR 301.64 through 301.64–10 (referred to below as the regulations) by quarantining a portion of Webb County, TX, and restricting the interstate movement of regulated articles from the quarantined area. The May 2007 interim rule was necessary to prevent the spread of Mexican fruit fly into noninfested areas of the United States. Comments on the interim rule were required to be received on or before July 17, 2007. We did not receive any comments.

In a second interim rule effective June 18, 2007, and published in the **Federal Register** on June 25, 2007 (72 FR 34595–34596, Docket No. APHIS–2007–0051), we amended the regulations by removing Webb County, TX, from the list of quarantined areas in § 301.64–3(c). That action relieved restrictions that were no longer necessary on the interstate movement of regulated articles from this area. Comments on the interim rule were required to be received on or before August 24, 2007. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the June 2007 interim rule as a final rule.

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

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

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 72 FR 34595–34596 on June 25, 2007.

Done in Washington, DC, this 18th day of September 2007.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E7–18762 Filed 9–21–07; 8:45 am]

BILLING CODE 3410–34–P

[1] To view the interim rules, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS–2007–0051.*

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 32 and 35

RIN 3150–AI14

Medical Use of Byproduct Material—Minor Corrections and Clarifications

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule: Confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of October 29, 2007, for the direct final rule that was published in the **Federal Register** on August 13, 2007 (72 FR 45147). This direct final rule amended the NRC's regulations to correct or clarify the rule language in several sections in the regulations that govern specific domestic licenses to manufacture or transfer certain items containing byproduct material and medical use of byproduct material.

DATES: The effective date of October 29, 2007 is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, Room O–1F23, 11555 Rockville Pike, Rockville, MD 20852. These same documents are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/reading-rm/adams.html.* From this site, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737.

FOR FURTHER INFORMATION CONTACT: Edward M. Lohr, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–0253 (e-mail: *eml1@nrc.gov*).

SUPPLEMENTARY INFORMATION: On August 13, 2007 (72 FR 45147), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR Parts 32 and 35 to correct or clarify the rule language in several sections in the regulations that

govern specific domestic licenses to manufacture or transfer certain items containing byproduct material and medical use of byproduct material. In the direct final rule, NRC stated that if no significant adverse comments were received, the direct final rule would become final on October 29, 2007. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 18th day of September, 2007.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

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

[FR Doc. E7–18743 Filed 9–21–07; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 610

[Docket No. 2007N–0264]

Revisions to the Requirements Applicable to Blood, Blood Components and Source Plasma; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; correction.

SUMMARY: The Food and Drug Administration is correcting a direct final rule that appeared in the **Federal Register** of August 16, 2007 (72 FR 45883). That document amended the biologics regulations by removing, revising, or updating specific regulations applicable to blood, blood components and Source Plasma to be more consistent with current practices in the blood industry and to remove unnecessary or outdated requirements. A proposal was published as a companion document to the direct final rule in the same issue of the **Federal Register** (August 16, 2007, 72 FR 45993). Both documents published with a typographical error in the codified section. This document corrects the error in the direct final rule. Elsewhere in this issue of the **Federal Register** we are correcting the error in the proposed rule.

DATES: This correction is effective February 19, 2008.

FOR FURTHER INFORMATION CONTACT:

For information regarding this correction: Joyce Strong, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

For information regarding the direct final rule: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: In FR Doc. E7–15943, appearing on page 45883, in the **Federal Register** of Thursday, August 16, 2007, the following correction is made:

§ 610.53 [Corrected]

■ 1. On page 45887, in the amendment to § 610.53 *Dating periods for licensed biological products*, in the table in paragraph (c), ''65° C'' is corrected to read ''-65° C'' everywhere it appears.

Dated: September 17, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–18799 Filed 9–21–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–309F]

Designation of Oripavine as a Basic Class of Controlled Substance

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Final Rule.

SUMMARY: This is a final rule issued by the Drug Enforcement Administration (DEA) designating oripavine (3-*O*-demethylthebaine or 6,7,8,14-tetradehydro-4,5-*alpha*-epoxy-6-methoxy-17-methylmorphinan-3-ol) as a basic class in schedule II of the Controlled Substances Act (CSA). Although oripavine was not previously listed in schedule II of the CSA, it has been controlled in the United States as a derivative of thebaine and, as such, is controlled as a schedule II controlled substance which includes ''Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.'' Oripavine is a derivative of thebaine, a natural constituent of opium, hence oripavine has been and continues to be, by virtue of the definition of ''narcotic drug'', a schedule II controlled substance. International control of oripavine in schedule I of the 1961 Single Convention on Narcotic Drugs (1961 Convention) during the 50th session of the Commission on Narcotic Drugs (CND) in 2007 prompted the DEA to specifically designate oripavine as a basic class of controlled substance in schedule II of the CSA.

DATES: Effective September 24, 2007.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, by e-mail, *ode@dea.usdoj.gov* or by fax, (202) 353–1263.

SUPPLEMENTARY INFORMATION:

Oripavine Control

Oripavine (3-*O*-demethylthebaine or 6,7,8,14-tetradehydro-4,5-*alpha*-epoxy-6-methoxy-17-methylmorphinan-3-ol) is the international non-proprietary name for a chemical substance which is chemically similar to thebaine. It is a phenanthrene alkaloid contained in various species of the genus *Papaver* and is a major metabolite of thebaine. Although oripavine was not previously listed in schedule II of the CSA, it has been controlled in the United States as a derivative of thebaine and, as such, is controlled under 21 U.S.C. 812(c) Schedule II (a)(1) which includes ''Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.'' Oripavine is a derivative of thebaine, a natural constituent of opium, hence oripavine has been and continues to be, by virtue of the definition of ''narcotic drug'', a schedule II controlled substance (21 U.S.C. 802(17)(A); 21 CFR 1308.12(b)(1)(17)). Oripavine is easily converted into thebaine and thebaine, in turn, is convertible into morphine and morphine derivatives. Both thebaine and morphine are opiates and are controlled under schedule I of the 1961 Single Convention on Narcotic Drugs (1961 Convention): Morphine for its abuse potential and thebaine for its convertibility into morphine derivatives.

DEA's Authority To Control Oripavine

This order is prompted by a letter dated June 27, 2007, in which the United States Government was informed by the Secretary-General of the United Nations that oripavine has been added to schedule I of the 1961 Convention. This letter was prompted by a decision at the 50th session of the CND in March 2007 to schedule oripavine under schedule I of the 1961 Convention. As a signatory Member State to the 1961 Convention, the United States is obligated to control oripavine under

national drug control legislation, i.e., the Controlled Substances Act (CSA).

Oripavine is currently controlled domestically in schedule II of the CSA as a thebaine derivative and as such, all regulations and criminal sanctions applicable to schedule II substances have been and remain applicable to oripavine. Drugs controlled in schedule II of the CSA satisfy the requirements of schedule I control under the 1961 Convention.

This action has the net effect of listing oripavine as a basic class of controlled substance in schedule II. This action will allow DEA to establish an aggregate production quota and grant individual manufacturing and procurement quotas to DEA registered manufacturers of oripavine who had previously been granted individual quotas for such purposes under the basic class of thebaine.

Regulatory Certifications

Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking and allow for a period of public comment prior to implementing new rules. The APA also provides, however, that agencies can be excepted from these requirements when ''the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B).

DEA has concluded that ''good cause'' exists to promulgate this rule as a final rule rather than a proposed rule in order to be in compliance with international treaty obligations to control oripavine under the CSA, as a basic class of controlled substance in schedule II. Furthermore, DEA concludes that this procedure is unnecessary since oripavine is already subject to domestic control under schedule II as a derivative of thebaine and no additional requirements are being imposed through this action. Since DEA is without authority to revise this rule based on public comments, DEA finds that notice and opportunity for comment are unnecessary under the APA. 5 U.S.C. 553(b)(B).

Further, the APA permits an agency to make a rule effective upon the date of publication if the agency makes a finding of good cause which is published with the rule (5 U.S.C. 553(d)(3)). As oripavine is already subject to domestic control under schedule II and no additional requirements are being imposed through this action, DEA believes that delaying the effective date of this rule could cause confusion regarding the regulatory status of oripavine. Oripavine is currently controlled as a schedule II controlled substance, and this level of control does not change with this rulemaking. Accordingly, DEA finds that good cause exists to justify an immediate effective date.

Regulatory Flexibility Act

This action will not have a significant economic impact on a substantial number of entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601–612). At present, there are less than ten DEA registrants that are impacted by this rule. Additionally, DEA notes that these same entities currently meet the regulatory responsibilities under the CSA for schedule II as it pertains to this substance due to oripavine's control as a thebaine derivative prior to this action.

Executive Order 12866

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order 12866, section 3(d)(1).

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132 Federalism

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

Unfunded Mandates Reform Act

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

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

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

■ Under the authority vested in the Attorney General by Section 201(d)(1) of the CSA (21 U.S.C. 811(d)(1)), and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, Appendix to Subpart R, Section 12, the Deputy Administrator hereby amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

■ 2. Section 1308.12 is amended by revising the table in paragraph (b)(1) to read as follows:

§ 1308.12 Schedule II.

* * * * *

(b) * * *

(1) * * *

(i) Codeine	9050
(ii) Dihydroetorphine	9334
(iii) Ethylmorphine	9190
(iv) Etorphine hydrochloride	9059
(v) Granulated opium	9640
(vi) Hydrocodone	9193
(vii) Hydromorphone	9150
(viii) Metopon	9260
(ix) Morphine	9300
(x) Opium extracts	9610
(xi) Opium fluid	9620
(xii) Oripavine	9335
(xiii) Oxycodone	9143
(xiv) Oxymorphone	9652
(xv) Powdered opium	9639
(xvi) Raw opium	9600
(xvii) Thebaine	9333
(xviii) Tincture of opium	9630

* * * * *

Dated: September 13, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–18524 Filed 9–21–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 637

[FHWA Docket No. FHWA–2006–26501]

RIN 2125–AF21

Crash Test Laboratory Requirements for FHWA Roadside Safety Hardware Acceptance

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final Rule.

SUMMARY: The FHWA is revising its regulation that establishes the general requirements for quality assurance procedures for construction on all Federal-aid highway projects on the National Highway System (NHS).[1] Specifically, the FHWA will require accreditation of laboratories that conduct crash tests on roadside hardware by an accrediting body that is recognized by the National Cooperation for Laboratory Accreditation (NACLA) or is a signatory to an International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), an Asia Pacific Laboratory Accreditation Cooperation (APLAC) MRA, or another comparable accreditation body approved by FHWA. This rule will improve the agency's ability to determine that crash test laboratories are qualified to conduct and evaluate tests intended to determine the crashworthiness of roadside safety features. Laboratory accreditation is widely recognized as a reliable indicator of technical competence.

DATES: Effective October 24, 2007.

FOR FURTHER INFORMATION CONTACT: Matt Lupes, Office of Safety Design, HSSD, (202) 366–6994, Nicholas Artimovich, Office of Safety Design, HSSD, (202) 366–1331, or Raymond Cuprill, Office of the Chief Counsel, (202) 366–0791, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document, the notice of proposed rulemaking (NPRM), and all of the comments received may be viewed online through the Document Management System (DMS) at *http://dms.dot.gov*. The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at *http://www.archives.gov* or the Government Printing Office's Web page at *http://www.gpoaccess.gov/nara.*

Background

Section 109(c) of title 23, United States Code, as amended by section 304 of the National Highway System Designation Act of 1995 (Pub. L. 104–59; 109 Stat. 188; Nov. 28, 1995), requires the Secretary, in cooperation with the State transportation departments, to approve design and construction standards on the NHS, regardless of funding source. These design standards include not only elements pertaining to the roadway itself, but also to any appurtenances installed along the roadway, such as traffic barriers (roadside and median barriers, and bridge railings), sign and luminaire supports and crash cushions.

The FHWA proposed to amend 23 CFR 637.209 by adding 637.209(a)(5) that would require all laboratories that perform crash testing for acceptance of roadside safety hardware to be accredited by an accreditation body that is recognized by NACLA or is a signatory to the APLAC MRA, ILAC MRA, or another comparable accreditation body approved by FHWA. To FHWA's knowledge, NACLA and the laboratory accreditation bodies that are members of ILAC and APLAC are the only laboratory accreditation bodies that exist. Information on accrediting bodies that are signatories to APLAC's MRA and ILAC's MRA, including estimated costs and application procedures for laboratory accreditation, can be found at their respective Web sites *http://www.aplac.org* and *http://www.ilac.org;* similar information on NACLA's accrediting bodies can be found at *http://nacla.net.* Formal accreditation assesses factors such as the technical competency of laboratory personnel, the validity of test methods, the calibration and maintenance of test equipment, and the quality assurance of calibration and test data.

Laboratory accreditation will be assessed according to the current International Standard ISO/IEC 17025:2005, General Requirements for the Competence of Testing and Calibration of Laboratories. The ISO/IEC 17025:2005 standard is divided into management and technical requirements that ensure the competence of the laboratory to produce valid data and results. Many other countries require organizations and testing laboratories to be accredited to the ISO/IEC 17025 standard for any test results used for establishing compliance. The FHWA acknowledges the ISO/IEC 17025:2005 standard as the benchmark for assessing the competence of the testing and calibration laboratories.

This final rule provides a 2-year phase-in period from the date of issuance to allow adequate time to prepare documentation and budgeting for formal accreditation. Based on the experience of the two accredited labs in the U.S., we estimate that adequate preparation for accreditation could vary depending on the size of the labs and could take 2 to 6 months.

Discussion of Comments Received to the Notice of Proposed Rulemaking (NPRM)

On April 9, 2007, the FHWA published a NPRM in the **Federal Register** at 72 FR 17447 to provide an opportunity for public comment on the proposed addition to 23 CFR 637.209. In response to the NPRM, the FHWA received comments to the docket from one State Transportation Agency (Minnesota) and one private company (Transport Research Laboratory). Both comments to the docket expressed support for adopting this final rule. The FHWA received no other comments on this rulemaking and therefore adopts the regulation as proposed in the NPRM.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action would not be a significant regulatory action within the meaning of Executive Order 12866 and would not be significant within the meaning of U.S. Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. Currently, two of the test laboratories in the U.S. are already accredited and this regulation has no effect on those entities. The two currently accredited

[1] The National Highway System (NHS) includes the Interstate Highway System as well as other roads important to the Nation's economy, defense, and mobility. See 23 U.S.C. 103(b). The NHS was developed by the U.S. Department of Transportation (DOT) in cooperation with the States, local officials, and metropolitan planning organizations (MPOs).

laboratories, E-Tech Testing Services Incorporated in Rocklin, California and Safe Technologies Incorporated in Rio Vista, California provided an estimate of direct time and costs incurred to receive initial accreditation as 480 to 960 person-work hours to prepare documentation and $9,000 in direct costs. The initial fee of $9,000 included a one-time registration fee of $5,000, a 3-day on-site assessment visit costing $3,000, and materials and equipment costs of $1,000. It is expected that the amount of person work hours and costs associated with document preparation will vary depending on the size of the laboratory and the extent to which its operating procedures are already formalized. We believe that the time and cost to gain accreditation is not a burden. Laboratory accreditation renewal is required bi-annually and includes an annual review. The two laboratories mentioned above cite recurring annual costs of maintaining formal accreditation to be 160 person work hours and only $3,000 annually.

This rulemaking provides a 2-year phase-in period from the date of issuance to allow adequate time to prepare documentation and budgeting for formal accreditation. We believe that 2 years is more than adequate time for laboratories to obtain the necessary accreditation. The FHWA expects that this rule will not adversely affect, in a material way, any sector of the economy. In addition, this rule would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this action on small entities, including small governments. The FHWA certifies that this action would not have a significant economic impact on a substantial number of small entities. There are about ten agencies that test roadside hardware for crashworthiness and two of these have already been certified under the requirements of this final rule. Estimated time and cost for an initial certification is 3 days on-site and $9,000. Re-certification is required bi-annually at an estimated annual cost of $3,000.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the FHWA has determined that this action would not have a substantial direct effect or sufficient federalism implications on States and local governments that would limit the policy making discretion of the States and local governments.

Unfunded Mandates Reform Act

This rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995; 109 Stat. 48). This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $128.1 million or more in any one year (2 U.S.C. 1532).

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this action does not contain a collection of information requirement for the purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

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

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that this is not a significant energy action under this order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Executive Order 13175 (Tribal Consultation)

Since none of the existing test laboratories are owned, operated, or in any way controlled by Indian tribes, the FHWA believes that it will not have any direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it would not have any effect on the quality of the environment.

Technical Standards

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

Regulation Identification Number

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

List of Subjects in 23 CFR Part 637

Construction inspection and approval; Highways and roads.

Issued on: August 6, 2007.

J. Richard Capka,

Federal Highway Administrator.

■ In consideration of the foregoing, the FHWA amends title 23, Code of Federal Regulations, part 637, as set forth below:

PART 637—CONSTRUCTION INSPECTION AND APPROVAL

■ 1. The authority citation for part 637 continues to read as follows:

Authority: Sec. 1307, Pub. L. 105–178, 112 Stat. 107; 23 U.S.C. 109, 114, and 315; 49 CFR 1.48(b).

■ 2. In § 637.209, add paragraph (a)(5) to read as follows:

§ 637.209 Laboratory and sampling and testing personnel qualifications.

* * * * *

(a) * * *

(5) After September 24, 2009, laboratories that perform crash testing for acceptance of roadside hardware by the FHWA shall be accredited by a laboratory accreditation body that is recognized by the National Cooperation for Laboratory Accreditation (NACLA), is a signatory to the Asia Pacific Laboratory Accreditation Cooperation (APLAC) Mutual Recognition Arrangement (MRA), is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA), or another accreditation body acceptable to FHWA.

* * * * *

[FR Doc. E7–18725 Filed 9–21–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2006–HA–0210]

RIN 0720–AB12

32 CFR Part 199

TRICARE; TRICARE Retiree Dental Program (TRDP) Basic Benefit Descriptions and Administrative Corrections

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule amends TRICARE Retiree Dental Program (TRDP) Basic benefit descriptions by replacing specific American Dental Association (ADA) dental procedure codes and nomenclature with general benefit categories and descriptions. This revision is necessary to keep the regulation current, since dental procedure codes are added, revised, and deleted on a regular basis. This final rule does not change or eliminate any benefits that are currently available under the TRDP program. This final rule also revises several incorrect, obsolete, or historical terms pertaining to the TRICARE program, and removes an inaccurate statement regarding appeals and grievances.

DATES: *Effective Date:* October 24, 2007.

ADDRESSES: TRICARE Management Activity, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Debra Hatzel, Program Requirements Division, TRICARE Management Activity, telephone (303) 676–3572.

SUPPLEMENTARY INFORMATION:

1. Introduction and Background

A. Provisions of the Rule Regarding Dental Procedure Codes and Nomenclature. This final rule amends TRICARE Retiree Dental Program (TRDP) Basic benefit descriptions by removing specific American Dental Association (ADA) dental procedure codes and nomenclature, and replacing them with general benefit categories and descriptions from the most recent Current Dental Terminology (CDT) Manual (CDT–2005). This action is required because dental procedure codes and nomenclature are added, revised, and deleted by the ADA every two years; when this occurs, the regulation must also be revised to reflect the new codes and nomenclature. Maintaining specific procedure codes and nomenclature in the regulation is unnecessary, since the TRDP contract and TRDP marketing materials (available at *http://www.tricare.osd.mil/dental/dm2.cfm*) already contain detailed benefit descriptions. Also, the TRDP contractor and enrollees are notified when the Government directs any changes to TRDP benefits, limits, or exclusions. The TRDP contract and TRDP marketing materials will continue to be the primary vehicles for communicating specific benefit information to the TRDP contractor and beneficiaries. Removal of specific procedure codes and nomenclature from this section does not change or eliminate any benefits that are currently available under the TRDP. The general categories of benefits that are listed in this final rule will be adjusted periodically to conform to the current CDT Manual.

Although there are many similarities between the TRDP and the TRICARE Dental Program (TDP), the benefits are not identical. Also, there are different dental benefits available under the TRDP Basic program and the TRDP Enhanced program. The general benefit categories in this TRDP final rule differ from the TDP benefit categories listed in 32 CFR Part 199.13. This variance exists because some of the benefits offered under the TDP are not benefits under the TRDP Basic program (e.g., prosthodontic and orthodontic services), and because the TDP benefit categories were derived from an earlier version of the CDT Manual.

B. Provisions of the Rule Regarding the Administrative Correction of Incorrect, Obsolete, or Historical Terms and Inaccurate Information. The proposed rule addressed the revision of several incorrect, obsolete or historical terms that appear in the regulation. Specifically, ''Director, OCHAMPUS'' was proposed to be amended to ''Director, TRICARE Management Activity''; ''Assistant Secretary of Defense (Human Affairs)'' was proposed to be amended to ''Assistant Secretary of Defense (Health Affairs)''; ''Active Duty Dependents Dental Program'' was proposed to be amended to ''TRICARE Dental Program''; ''CHAMPUS'' was proposed to be amended to ''TRICARE/CHAMPUS''; and ''OCHAMPUS'' was proposed to be amended to ''TRICARE Management Activity.''

Subsequent to the publication of the proposed rule, TRICARE Management Activity identified a long-standing error in the regulation regarding appeals and grievances. Specifically, 32 CFR 199.22(k)(1) currently states, ''Appeal and hearing procedures. All levels of appeals and grievances established by the Contractor for internal review shall be exhausted prior to forwarding to OCHAMPUS for a final review. Procedures comparable to those established under Sec. 199.13(h) of this part shall apply.'' The first sentence in this paragraph is inaccurate. TRDP grievances are written complaints regarding non-appealable issues involving a perceived failure of a provider or contractor staff to furnish the expected level or quality of care (e.g., demeanor or behavior of providers or their staff). The TRDP contractor is responsible for the investigation and resolution of grievances; since they are not forwarded to TMA for ''final review'', the current CFR language is incorrect. Appeals involve decisions related to TRICARE benefits (e.g., denial of preauthorization for requested services, or denial of TRICARE payment for services received). Appeals are initially sent to the TRDP contractor for reconsideration. If the original denial is upheld (and the amount in dispute is $50 or more), the beneficiary may

request a formal review by the TRICARE Management Activity. If the beneficiary is dissatisfied with the formal review decision (and the amount in dispute is $300 or more, the beneficiary may request that the TRICARE Management Activity schedule an independent hearing. Since there are two possible levels of action for appeals that are forwarded to the TRICARE Management Activity (not a single ''final review''), the current CFR language is incorrect. Therefore, the inaccurate sentence has been deleted in this final rule as an administrative correction. The current TRDP appeal and hearing procedures are comparable to those established under Sec. 199.13(h) as required by the regulation, and are unchanged by this rule.

II. Public Comments

The proposed rule was published in the **Federal Register** on November 27, 2006. We received no public comments.

III. Regulatory Procedures

Executive Order 12866 directs agencies to assess all costs and benefits 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 Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including having an annual effect on the national economy of $100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the right of entitlement recipients, or raising novel legal or policy issues. DoD has examined the economic, legal, and policy implications of this final rule and has concluded that is not a significant regulatory action. The changes set forth in the final rule are minor administrative revisions to the existing regulation which do not change the basic TRDP benefit structure. This is neither a significant regulatory action under Executive Order 12866, nor would it have a significant impact on small entities.

Regulatory Flexibility Act (RFA) requires that each Federal Agency prepare and make available for public comment, a regulatory flexibility analysis when the agency issues a Regulation which would have a significant impact on a substantial number of small entities.

This final rule is not a major rule under the Congressional Review Act because its economic impact will be less than $100 million.

Executive Order 13132 requires that each Federal Agency shall consult with State and local officials and obtain their input if a rule has federalism implications which 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. We have examined the impact of the final rule under Executive Order 13132 and it does not have policies that have federalism implications that would 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; therefore, consultation with State and local officials is not required. In addition, this final rule does not impose new information collection requirements for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

■ Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.22 is amended by revising the last sentence of paragraph (b)(1), paragraph (b)(4), paragraph (c), paragraph (d)(1)(v), the first sentence of paragraph (d)(4)(ii), paragraph (f) introductory text, paragraph (f)(1) introductory text, paragraphs (f)(1)(i) through (f)(1)(vii), the first sentence of paragraph (f)(3), and paragraph (g); and by removing paragraph (f)(1)(viii), paragraph (f)(1)(ix), and the first sentence of paragraph (k) to read as follows:

§199.22 TRICARE Retiree Dental Program (TRDP).

* * * * *

(b) * * *

(1) * * * Additional services comparable to those contained in paragraph (e)(2) of §199.13 may be covered pursuant to benefit policy decisions made by the Director, TRICARE Management Activity, or designee.

* * * * *

(4) Except as otherwise provided in this section or by the Assistant Secretary of Defense (Health Affairs) or designee, the TRDP is administered in a manner similar to the TRICARE Dental Program under §199.13 of this part.

* * * * *

(c) Except as may be specifically provided in this section, to the extent terms defined in §199.2 and §199.13(b) are relevant to the administration of the TRICARE Retiree Dental Program, the definitions contained in §199.2 and §199.13(b) shall apply to the TRDP as they do to TRICARE/CHAMPUS and the TRICARE Dental Program.

(d) * * *

(1) * * *

(v) The unremarried surviving spouse and eligible child dependents of a deceased member who died while in status described in paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section; the unremarried surviving spouse and eligible child dependents who receive a surviving spouse annuity; or the unremarried surviving spouse and eligible child dependents of a deceased member who died while on active duty for a period of more than 30 days and whose eligible dependents are not eligible or no longer for the TRICARE Dental Program.

* * * * *

(4) * * *

(ii) *Enrollment period for enhanced benefits.* The initial enrollment period for enhanced benefit coverage described in paragraph (f)(2) of this section shall be established by the Director, TRICARE Management Activity, or designee, when such coverage is offered, to be a period of not less than 12 months and not more than 24 months. * * *

* * * * *

(f) *Plan benefits.* The Director, TRICARE Management Activity, or designee, may modify the services covered by the TRDP to the extent determined appropriate based on developments in common dental care practices and standard dental programs. In addition, the Director, TRICARE Management Activity, or designee, may establish such exclusions and limitations as are consistent with those established by dental insurance and prepayment plans to control utilization and quality of care for the services and items covered by the TRDP.

(1) The minimum TRDP benefit is basic dental care to include diagnostic services, preventive services, restorative services, endodontic services, periodontic services, oral surgery

services, and other general services. The following is the minimum TRDP covered dental benefit:

(i) *Diagnostic services.*

(A) Clinical oral examinations.

(B) Radiographs and diagnostic imaging.

(C) Tests and laboratory examinations.

(ii) *Preventive services.*

(A) Dental prophylaxis.

(B) Topical fluoride treatment (office procedure).

(C) Sealants.

(D) Other preventive services.

(E) Space maintenance.

(iii) *Restorative services.*

(A) Amalgam restorations.

(B) Resin-based composite restorations.

(C) Other restorative services.

(iv) *Endodontic services.*

(A) Pulp capping.

(B) Pulpotomy and pulpectomy.

(C) Root canal therapy.

(D) Apexification and recalcification procedures.

(E) Apicoectomy and periradicular services.

(F) Other endodontic procedures.

(v) *Periodontic Services.*

(A) Surgical services.

(B) Periodontal services.

(vi) *Oral surgery.*

(A) Extractions.

(B) Surgical extractions.

(C) Alveoloplasty.

(D) Biopsy.

(E) Other surgical procedures.

(vii) *Other general services.*

(A) Palliative (emergenery) treatment of dental pain.

(B) Therapeutic drug injection.

(C) Other drugs and/or medicaments.

(D) Treatment of postsurgical complications.

* * * * *

(3) *Alternative course of treatment policy.* The Director, TRICARE Management Activity, or designee, may establish, in accordance with generally accepted dental benefit practices, an alternative course of treatment policy which provides reimbursement in instances where the dentist and TRDP enrollee select a more expensive service, procedure, or course of treatement than in customarily provided. * * *

* * * * *

(g) *Maximum coverage amounts.* Each enrollee is subject to an annual maximum coverage amount for non-orthodontic dental benefits and, if an orthodontic benefit is offered, a lifetime maximum coverage amount for orthodontics as established by the Director, TRICARE Management Activity, or designee.

* * * * *

Dated: September 14, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–4658 Filed 9–21–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2007–29153]

RIN 1625–AA87

Security Zone; Hawaii Superferry Arrival/Departure, Nawiliwili Harbor, Kauai, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; additional correction.

SUMMARY: This document corrects a typographical error in a U.S. Code section number and corrects a reference to an access road on the jetty south of Nawiliwili Park in a temporary final rule entitled ''Security Zone; Hawaii Super Ferry Arrival/Departure, Nawiliwili Harbor, Kauai, Hawaii'' that was published September 5, 2007, in the **Federal Register**.

DATES: These corrections are effective September 24, 2007.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) Jasmin Parker, U.S. Coast Guard Sector Honolulu at 808–842–2673.

SUPPLEMENTARY INFORMATION: On September 5, 2007, the Coast Guard published a temporary final rule entitled ''Security Zone; Hawaii Super Ferry Arrival/Departure, Nawiliwili Harbor, Kauai, Hawaii'' in the **Federal Register** (72 FR 50877). In that document references were made to Waapa Road being included in the security zone covering land on the jetty south of Nawiliwili Park. The road in the zone is not named ''Waapa Road''; instead, that jetty access road is commonly known as ''Jetty Road.'' Also, when citing to the authority for making the rule effective less than 30 days after publication, instead of citing to 5 U.S.C. 553(d)(3), because of a typographic error, that section was cited as ''533.'' This document corrects those errors. A previous correction document for this rule was published September 13, 2007 (72 FR 52282).

Correction Instructions

In rule FR Doc. 07–4357 published on September 5, 2007 (72 FR 50877), make the following corrections:

1. On page 50877, in the first column, in line 17, remove the words ''Waapa Road'' and add, in their place, the words ''the jetty access road (commonly known as Jetty Road)''.

2. On page 50877, in the second column, in line 21, remove ''533'' and add, in its place, ''553''.

§ 165.T14–160 [Corrected]

■ 3. On page 50879, in the first line of the second column, in § 165.T14–160(a), remove the words ''Waapa Road'' and add, in their place, the words ''the jetty access road (commonly known as Jetty Road)''.

Dated: September 19, 2007.

Stefan G. Venckus,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. E7–18783 Filed 9–21–07; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 05–195, CC Docket No. 96–45, CC Docket No. 02–6, WC Docket No. 02–60, WC Docket No. 03–109, CC Docket No. 97–21; FCC 07–150]

Measures To Safeguard the Universal Service Fund From Waste, Fraud, and Abuse as Well as Measures To Improve the Management, Administration, and Oversight of the Universal Service Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In the Report and Order, the Commission adopted measures to safeguard the Universal Service Fund (''USF'') from waste, fraud, and abuse. The intended effect of the measures adopted is to improve the management, administration, and oversight of the USF.

DATES: Effective October 24, 2007 except for the amendments to §§ 54.202, 54.417, 54.619, and 54.706, which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for those sections. Additionally, the Commission will send, as a minor rule, a copy of this

Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

FOR FURTHER INFORMATION CONTACT: Mika Savir at (202) 418–0384, *Mika.Savir@fcc.gov,* Office of Managing Director, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Leslie Smith, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order adopted August 22, 2007 and released August 29, 2007. The full text of this Report and Order is available for public inspection on the Commission's Internet site at *http://www.fcc.gov.* It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY–B402, Washington, DC 20554; telephone (202) 488–5300; fax (202) 488–5563; e-mail *FCC@BCPIWEB.COM.*

The Universal Service Fund (''USF'') was created by Congress in 1996 as part of its passage of the Telecommunications Act of 1996. The purpose of the fund is to help provide affordable telecommunications services to consumers, libraries, rural health care facilities, and schools. Today, the USF consists of four programs: (1) The universal service mechanism for high-cost areas, providing financial support to eligible telecommunications carriers serving high-cost areas; (2) the universal service mechanism for schools and libraries, providing for discounted services (telecommunications services, Internet access, and internal connections) to eligible schools and libraries; (3) the universal service mechanism for assisting low-income consumers with discounted installation and monthly telephone services; and (4) the universal service mechanism for rural health care, providing discounted telecommunications and information services to rural health care providers. These funds are managed, on behalf of the Commission, by the Universal Service Administrative Company (''USAC'' or ''Administrator'').

The goal of the proceeding, initiated on June 14, 2005, was to improve these four universal service programs, to make these programs more effective and efficient, and to continue the Commission's efforts to deter waste, fraud, and abuse of Universal Service funds.

In conducting the proceeding, input was sought from all interested parties, including USF participants. Eighty-four comments were received and considered as the Commission came to its decisions on how to improve the management, administration, and oversight of the USF.

Synopsis

On June 14, 2005, the Commission initiated a broad inquiry into the management, administration, and oversight of the USF. That inquiry asked whether: (a) The Commission should adopt rules requiring timely payments and assessing penalties or interest for late payments to the USF programs; (b) the Commission should institute a targeted independent audit requirement to safeguard the USF programs from waste, fraud, and abuse; (c) the Commission should put in place document retention requirements for applicants and service providers; (d) the Commission should establish time limits for making determinations about whether violations have occurred among USF program recipients; (e) the Commission should adopt specific sanctions to address instances in which a USF beneficiary may not have used funds in accordance with program procedures; (f) the Commission should institute aggressive debarment procedures for anyone who defrauds or otherwise deliberately harms the integrity of the USF programs; and (g) the Commission should require USAC to report on certain efficiency, effectiveness, accuracy, and timeliness performance measures.

(a) Decision regarding timely payments—since the USF is supported by contributions from telecommunications carriers providing interstate services as well as contributions by certain providers of interstate telecommunications, including providers of Interconnected Voice over Internet Protocol (''Interconnected VoIP'') services, the Commission determined that it should adopt tougher rules requiring timely payments and assessing penalties or interest for late payments.

Thus, the Commission decided that it would replace the existing late-filing charge, as well as the late-payment charges; with a new ''rate of interest'' charge that reflects the consequences of failing to pay in a timely manner. Henceforth, if a contributor is more than 30 days delinquent in paying its contribution to the USF, USAC shall assess a single rate of interest, that will apply to the debt from the date of the delinquency until date of payment (or in the case of a promissory note the date of maturity of the note), at an annual rate equal to the U.S. prime rate on the date of delinquency plus 3.5 percent.

Likewise, if a contributor is more than 30 days delinquent in filing an FCC Form 499–A or 499–Q, the USAC Administrator shall also use the U.S. prime rate plus 3.5 percent in assessing a remedial sanction. The sanction will be the greater of $100 per month or the amount derived when a rate of interest equal to the U.S. prime rate plus 3.5 percent is assessed on the amount due per the USAC Administrator's invoice or calculations (if no invoice was provided).

In the event a contributor company is delinquent in filing an FCC Form 499–A or 499–Q, and within the 30 day period following delinquency, is also delinquent in paying its contribution, interest will be assessed on a single greater amount from the date of the first delinquency.

USAC is now required to add information to the monthly invoice sent to contributors and in debt collection correspondence to explain the applicable sanction and administrative charges for late payment.

(b) Decision regarding independent audits—audits are a tool the Commission and USAC use to ensure program integrity and to detect violations of the Act or the Commission's rules and to deter waste, fraud, and abuse.

Current Commission rules already authorize the USAC Administrator to conduct audits of contributors to the universal service support mechanisms. In addition, the Commission's OIG annually oversees more than 400 audits of contributors and beneficiaries of the high-cost, low-income, rural health care, and schools and libraries programs.

The Commission has decided that additional audit requirements are unnecessary at this time. The Commission will closely watch the data emerging from existing audits to determine if additional or targeted audits should be conducted in the future.

(c) Decision regarding document retention—proper record-keeping helps prevent waste, fraud, and abuse. Proper record-keeping additionally protects applicants and service providers in the event of vendor disputes. The Commission concluded that, following

OMB approval of these Paperwork Reduction Act information collection requirements, the following record-keeping will be required:

(1) High-cost program—the Commission will require recipients of universal service high-cost support to retain, for five years, all records that they may require to demonstrate to auditors that the support they received was consistent with the Communications Act of 1934, as amended, and the Commission's rules. These records must include the following: Data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. The Commission also clarified that beneficiaries must make available all such documents and records that pertain to them, including those of NECA, contractors, and consultants working on behalf of the beneficiaries to the Commission's OIG, to the USAC Administrator, and to their auditors. To the extent other rules or any other law require or necessitate documents be kept for longer periods of time (e.g., to support the account balances in the Part 32 Uniform System of Accounts, continuing property records, pole attachment calculations, plant equipment age, cost, or useful life, depreciation rates), the Commission did not alter, amend, or supplant such rules or laws.

(2) Low-income program—with respect to the Lifeline and Link-Up programs, the Commission concluded that a ''service-plus three'' document retention requirement will be retained. The Commission did not believe it to be unnecessarily burdensome to require participating service providers to retain eligibility-determination records for the time period during which the service is provided and then for three years after the service is terminated. Additionally, the Commission removed the clause that waived the document retention requirement after an audit is completed. The Commission also clarified that beneficiaries must make available all documents and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's OIG, to the USAC Administrator, and to auditors working on their behalf.

(3) Rural Health Care and Schools and Libraries programs—the Commission decided to retain the five year requirement for schools and libraries to retain records evidencing that the funding they received was proper. The Commission also decided to expand this requirement to rural health care service providers. This Report and Order additionally clarified that beneficiaries must make available all documents and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's OIG, to the USAC Administrator, and to their auditors.

(4) Contributors—the Commission also required contributors to the USF to retain all documents and records necessary to demonstrate to auditors that their contributions were made in compliance with the program rules, assuming that the audits are conducted within five years of such contribution. The Commission clarified that contributors must make available all documents and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's OIG, to the USAC Administrator, and to their auditors. These documents and records should include without limitation the following: financial statements and supporting documentation; accounting records; historical customer records; general ledgers; and any other relevant documentation.

(d) Decision regarding time limits for determining violations—the Commission will adopt a five-year administrative limitations period for all funds. During these five years the Commission or the USAC Administrator may determine that a violation has occurred among recipients of the funds. This five year limit, which currently applies only to recipients of the schools and libraries fund, will now apply to recipients of all USF programs. This time period appropriately balances the beneficiary's need for finality with the Commission statutory obligation to safeguard the USF programs from waste, fraud, and abuse. This five-year time period is not a statute of limitations.

(e) Decision regarding sanctions for misuse of funds—consistent with a prior Commission conclusion regarding the schools and libraries program, the Commission determined that funds disbursed from the high-cost, low-income, and rural health care support mechanisms that are disbursed or used in violation of a Commission rule that implements the statute or a substantive program goal should be recovered. The Commission has determined that sanctions, including enforcement action, are appropriate in cases of waste, fraud, and abuse, but not in cases of clerical or ministerial errors.

(f) Decision regarding debarment for actions that harm the integrity of the program—there have been several well-publicized cases of fraud against the schools and libraries program. In order to prevent further fraud, and to prevent bad actors from continuing to participate in this program, the Commission earlier adopted a three year debarment rule for the schools and libraries program that suspends and debar parties who are convicted of criminal violations or held civilly liable for acts arising out of participation in the schools and libraries program, absent extraordinary circumstances.

The Commission now applies these debarment procedures to all Universal Service programs. Henceforth, any party convicted of or held civilly liable for the commission or attempted commission of fraud and similar offenses will be debarred from participation in the program for a period of three years. Additionally, the Commission and the USAC Administrator will publish the names of these debarred entities on their respective Internet websites. The USAC Administrator will also provide a link from its website to the Bureau and Commission debarment orders.

(g) Decision regarding performance measures—following the requirements of the Government Performance and Results Act, the Commission established the following performance measures:

(1) Schools and Libraries—since nearly 100 percent connectivity to the Internet already exists for public schools and the Commission is not in a position to evaluate either the impact of schools and libraries funds on connectivity as compared to other funding sources or the impact of Internet connectivity on educational outcomes, the Commission decided on group of policy, productivity, and efficiency performance measures.

In the policy arena, the USAC Administrator is to collect information during interviews with schools and libraries about the different types or capacities of broadband services that are supported through the school and libraries program. The Commission further requires the USAC Administrator to work with the Wireline Competition Bureau (''Bureau'') to modify the relevant FCC forms or to create additional questions for program participants to more accurately determine how schools and libraries connect to the Internet and their precise levels of connectivity. The collections of such additional information, after approval by OMB under the terms of the Paperwork Reduction Act, will enable the Commission to identify the specific products, services, and capabilities (e.g., T–1s, DS–3s) at specific quantities

provided by the schools and libraries program.

The Commission also requires the USAC Administrators to cross-reference participating school districts with a full listing of school districts to identify the public schools that are not participating in the schools and libraries program in order to focus outreach on these schools. The USAC Administrator should determine why these schools and libraries choose not to participate and assist them, if necessary, in the beginning of the application process. The USAC Administrator should report its conclusions to the Commission annually.

In the productivity arena, the Commission is requiring the USAC Administrator to provide data, on a funding year basis, reporting the number of applications and funding request numbers (''FRNs'') submitted, the number of applications and FRNs rejected, the number of applications and FRNs granted, and the processing time for applications and FRNs. The USAC Administrator is also required to document the amount of time it takes to make a payment to the service provider, from the date the proper form is submitted. The Commission recognizes that the USAC Administrator could reject more invoices in order to improve the amount of time it takes to make payments. For this reason, the Commission also requires the USAC Administrator to provide the number of paid invoices and the number of rejected invoices.

In the efficiency arena, the Commission is directing the USAC Administrator to determine the percentage of appeals that are resolved by the USAC Administrator within 90 days from the date of appeal. The USAC Administrator will also provide information on how long it takes to process 50 percent, 75 percent, and 100 percent of the pending appeals from the schools and libraries division.

(2) Low-income—the Commission currently lacks the baseline information necessary to make an assessment of whether the program is accomplishing its goal. Therefore the Commission has directed the USAC Administrator to provide the following baseline information: (a) Number of program beneficiaries (i.e., carriers); (b) number of low-income customers for which each carrier receives low-income support; (c) number of connections supported; (d) time to process support payments and authorize disbursements; (e) average (mean) dollar amount awarded and median dollar amount awarded, per carrier; and (f) total amount disbursed. This baseline information will assist the Commission in setting performance measures in the future.

In addition, to further expand its baseline knowledge, the Commission requires the USAC Administrator to provide the Commission with specified information from a survey that is taken by service providers of the customers in the Lifeline benefits program. The information to be provided to the Commission includes: (a) The number of Lifeline customers surveyed by the service providers; (b) the Number of Lifeline customers found to be ineligible; and (c) the Number of Lifeline customers who did not respond to the service provider survey. The Commission may revisit this issue at a later time and request further information from the Lifeline survey.

(3) Rural Health Care—the Commission requires the USAC Administrator to provide the following performance information: time to process applications; time to pay invoices; and time to determine appeals. These data will provide a baseline against which subsequent goals can be implemented in the future.

Additionally, except for the rural health care pilot program, the USAC Administrator is to provide the Commission with specified productivity and efficiency performance data in regard to its application processing, invoice processing, and handling of appeals.

(4) High-cost—because it does not have sufficient data at this time to establish performance goals; the Commission directs the USAC Administrator to provide baseline information against which goals can be implemented in the future. The information to be provided includes the: (a) Number of program beneficiaries per study area and per wire center; (b) number of lines, per study area and per wire center (c) number of requests for support payments; (d) mean dollar amount of support and median dollar amount of support for each line; (d) total amount disbursed; (e) time to process 50 percent, 75 percent, and 100 percent of the high-cost support requests and authorize disbursements; and (f) rates of telephone subscribership in urban versus rural areas.

(5) USAC Administrative Performance Measures—the Commission additionally adopted a requirement that the USAC Administrator provide some general, not program-specific, performance data. The required performance data include: (a) The amount of payments determined to be improper payments and the error rate (i.e., the percentage of total payments that are determined to be improper payments); (b) the amount of improper payments subsequently recovered from the beneficiaries by the USAC Administrator; (c) data on USAC administrative costs, per program, and general administrative costs (not program-specific); (d) the amount of payments determined to be improper payments and the error rate (i.e., the percentage of total payments that are determined to be improper payments), per program; (e) the amount of improper payments subsequently recovered from the beneficiaries by the USF Administrator, per program; (f) the number of corrections or true-ups due to errors by the USAC Administrator, per program; (g) the number of USF contributors; number of USF contributors 90 days or more delinquent in payments; (h) the total amount of delinquencies or past due payments; (i) the total number of contributors assessed late fees or penalties; (j) the total amount of late fees or penalties; (k) the total amount of contributions to the USF; and (l) the total amount of disbursements.

List of Subjects in 47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

■ 1. The authority citation for part 54 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

■ 2. Section 54.202 is amended by adding paragraph (e) to read as follows:

§ 54.202 Additional requirements for Commission designation of eligible telecommunications carriers.

* * * * *

(e) All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. These records should include the following: data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. This

documentation must be maintained for at least five years from the receipt of funding.

■ 3. Section 54.417(a) is amended by revising the undesignated paragraph to read as follows:

§ 54.417 Recordkeeping requirements.

(a) * * *

Notwithstanding the preceding sentence, eligible telecommunications carriers must maintain the documentation required in § § 54.409(d) and 54.410(b)(3) for as long as the consumer receives Lifeline service from that eligible telecommunications carrier

* * * * *

■ 4. Redesignate § 54.521 as § 54.8 and revise pargraphs (a)(1), (a)(5), (a)(7), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g) to read as follows:

§ 54.8 Prohibition on participation: Suspension and debarment.

(a) Definitions—(1) Activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. Such matters include the receipt of funds or discounted services through one or more of these support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding one or more of these support mechanisms.

* * * * *

(5) Debarment. Any action taken by the Commission in accordance with these regulations to exclude a person from activities associated with or relating to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. A person so excluded is ''debarred.''

* * * * *

(7) Suspension. An action taken by the Commission in accordance with these regulations that immediately excludes a person from activities associated with or relating to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism for a temporary period, pending completion of the debarment proceedings. A person so excluded is ''suspended.''

* * * * *

(c) Causes for suspension and debarment. Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism.

(d) Effect of suspension and debarment. Unless otherwise ordered, any persons suspended or debarred shall be excluded from activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. Suspension and debarment of a person other than an individual constitutes suspension and debarment of all divisions and/or other organizational elements from participation in the program for the suspension and debarment period, unless the notice of suspension and proposed debarment is limited by its terms to one or more specifically identified individuals, divisions, or other organizational elements or to specific types of transactions.

(e) * * *

(2) * * *

(i) Give the reasons for the proposed debarment in terms sufficient to put a person on notice of the conduct or transaction(s) upon which it is based and the cause relied upon, namely, the entry of a criminal conviction or civil judgment arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism;

* * * * *

(3) A person subject to proposed debarment, or who has an existing contract with a person subject to proposed debarment or intends to contract with such a person to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism may contest debarment or the scope of the proposed debarment. A person contesting debarment or the scope of proposed debarment must file arguments and any relevant documentation within thirty (30) calendar days of receipt of notice or publication in the **Federal Register**, whichever is earlier.

(4) A person subject to proposed debarment, or who has an existing contract with a person subject to proposed debarment or intends to contract with such a person to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism may also contest suspension or the scope of suspension, but such action will not ordinarily be granted. A person contesting suspension or the scope of suspension must file arguments and any relevant documentation within thirty (30) calendar days of receipt of notice or publication in the **Federal Register**, whichever is earlier.

* * * * *

(g) Time period for debarment. A debarred person shall be prohibited from involvement with the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism for three (3) years from the date of debarment. The Commission may, if necessary to protect the public interest, set a longer period of debarment or extend the existing period of debarment. If multiple convictions or judgments have been rendered, the Commission shall determine based on the facts before it whether debarments shall run concurrently or consecutively.

■ 5. Section 54.619 is amended by adding paragraph (d) to read as follows:

§ 54.619 Audits and recordkeeping.

* * * * *

(d) Service providers. Service providers shall retain documents related to the delivery of discounted telecommunications and other supported services for at least 5 years after the last day of the delivery of discounted services. Any other document that demonstrates compliance with the statutory or regulatory requirements for the rural health care mechanism shall be retained as well.

■ 6. Section 54.702 is amended by adding paragraph (o) to read as follows:

§ 54.702 Administrator's functions and responsibilities.

* * * * *

(o) The Administrator shall provide performance measurements pertaining to the universal service support mechanisms as requested by the Commission by order or otherwise.

■ 7. Section 54.706 is amended by adding paragraph (e) to read as follows:

§ 54.706 Contributions.

* * * * *

(e) Any entity required to contribute to the federal universal service support mechanisms shall retain, for at least five years from the date of the contribution, all records that may be required to demonstrate to auditors that the contributions made were in compliance with the Commission's universal service rules. These records shall include without limitation the following: Financial statements and supporting documentation; accounting records; historical customer records; general ledgers; and any other relevant documentation. This document retention requirement also applies to any contractor or consultant working on behalf of the contributor.

■ 8. Section 54.713 is revised to read as follows:

§ 54.713 Contributors' failure to report or to contribute.

(a) A contributor that fails to file a Telecommunications Reporting Worksheet and subsequently is billed by the Administrator shall pay the amount for which it is billed. The Administrator may bill a contributor a separate assessment for reasonable costs incurred because of that contributor's filing of an untruthful or inaccurate Telecommunications Reporting Worksheet, failure to file the Telecommunications Reporting Worksheet, or late payment of contributions. Failure to file the Telecommunications Reporting Worksheet or to submit required quarterly contributions may subject the contributor to the enforcement provisions of the Act and any other applicable law. The Administrator shall advise the Commission of any enforcement issues that arise and provide any suggested response. Once a contributor complies with the Telecommunications Reporting Worksheet filing requirements, the Administrator may refund any overpayments made by the contributor, less any fees, interest, or costs.

(b) If a universal service fund contributor fails to make full payment on or before the date due of the monthly amount established by the contributor's applicable Form 499–A or Form 499–Q, or the monthly invoice provided by the Administrator, the payment is delinquent. All such delinquent amounts shall incur from the date of delinquency, and until all charges and costs are paid in full, interest at the rate equal to the U.S. prime rate (in effect on the date of the delinquency) plus 3.5 percent, as well as administrative charges of collection and/or penalties and charges permitted by the applicable law (e.g., 31 U.S.C. 3717 and implementing regulations).

(c) If a universal service fund contributor is more than 30 days delinquent in filing a Telecommunications Reporting Worksheet Form 499–A or 499–Q, the Administrator shall assess an administrative remedial collection charge equal to the greater of $100 or an amount computed using the rate of the U.S. prime rate (in effect on the date the applicable Worksheet is due) plus 3.5 percent, of the amount due per the Administrator's calculations. In addition, the contributor is responsible for administrative charges of collection and/or penalties and charges permitted by the applicable law (e.g., 31 U.S.C. 3717 and implementing regulations). The Commission may also pursue enforcement action against delinquent contributors and late filers, and assess costs for collection activities in addition to those imposed by the Administrator.

(d) In the event a contributor fails both to file the Worksheet and to pay its contribution, interest will accrue on the greater of the amounts due, beginning with the earlier of the date of the failure to file or pay.

(e) If a universal service fund contributor pays the Administrator a sum that is less than the amount due for the contributor's universal service contribution, the Administrator shall adhere to the ''American Rule'' whereby payment is applied first to outstanding penalty and administrative cost charges, next to accrued interest, and third to outstanding principal. In applying the payment to outstanding principal, the Administrator shall apply such payment to the contributor's oldest past due amounts first.

[FR Doc. E7–18711 Filed 9–21–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 070607179–7509–02]

RIN 0648–AV66

Fishing Capacity Reduction Program for the Longline Catcher Processor Subsector of the Bering Sea and Aleutian Islands Non-pollock Groundfish Fishery, Industry Fee System

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS establishes regulations to implement an industry fee system for repaying a $35 million Federal loan financing a fishing capacity reduction program in the longline catcher processor subsector of the Bering Sea and Aleutian Islands (BSAI) non-pollock groundfish fishery. This action implements the fee collection system to ensure repayment of the loan.

DATES: This final rule is effective, and fee payment collection begins, on October 24, 2007.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for the program and the FRFA for this final rule may be obtained from Leo Erwin, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282.

Comments involving the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule should be submitted in writing to Leo Erwin, at the above address, and to David Rostker, Office of Management and Budget (OMB), by email at *David__Rostker@omb.eop.gov* or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Leo Erwin at 301–713 2390.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 312(b)–(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b) through (e)) generally authorized fishing capacity reduction programs. In particular, section 312(d) authorized industry fee systems for repaying the reduction loans which finance reduction program costs. Subpart L of 50 CFR part 600 (§§ 600.1000 through 600.1017) is the framework rule generally implementing sections 312(b)–(e). Subpart M of 50 CFR part 600 (§§ 600.1100 through 600.1105) contains specific fishery or program regulations.

Sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 U.S.C. 1279f and 1279g) generally authorized reduction loans.

The FY 2005 Appropriations Act (Public Law 108–447, Section 219) authorized a fishing capacity reduction program for the longline catcher processor subsector of the BSAI non-pollock groundfish fishery (reduction fishery).

NMFS published the longline catcher processor subsector BSAI non-pollock reduction program's (reduction program) proposed implementation rule on August 11, 2006 (71 FR 46364) and its final rule on September 29, 2006 (71 FR 57696). Anyone interested in the reduction program's full implementation details should refer to these two documents. NMFS proposed and adopted the reduction program's implementation rule as § 600.1105.

The reduction program's objectives include promoting sustainable fishery management and maximum sustained reduction of fishing capacity from the reduction fishery at the least cost. This is a voluntary program in which, in return for reduction payments, selected offerors permanently relinquished their fishing licenses, surrendered the fishing histories upon which those licenses' issuance were based, and permanently withdrew vessels from fishing.

NMFS financed the reduction program's $35 million cost, which post-reduction BSAI non-pollock groundfish longline catcher processors repay over an anticipated 30-year term but fees will continue indefinitely for as long as necessary to fully repay the loan.

The fee amount, expressed in cents per pound rounded up to the next one-tenth of a cent, will be based upon the annual principal and interest due on the loan and could be up to 5 percent of longline catcher processor subsector BSAI Pacific cod landings. In the event that the total principal and interest due exceeds 5 percent of the ex-vessel Pacific cod revenues, an additional fee of one penny per pound will be assessed for pollock, arrowtooth flounder, Greenland turbot, skate, yellowfin sole and rock sole.

The Freezer Longline Conservation Cooperative (FLCC) received member offers and subsequently voted to accept four offers. The FLCC submitted a fishing capacity reduction plan (reduction plan) subsequently approved by NMFS. A referendum concerning the fees necessary for repayment of the $35 million loan followed the offer and acceptance process. Approval of the industry fee system required at least two-thirds of the votes cast in the referendum to be in favor before the reduction program could be implemented and payment tendered.

NMFS mailed ballots to 39 qualified referendum voters on March 21, 2007, after approving the reduction plan. The voting period opened on March 21, 2007, and closed on April 6, 2007. NMFS received 34 timely and valid votes. All of the votes approved the fees. This exceeded the two-thirds minimum required for industry fee system approval. Consequently, this referendum was successful and approved the industry fee system.

On April 26, 2007, NMFS published a **Federal Register** notice (72 FR 20836) advising the public that NMFS would, beginning on May 29, 2007, tender the reduction program's reduction payments to the four selected offerors. On May 29, 2007, NMFS required the selected offerors to permanently stop all fishing with the reduction vessels and permits. Subsequently, NMFS:

1. Disbursed $35,000,000 in reduction payments to the four selected offerors;
2. Revoked the relinquished reduction licenses;
3. Revoked each reduction vessel's fishing history;
4. Notified the National Vessel Documentation Center to revoke the reduction vessels' fishery trade endorsements and appropriately annotate the reduction vessel's document; and
5. Notified the U.S. Maritime Administration to prohibit the reduction vessel's transfer to foreign ownership or registry.

Selected offerors participating in the reduction program have received $35 million in exchange for relinquishing valid non-interim Federal License Limitation Program BSAI groundfish licenses endorsed for catcher processor fishing activity, catcher/processor, Pacific cod, and hook and line gear, as well as any present or future claims of eligibility for any fishing privilege based on such permit, and additionally, any future fishing privilege of the vessel named on the permit. Individual fishing quota shares are excluded from relinquishment.

On July 20, 2007, NMFS published proposed regulations in the **Federal Register** (72 FR 39779) to implement the program's industry fee system.

II. Final Fee Regulations

NMFS has completed the reduction program except for implementing the industry fee system. This final rule implements the industry fee system. The final rule will be effective, and fee payment and collection will begin on, October 24, 2007.

The fee amount will be calculated on an annual basis as: the principal and interest payment amount due over the proceeding twelve months, divided by the reduction fishery portion of the BSAI Pacific cod initial total allowable catch (ITAC) allocation in metric tons multiplied by 2,205 to convert into pounds, provided that the fees should not exceed 5 percent of the average ex-vessel production value of the reduction fishery.

The terms defined in § 600.1105 of the reduction program's implementation rule and in § 600.1000 of the framework rule apply to this action.

The framework rule's § 600.1013 governs fee payment and collection in general, and this action applies the § 600.1013 provisions to the reduction program.

Under § 600.1013, the first ex-vessel buyers (fish buyers) of post-reduction fish (fee fish) subject to an industry fee system must withhold the fee from the trip proceeds which the fish buyers would otherwise have paid to the parties (fish sellers) who harvested and first sold the fee fish to the fish buyers. For the purpose of the fee collection, deposit, disbursement, and accounting requirements of this subpart, subsector members are deemed to be both the fish buyer and fish seller. In this case, all requirements and penalties of § 600.1013 that are applicable to both a fish seller and a fish buyer shall equally apply to parties performing both functions.

The BSAI Pacific cod ITAC was chosen as the basis for fee calculation of the reduction program because Pacific cod is the only directed fishery with a total allowable catch set in advance of the fishing season. This methodology allows for a straightforward calculation of the fee due and simplifies future accounting. The fee will be assessed and collected on Pacific cod to the extent possible and if the amount is not sufficient to cover annual principal and interest due, additional fees will be assessed and collected. Fees will be assessed and collected on all harvested Pacific cod, including that used for bait or discarded. Although the fee could be up to 5 percent of the ex-vessel production value of all post-reduction longline catcher processor subsector non-pollock groundfish landings, the fee will be less than 5 percent if NMFS projects that a lesser rate can amortize the fishery's reduction loan over the reduction loan's 30-year term.

If the total principal and interest due exceeds 5 percent of the ex-vessel Pacific cod revenues, a penny per pound round weight fee will be calculated based on the latest available revenue records and NMFS conversion factors for pollock, arrowtooth flounder, Greenland turbot, skate, yellowfin sole and rock sole. Any additional fees will be limited to the amount necessary to amortize the remaining twelve months principal and interest in addition to the 5 percent fee assessed against Pacific cod. If collections exceed the total principal and interest needed to amortize the payment due, the principal balance of the loan will be reduced.

To verify that the fees collected do not exceed 5 percent of the reduction fishery revenues, the annual total of principal and interest due will be compared with the latest available annual reduction fishery revenues to ensure it is equal to or less than 5 percent of the total ex-vessel production revenues. In all likelihood this will be based on State of Alaska's Commercial Operator Annual Report produced annually in the March following the close of the previous season. If any of the components necessary to calculate the next year's fee are not available, or for any other reason NMFS believes the calculation must be postponed, the fee will remain at the previous year's amount until such time that new calculations are made and communicated to the post reduction fishery participants.

The framework rule's § 600.1014 governs how fish buyers must deposit, and later disburse to NMFS, the fees which they have collected as well as how they must keep records of, and report about, collected fees. Under the framework rule's § 600.1014, fish buyers must, no less frequently than at the end of each business week, deposit collected fees through a date not more than two calendar days before the date of deposit in segregated and federally insured accounts. Fees shall be submitted to NMFS monthly and shall be due no later than fifteen (15) calendar days following the end of each calendar month. Fee collection reports must accompany these disbursements. Fish buyers must maintain specified fee collection records for at least 3 years and submit to NMFS annual reports of fee collection and disbursement activities by February 1 of each calendar year.

Under § 600.1015, the late charge to fish buyers for fee payment, collection, deposit, and/or disbursement shall be 1.5 percent per month. The full late charge shall apply to the fee for each month or portion of a month that the fee remains unpaid.

To provide more accessible services, streamline collections, and save taxpayer dollars, fish buyers may disburse collected fee deposits to NMFS by using a secure Federal system on the Internet known as *Pay.gov*. *Pay.gov* enables subsector members to use their checking accounts to electronically disburse their collected fee deposits to NMFS. Subsector members who have access to the Internet should consider using this quick and easy collected fee disbursement method. Subsector members may access *Pay.gov* by going directly to *Pay.gov*'s Federal website at: *https://www.pay.gov/paygov/*.

Subsector members who do not have access to the Internet or who simply do not wish to use the *Pay.gov* electronic system, must disburse collected fee deposits to NMFS by sending a check to our lockbox at:

NOAA Fisheries Longline Catcher Processor Non-pollock Buyback
P O Box 979028
St. Louis, MO 63197—9000

Subsector members must not forget to include with their disbursements the fee collection report applicable to each disbursement. Subsector members using *Pay.gov* will find an electronic fee collection report form to accompany electronic disbursements. Subsector members who do not use *Pay.gov* must include a hard copy fee collection report with each of their disbursements. Subsector members not using *Pay.gov* may also access the NMFS website for a PDF version of the fee collection report at: *http://www.nmfs.noaa.gov/mb/financial_services/buyback.htm*.

NMFS will, before the fee's effective date, separately mail a copy of this rule, along with detailed fee payment, collection, deposit, disbursement, recording, and reporting information and guidance, to each fish seller and fish buyer of whom NMFS has notice. The fact that any fish seller or fish buyer might not, however, receive from NMFS a copy of the notice or of the information and guidance does not relieve the fish seller or fish buyer from his fee obligations under the applicable regulations.

All parties interested in this action should carefully read the following framework rule sections, whose detailed provisions apply to the fee system for repaying the reduction program's loan:

1. § 600.1012;
2. § 600.1013;
3. § 600.1014;
4. § 600.1015;
5. § 600.1016; and
6. § 600.1017.

NMFS, in accordance with the framework rule's § 600.1013(d), establishes the initial fee for the program's reduction fishery as 2.0 cents per pound. NMFS will then separately mail notification to each affected fish seller and fish buyer of whom NMFS has notice.

Please see the framework rule's § 600.1000 for the definition of ''delivery value'' and of the other terms relevant to this proposed rule. Each disbursement of the reduction loan's $35,000,000 principal amount began accruing interest as of the date of each such disbursement. The loan's interest rate is the applicable rate, plus 2 percent, which the U.S. Treasury determines at the end of fiscal year 2007.

III. Summary of Comments and Responses

NMFS received one comment in response to the proposed fee regulations. The commenter wants to ban all longline fishing entirely, which is not in the scope of this action. This rule implements an industry fee system to repay the reduction program's $35 million loan.

IV. Classification

The Assistant Administrator for Fisheries, NMFS, determined that this final rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act, Consolidated Appropriations Act of 2005, and other applicable laws.

In compliance with the National Environmental Policy Act, NMFS prepared an EA for the reduction program's final implementing rule (September 29, 2006; 71 FR 57696). The EA discusses the impact of this final rule on the natural and human environment and integrates an RIR and a FRFA. The EA resulted in a finding of no significant impact. The EA considered, among other alternatives, the implementation of the fee payment and collection in this action. NMFS will send the EA, RIR, and FRFA to anyone who requests a copy (see **ADDRESSES**).

NMFS prepared a Final Regulatory Flexibility Analysis (FRFA), as required by section 603 of the Regulatory Flexibility Act (RFA), to describe the economic impacts this rule would have on small entities. This final rule does not duplicate or conflict with other Federal regulations.

FRFA Analysis

The Small Business Administration has defined small entities as all fish harvesting businesses that are independently owned and operated, not dominant in its field of operation, and with annual receipts of $4 million or less. In addition, processors with 500 or fewer employees for related industries involved in canned or cured fish and seafood, or preparing fresh fish and seafood, are also considered small entities. Small entities within the scope of this final rule include individual U.S. vessels and dealers. There are no disproportionate impacts between large and small entities.

Description of the Number of Small Entities

The FRFA uses the most recent year of data available to conduct the analysis (2003). Most firms operating in the

reduction fishery have annual gross revenues of less than $4 million. The FRFA analysis estimates that 24 of the remaining 36 active longline catcher processor vessels (i.e., 36 vessels constitute the post-reduction longline subsector) that participated in 2003 are considered small entities. The remaining 10 vessels are not considered small entities for purposes of the RFA. There is one additional fisherman with a permit but no vessel remaining in the longline subsector. The vessels that might be considered large entities were either affiliated under owners of multiple vessels or were catcher processors. However, little is known about the ownership structure of the vessels in the fleet, so it is possible that the FRFA overestimates the number of small entities. Because the final reduction program rule has not resulted in changes to allocation percentages and participation is voluntary, net effects are expected to be minimal relative to the status quo.

The economic impact to communities where non-pollock groundfish are landed and processed would be minimal because the harvest quotas and allocations would not be altered. Fewer vessels in the catcher processor fleet may mean that fewer on-shore fleet support services would be required in Seattle and in Dutch Harbor. The communities would see little change because total landings of non-pollock groundfish would remain at current levels. Some beneficial impacts may occur because this program has provided $35 million to successful offerors. Much of this could be reinvested in the various communities which serve as home ports to the vessels and a portion would be recovered through income taxes. Crew employment opportunities will be reduced when vessels were removed from the fishery. However, those vessels remaining in the fishery will likely experience increased fishing opportunities and higher per capita incomes.

The final rule's impact will be positive for both those whose offers NMFS has accepted, the selected offerors who received payments to stop fishing, and for post-reduction catcher processors whose landing fees repay the reduction loan. The owners whose offers NMFS accepted have relinquished their fishing licenses, reduction privilege vessels where appropriate, and fishing histories in exchange for payment. These payments ranged from $1.5 million for an inactive license that was not attached to a vessel, up to $11.8 million for the removal of both an active license and vessel from the fishery.

Those owners remaining in the fishery after the reduction program will incur additional fees of up to 5 percent of the ex-vessel production value of post-reduction landings. However, the additional costs could be mitigated by increased harvest opportunities by post-reduction fishermen. This is because removal of the vessels from the fishery creates immediate benefits to the longline catcher processor subsector by reducing competition pressure for each of the remaining vessels to catch fish. In theory, each of the vessels retaining their fishing licenses will be able to harvest more fish. This will likely result in net benefits to the subsector members who have voluntarily assumed the additional fees necessary to repay the reduction loan.

For example, even though each vessel could, on average, pay approximately $77,440 in fees, the net increase per vessel, on average, could be approximately $302,560 more than they would have been able to make before the reduction program's implementation due to the increased opportunity to harvest the TAC.

This rule affects neither authorized BSAI Pacific cod ITAC and other non-pollock groundfish harvest levels or harvesting practices.

NMFS rejected the no action alternative considered in the EA for the final rule implementing the reduction program because NMFS would not be in compliance with the mandate of Section 219 of the Act to establish a reduction program. In addition, the longline catcher processor subsector of the non-pollock groundfish fishery would remain overcapitalized. Although too many vessels compete to catch the current subsector ITAC allocation, fishermen remain in the fishery because they have no other means to recover their significant capital investment. Overcapitalization reduces the potential net value that could be derived from the non-pollock groundfish resource, by dissipating rents, driving variable operating costs up, and imposing economic externalities. At the same time, excess capacity and effort diminish the effectiveness of current management measures (e.g., landing limits and seasons, bycatch reduction measures). Overcapitalization has diminished the economic viability of members of the fleet and increased the economic and social burden on fishery dependent communities.

It has been determined that this final rule is not significant for purposes of Executive Order 12866.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act. OMB has approved these information collections under OMB Control Number 0648–AU42. NMFS estimates that the public reporting burden for these requirements will average two hours for submitting a monthly fee collection report and four hours for submitting an annual fish buyer report.

These response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to both NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person is subject to a penalty for failure to comply with, any information collection subject to the Paperwork Reduction Act unless that information collection displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing capacity reduction, Fishing permits, Fishing vessels, Intergovernmental relations, Loan programs business, Reporting and recordkeeping requirements.

Dated: September 19, 2007.

Samuel D. Rauch III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons stated in the preamble, the National Marine Fisheries Service amends 50 CFR part 600 as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 2. Section 600.1106 is added to subpart M to read as follows:

§ 600.1106 Longline catcher processor subsector Bering Sea and Aleutian Islands (BSAI) non-pollock groundfish species fee payment and collection system.

(a) *Purpose.* As authorized by Public Law 108 447, this section's purpose is to:

(1) In accordance with § 600.1012, establish:

(i) The borrower's obligation to repay a reduction loan, and

(ii) The loan's principal amount, interest rate, and repayment term; and

(2) In accordance with §§ 600.1013 through 600.1016, implement an

industry fee system for the reduction fishery.

(b) *Definitions.* Unless otherwise defined in this section, the terms defined in § 600.1000 and § 600.1105 expressly apply to this section. In addition, the following definition applies to this section:

Reduction fishery means the longline catcher processor subsector of the BSAI non-pollock groundfish fishery that § 679.2 of this chapter defined as groundfish area/species endorsements.

(c) *Reduction loan amount.* The reduction loan's original principal amount is $35,000,000.

(d) *Interest accrual from inception.* Interest began accruing on the reduction loan from May 29, 2007, the date on which NMFS disbursed such loan.

(e) *Interest rate.* The reduction loan's interest rate shall be the applicable rate which the U.S. Treasury determines at the end of fiscal year 2007 plus 2 percent.

(f) *Repayment term.* For the purpose of determining fee rates, the reduction loan's repayment term is 30 years from May 29, 2007, but fees shall continue indefinitely for as long as necessary to fully repay the loan.

(g) *Reduction loan repayment.* (1) The borrower shall, in accordance with § 600.1012, repay the reduction loan;

(2) For the purpose of the fee collection, deposit, disbursement, and accounting requirements of this subpart, subsector members are deemed to be both the fish buyer and fish seller. In this case, all requirements and penalties of § 600.1013 that are applicable to both a fish seller and a fish buyer shall equally apply to parties performing both functions;

(3) Subsector members in the reduction fishery shall pay and collect the fee amount in accordance with § 600.1105;

(4) Subsector members in the reduction fishery shall, in accordance with § 600.1014, deposit and disburse, as well as keep records for and submit reports about, the fees applicable to such fishery; except the requirements specified under paragraph (c) of this section concerning the deposit principal disbursement shall be made to NMFS no later than fifteen (15) calendar days following the end of each calendar month; and the requirements specified under paragraph (e) of this section concerning annual reports which shall be submitted to NMFS by February 1 of each calendar year; and

(5) The reduction loan is, in all other respects, subject to the provisions of §§ 600.1012 through 600.1017.

[FR Doc. E7–18788 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 0612243157–7522–05; I.D. 112006B]

RIN 0648–AT87

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Extension of Effective Date of Gulf Red Snapper Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; interim measures.

SUMMARY: NMFS issues this temporary rule to amend, and extend the effective date of, interim measures to reduce overfishing of red snapper in Federal waters of the Gulf of Mexico implemented by a temporary rule published by NMFS on April 2, 2007. This temporary rule amends the regulations to provide an option for a special procedure for the initial calculation of Gulf of Mexico red snapper 2008 individual fishing quota allocations. The intended effect is to reduce overfishing of red snapper in the Gulf of Mexico.

DATES: This rule is effective September 30, 2007, through March 28, 2008.

ADDRESSES: Copies of the final environmental impact statement (FEIS) and Record of Decision (ROD) prepared for the April 2, 2007 interim final rule (72 FR 15617) are available from Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT: Peter Hood, telephone: 727–551–5784, fax: 727–824–5308, e-mail: *peter.hood@noaa.gov*.

SUPPLEMENTARY INFORMATION: The red snapper fishery of the Gulf of Mexico is managed under the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico, and the shrimp fishery is managed under the FMP for the Shrimp Fishery of the Gulf of Mexico. The FMPs were prepared by the Gulf of Mexico Fishery Management Council (Council) and are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

NMFS issued an interim rule (72 FR 15617, April 2, 2007) under section 305 (c) of the Magnuson-Stevens Act, to reduce fishing mortality on red snapper by reducing harvest and bycatch levels. Specifically, the rule: (1) reduces red snapper total allowable catch (TAC) from 9.12 million lb (4.14 million kg) to 6.5 million lb (2.9 million kg), whole weight, resulting in a commercial quota of 3.315 million lb (1.504 million kg) and a recreational quota of 3.185 million lb (1.445 million kg); (2) reduces the commercial minimum size limit for red snapper from 15 inches (38 cm) to 13 inches (33 cm) total length (TL); (3) reduces the daily recreational bag limit from four fish to two fish per person and prohibits the captain and crew of for-hire vessels (charter vessels and headboats) from retaining the recreational bag limit; and (4) establishes a goal to reduce red snapper bycatch mortality in the shrimp fishery to 50 percent of the bycatch mortality that occurred during 2001–2003. These measures remain necessary to address overfishing of the red snapper resource.

Under section 305 (c)(3)(B) of the Magnuson-Stevens Act, NMFS may extend the effectiveness of an interim rule for one additional period of not more than 186 days, provided the public has had an opportunity to comment on the interim rule and the Council is actively preparing proposed regulations to address the overfishing on a permanent basis. NMFS solicited public comments on the interim proposed rule (71 FR 75220, December 14, 2006) and received numerous comments. These comments were summarized and NMFS's responses were provided in the interim final rule (72 FR 15617, April 2, 2007). The Council has prepared joint Amendment 27/14 to the reef fish and shrimp fishery management plans in the Gulf of Mexico (Amendment 27/14). This amendment includes additional measures to end overfishing and to rebuild the red snapper stock. The expiration date of the interim rule is being extended so that NMFS may continue to address overfishing of red snapper while considering the implementation of more permanent measures recommended by the Council in Amendment 27/14. Failure to extend the effectiveness of the initial interim rule would result in overfishing of Gulf red snapper and would jeopardize the red snapper rebuilding plan.

Additional details concerning the basis for these changes to the red snapper management measures and discussion of the ongoing efforts of the Council and NMFS to evaluate and implement measures to rebuild the red snapper stock consistent with the

requirements of the Magnuson-Stevens Act are contained in the preamble of the interim proposed rule (71 FR 75220, December 14, 2006) and are not repeated here. Public comment and NMFS' responses are contained in the preamble of the interim final rule (72 FR 15617, April 2, 2007) and are not repeated here.

In addition, this temporary rule amends the regulations to provide an option for a special procedure for the initial calculation of Gulf of Mexico red snapper 2008 individual fishing quota allocations. The Council has submitted Amendment 27/14 to NMFS for approval. If approved, Amendment 27/14 would, in addition to other measures, reduce the commercial red snapper quota from 3.315 million lb (1.504 million kg) to 2.55 million lb (1.16 million kg) beginning January 1, 2008. NMFS must calculate and issue 2008 individual fishing quota (IFQ) allocations prior to January 1, 2008, the beginning of the commercial red snapper fishing season. If Amendment 27/14 is approved, and NMFS implements the reduced quota via appropriate rulemaking, there is a possibility that any reduced quota would not be implemented in time for NMFS to calculate the 2008 IFQ allocations. In that case, NMFS would have to issue allocation based on the higher quota currently in effect and then revoke some of that allocation later if the lower quota is implemented. This would be extremely disruptive to the industry and would likely result in overfishing, contrary to the rebuilding plan and a recent court order. To avoid this possible scenario, if Amendment 27/14 is approved but any final rule has not been implemented in time for NMFS to calculate and issue 2008 IFQ allocations, NMFS would initially calculate the 2008 IFQ allocations based on the Council's proposed commercial quota of 2.55 million lb (1.16 million kg) and, if necessary, make adjustments to allocations consistent with the actual 2008 quota when it is implemented.

Classification

The Administrator, Southeast Region, NMFS, (RA), has determined that this temporary rule is necessary to reduce overfishing of red snapper in the Gulf of Mexico, until more permanent measures are implemented, and is consistent with the Magnuson-Stevens Act and other applicable laws. The Council has prepared Amendment 27/14 to address red snapper overfishing issues on a permanent basis.

This temporary rule has been determined to be significant for purposes of Executive Order 12866.

This interim rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and comment.

An FEIS was prepared for the interim measures contained in the April 2, 2007 interim rule. Because the conditions that existed at the time the April 2, 2007, interim rule was implemented have not changed, the impacts of continuing the interim measures through this extension have already been considered. Copies of the FEIS are available from NMFS (see **ADDRESSES**).

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under U.S.C. 553 (b)(B) to waive prior notice and opportunity for public comment on this interim rule extension. This rule would continue interim measures implemented by the April 2, 2007 interim rule, for no more than an additional 186 days beyond the current expiration date of September 29, 2007. If the measures are not extended before the current rule lapses on that date, overfishing is certain to occur, contrary to the Magnuson-Stevens Act, the rebuilding plan for red snapper, and a recent court order. The conditions prompting the initial interim rule still remain, and NMFS is still considering more permanent measures recommended in Amendment 27/14. Opportunity for public comment was solicited on the interim proposed rule (71 FR 75220, December 14, 2006) and NMFS responded to those comments in the interim final rule (72 FR 15617, April 2, 2007). Failure to extend these measures would result in additional overfishing of Gulf red snapper and would jeopardize the success of the proposed new stock rebuilding plan. The amendment providing an option for a special procedure for the initial calculation of Gulf of Mexico red snapper 2008 individual fishing quota allocations is also necessary to avoid overfishing and potential confusion and disruption among red snapper IFQ participants that would otherwise result from initial issuance of 2008 IFQ allocation based on a higher quota that may be reduced just prior to or during the beginning of the 2008 fishing season. If this occurred NMFS would have to initially issue higher allocations and subsequently revoke them when the lower quota is implemented. This would confuse IFQ participants and disrupt transactions (transfers) of IFQ shares and allocation among participants and would likely result in overfishing. Therefore the AA finds that it would be impractical and contrary to the public interest to delay the implementation of these measures by providing additional opportunities for public comment.

The AA also finds good cause under U.S.C. 553 (d)(3) to waive the delay of the effective date of this interim rule. A 30-day delayed effectiveness period of the extension of current measures would allow overfishing to continue on the red snapper stock and seriously increase the likelihood of frustrating the success of the new rebuilding plan prepared in compliance with a recent Court order. That order requires establishment of a new rebuilding plan, with a minimum probability of success of 50 percent, by December 12, 2007. Similarly, commercial red snapper fishermen need to know the amount of their minimum annual allocation well in advance to adequately plan their fishing business operations; avoid the loss of share and allocation trading opportunities; and avoid structuring future IFQ contracts based on a quota level that may not be available upon implementation of Amendment 27/14. Therefore, a delay in the effective date of the 2008 IFQ allocation procedures would be seriously and unnecessarily disruptive to the affected fishers. Therefore, NMFS finds good cause to waive the 30-day delay in effectiveness for both the extension of current measures and for the 2008 IFQ allocation procedures.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: September 18, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.16, paragraph (c)(9) is added to read as follows:

§ 622.16 Gulf red snapper individual fishing quota (IFQ) program.

* * * * *

(c) * * *

(9) *Special procedure for initial calculation of 2008 IFQ allocations.* The Gulf of Mexico Fishery Management Council has submitted an amendment to NMFS, that if approved, would reduce the commercial red snapper quota from

3.315 million lb (1.504 million kg) to 2.55 million lb (1.16 million kg) beginning January 1, 2008. NMFS must calculate and issue 2008 IFQ allocations prior to January 1, 2008. If the amendment is approved but the final rule has not been implemented in time for NMFS to calculate and issue 2008 IFQ allocations, NMFS would initially calculate the 2008 IFQ allocations based on the Council's proposed commercial quota of 2.55 million lb (1.16 million kg) and, if necessary, NMFS would make adjustments to allocations consistent with the actual 2008 quota when it is implemented.

[FR Doc. E7–18785 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 184
Monday, September 24, 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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 610

[Docket No. 2007N–0264]

Revisions to the Requirements Applicable to Blood, Blood Components, and Source Plasma; Companion Document to Direct Final Rule; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration is correcting a proposed rule that appeared in the **Federal Register** of August 16, 2007 (72 FR 45993). That document proposed to amend the biologics regulations by removing, revising, or updating specific regulations applicable to blood, blood components, and Source Plasma to be more consistent with current practices in the blood industry and to remove unnecessary or outdated requirements. The proposal published as a companion document to the direct final rule that published in the same issue of the **Federal Register** (August 16, 2007, 72 FR 45883). Both documents published with a typographical error in the codified section. This document corrects the error in the proposed rule. Elsewhere in this issue of the **Federal Register** we are correcting the error in the direct final rule.

DATES: Submit written or electronic comments on the proposed rule by October 30, 2007.

ADDRESSES: You may submit comments on the proposed rule, identified by Docket No. 2007N–0264, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the ''Request for Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of the proposed rule (72 FR 45993 at 45995).

Docket: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: *For information regarding this correction*: Joyce Strong, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

For information regarding the proposed rule: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: In FR Doc. E7–15942, appearing on page 45993, in the **Federal Register** of Thursday, August 16, 2007, the following correction is made:

§ 610.53 [Corrected]

1. On page 45996, in the amendment to § 610.53 *Dating periods for licensed biological products*, in the table in paragraph (c), ''65° C'' is corrected to read ''−65° C'' everywhere it appears.

Dated: September 17, 2007.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E7–18802 Filed 9–21–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–308P]

Technical Amendment to Listing in Schedule III of Approved Drug Products Containing Tetrahydrocannabinols

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Under the current schedules of controlled substances in the DEA regulations, among the substances listed in schedule III is a synthetic isomer of tetrahydrocannabinols (THC) contained in a specific formulation of a drug product approved by the U.S. Food and Drug Administration (FDA). As currently written, the DEA regulation would not necessarily include drug products approved by the FDA under section 505(j) of the Food, Drug, and Cosmetic Act (FDCA) (21 U.S.C. 355) (commonly referred to as generic drugs) that cite the drug product currently listed in schedule III as the reference listed drug. DEA is hereby proposing to modify the regulation so that certain generic drug products are also included in the schedule III listing.

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before November 23, 2007.

ADDRESSES: Please submit comments, identified by ''Docket No. DEA–308,'' by one of the following methods:

1. *Regular mail:* Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL.

2. *Express mail:* DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301.

3. *E-mail comments directly to agency: dea.diversion.policy@usdoj.gov.*

4. *Federal eRulemaking portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Drug Enforcement Administration's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Drug Enforcement Administration's public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the ''**FOR FURTHER INFORMATION**'' paragraph.

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

SUPPLEMENTARY INFORMATION:

I. Summary

Under the Controlled Substances Act (CSA), the schedules of controlled substances are published on an updated basis in the DEA regulations.[1] Currently, one of the substances listed in schedule III is the following: ''Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved product.'' [2] This describes the drug product marketed under the brand name Marinol. As explained below, it is possible that generic versions of Marinol could be approved by the FDA yet not fit within the same schedule III listing as Marinol. The rule being proposed here would correct this situation so that certain generic versions of Marinol that might be approved by the FDA in the future will be in the same schedule as Marinol.

II. Detailed Explanation

Background

Dronabinol is a name of a particular isomer of a class of chemicals known as tetrahydrocannabinols (THC). Specifically, dronabinol is the United States Adopted Name (USAN) for the (-)-isomer of Δ^9-(trans)-tetrahydrocannabinol [(-)-Δ^9-(trans)-THC], which is believed to be the major psychoactive component of the cannabis plant (marijuana).

At present, Marinol is the only drug product containing any form of THC that has been approved for marketing by the FDA.[3] Accordingly, THC, as a general category, is listed in schedule I of the CSA,[4] while dronabinol contained in the Marinol formulation is listed separately in schedule III. Any other formulation containing dronabinol (or any other isomer of THC) remains a schedule I controlled substance.[5]

The current wording of the Marinol formulation in schedule III (21 CFR 1308.13(g)(1)) was added to the DEA regulations in 1986, when the substance was transferred from schedule I to schedule II after the FDA approved Marinol for marketing.[6] The wording of this listing was not specific to Marinol and thereby could include any generic product meeting that description that might be approved by the FDA in the future. However, at the time the regulation was promulgated, DEA did not anticipate the possibility that a generic formulation could be developed that did not fit precisely the wording of the listing that currently appears in schedule III.

Recently, firms have submitted to FDA abbreviated new drug applications (ANDA) for their proposed generic versions of Marinol. As these ANDAs remain pending with the FDA, the precise nature of these formulations is not available for public disclosure. However, these formulations might differ from the Marinol formulation currently listed in schedule III. Nonetheless, the firms that have submitted the ANDAs assert that their formulations would meet the approval requirements under 21 U.S.C. 355(j), because, among other things, they have the same active ingredient, strength, dosage form, and route of administration as Marinol, and are bioequivalent to Marinol. Products are bioequivalent if there is no significant difference in the rate and extent to which the active ingredient or active moiety becomes available at the site of drug action. 21 CFR 320.1. There is no requirement under 21 U.S.C. 355(j), or FDA's implementing regulations, that solid oral dosage forms such as capsules that are proposed for approval in ANDAs contain the same inactive ingredients as the listed drug referenced. Thus, for example, a sponsor of an ANDA referencing Marinol could propose for approval a capsule formulated with an inactive ingredient other than sesame oil. The generic drug,

[1] 21 U.S.C. 812(a), (c) and n. 1.

[2] 21 CFR 1308.13(g)(1).

[3] The FDA approved Marinol in 1985 for the treatment of nausea and vomiting associated with cancer chemotherapy. In 1992, the FDA expanded Marinol's approved indications to include the treatment of anorexia associated with weight loss in patients with AIDS.

[4] 21 U.S.C. 812(c), Schedule I(c)(17). Schedule I contains those controlled substances with ''no currently accepted medical use in treatment in the United States'' and ''a lack of accepted safety for use * * * under medical supervision.'' 21 U.S.C. 812(b)(1).

[5] The introductory language to schedule I(c) states that any material, compound, mixture, or preparation that contains any of the substances listed in schedule I(c) (including ''tetrahydrocannabinols'') is a schedule I controlled substance ''[u]nless specifically excepted or unless listed in another schedule.'' The only material, compound, mixture, or preparation that contains THC but is listed in another schedule is the Marinol formulation, which is listed in schedule III.

[6] 51 FR 17476 (May 13, 1986). DEA subsequently transferred the FDA-approved Marinol formulation from schedule II to schedule III. 64 FR 35928 (July 2, 1999).

therefore, would not fall within the scope of the current regulation.

This situation, in which a generic version of a drug would not necessarily fall within the schedule for the referenced listed drug, is unique among the CSA schedules in the following respect. The Marinol formulation listed in schedule III is the only listing in the schedules that has the effect of excluding potential generic versions of the brand name formulation.[7] As indicated above, this came about because DEA did not anticipate that other drug products could be approved by FDA that did not fit the description that was included in the schedules. Moreover, Congress structured the CSA so that there would be no distinction—for scheduling purposes—between brand name drug products and their generic equivalents. The rule being proposed here would ensure that this aspect of the CSA holds true for generic drug products approved under 21 U.S.C. 355(j) that reference Marinol as the listed drug.

In addition, 21 U.S.C. 355(j)(2)(C) permits applicants to petition FDA for approval in an ANDA for a drug product that may differ from the listed drug in certain specified ways, if clinical studies are not necessary to establish the safety and effectiveness of the drug product. Among the types of differences permitted is a change in dosage form. This proposed rule would amend the description in Schedule III to include products referencing Marinol that are either capsules or tablets and that otherwise meet the approval requirements in 21 U.S.C. 355(j).

The CSA Scheduling Structure

To understand the legal justification for the rule being proposed here, the scheduling scheme established by Congress under the CSA must first be considered. One court has succinctly summarized this scheme as follows:

> The [CSA] sets forth initial schedules of drugs and controlled substances in 21 U.S.C. 812(c). However, Congress established procedures for adding or removing substances from the schedules (control or decontrol), or to transfer a drug or substance between schedules (reschedule). 21 U.S.C. 811(a). This responsibility is assigned to the Attorney General in consultation with the Secretary of Health and Human Services (''HHS''). *Id.* § 811(b). The Attorney General has delegated his functions to the Administrator of the DEA. 28 CFR 0.100(b). Current schedules are published at 21 CFR 1308.11–1308.15.
>
> There are three methods by which the DEA may initiate rulemaking proceedings to revise the schedules: (1) By the DEA's own motion; (2) at the request of HHS; (3) on the petition of any interested party. 21 U.S.C. 811(a); 21 CFR 1308.43(a). Before initiating rulemaking proceedings, the DEA must request a scientific and medical evaluation from HHS and a recommendation. The statute requires the DEA and HHS to consider eight factors with respect to the drug or controlled substance. 21 U.S.C. 811(b), (c). These factors are:
>
> (1) Its actual or relative potential for abuse.
>
> (2) Scientific evidence of its pharmacological effect, if known.
>
> (3) The state of current scientific knowledge regarding the drug or other substance.
>
> (4) Its history and current pattern of abuse.
>
> (5) The scope, duration, and significance of abuse.
>
> (6) What, if any, risk there is to the public health.
>
> (7) Its psychic or physiological dependence liability.
>
> (8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.
>
> 21 U.S.C. 811(c). Although the recommendations of HHS are binding on the DEA as to scientific and medical considerations involved in the eight-factor test, the ultimate decision as to whether to initiate rulemaking proceedings to reschedule a controlled substance is made by the DEA. *See id.* § 811(a), (b).
>
> *Gettman* v. *DEA*, 290 F.3d 430, 432 (DC Cir. 2002).

The FDA plays an important role within HHS in the development of the HHS medical and scientific determinations that bear on eight-factor analyses referred to above (required under section 811(c) for scheduling decisions). Thus, when it comes to newly developed drug products that contain controlled substances, FDA makes medical and scientific determinations for purposes of both the Food Drug and Cosmetic Act (in connection with decisions on whether to approve drugs for marketing) and the CSA (in connection with scheduling decisions). As explained below, the eight-factor analysis can be expected to yield the same conclusions with respect to a brand name drug product and certain generic drugs referencing that product that meet the approval requirements under 21 U.S.C. 355(j).

The ANDA Approval Process

The Drug Price Competition and Patent Term Restoration Act of 1984 (known as the ''Hatch-Waxman Amendments''), codified at 21 U.S.C. 355, 360cc, and 35 U.S.C. 156, 271, 282, permits the submission of ANDAs for approval of generic versions of approved drug products. 21 U.S.C. 355(j). The ANDA process shortens the time and effort needed for approval by, among other things, allowing the applicant to demonstrate its product's bioequivalence to a drug already approved under a New Drug Application (NDA) (the ''listed'' drug) rather than having to reproduce the safety and effectiveness data for that drug. If an ANDA applicant establishes that its proposed drug product has the same active ingredient, strength, dosage form, route of administration, labeling, and conditions of use as a listed drug, and that it is bioequivalent to that drug, the applicant can rely on FDA's previous finding that the listed drug is safe and effective. *See id.*[8] Once approved, an ANDA sponsor may manufacture and market the generic drug to provide a safe, effective, and low cost alternative to the American public.

The majority of drugs approved under 21 U.S.C. 355(j) are therapeutically equivalent to the listed drug they reference. This means that the generic drug and the referenced innovator drug are in the same dosage form, contain identical amounts of the active ingredient, and are bioequivalent. Therapeutic equivalents can be expected to have the same clinical effect and safety profile when administered to patients under the conditions specified in the labeling.

The key point, for purposes of the rule being proposed here, is that the generic drug can be substituted for the innovator drug with the full expectation that the generic drug will produce the same clinical effect and safety profile as the innovator drug. Consequently, for CSA scheduling purposes, the eight-factor analysis conducted by the FDA and DEA under 21 U.S.C. 811(c) would necessarily result in the same scheduling determination for an approved generic drug product as for the innovator drug to which the generic drug is a therapeutic equivalent. This is because, in conducting the eight-factor analysis, the FDA and DEA would be examining precisely the same medical, scientific, and abuse data for the generic drug product as would be considered for the innovator drug. The same would be true of the innovator drug and a drug product approved pursuant to a petition under 21 U.S.C. 355(j)(2)(C), where the drug approved in the ANDA differs from the listed drug only because it is a tablet and the listed drug is a capsule.

[7] Generally, substances are listed in the CSA schedules based on their chemical classification, rather than any drug product formulation in which they might appear. Because of this, there have been no other situations in which a slight variation between the brand name drug formulation and the generic drug formulation was consequential for scheduling purposes.

[8] See also Approved Drug Products with Therapeutic Equivalence Evaluations (commonly known as the ''Orange Book''), Intro. at p. vi, (27th ed.).

As noted earlier, these considerations never previously arose for any other controlled substance because the regulation citing the Marinol formulation is the only scheduling regulation that is drug-product-formulation-specific and thereby (inadvertently) excludes potential generic versions.[9] This unintended result is not consistent with the structure and purposes of the CSA, which generally lists categories of substances in the schedules, rather than product formulations.[10] Thus, by ensuring that generic versions of the Marinol formulation which might be approved by the FDA in the future are in the same schedule as Marinol, the rule being proposed here would make the DEA regulations more consistent with the structure and purposes of the CSA. Moreover, because—from a scientific perspective—the eight-factor analysis for such generic products would lead to the same results as with the innovator drug, this proposed rule would eliminate the needless expenditure of agency resources to conduct redundant eight-factor analyses. (HHS and DEA have already conducted the eight-factor analysis for the Marinol formulation.[11]) In a similar vein, this proposed rule will eliminate an unnecessary administrative hurdle that could otherwise stand in the way of allowing generic drugs to reach the American consumer without undue delay.

Finally, for additional clarity, the proposed rule will amend 21 CFR 1308.13(g)(1) to change the phrase ''U.S. Food and Drug Administration approved product'' to ''drug product approved for marketing by the U.S. Food and Drug Administration.''

Note Regarding This Proposed Scheduling Action

In accordance with the provisions of the Controlled Substances Act (21 U.S.C. 811(a)), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act (5 U.S.C. 556 and 557). Interested persons are invited to submit their comments, objections or requests for a hearing with regard to this proposal. Persons wishing to request a hearing should note that such requests must be written and manually signed; requests for a hearing will not be accepted via electronic means. Requests for a hearing should be made in accordance with 21 CFR 1308.44 and should state, with particularity, the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted to the DEA using the address information provided above.

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has reviewed this regulation, and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. DEA is hereby proposing to modify the listing of the Marinol formulation in schedule III so that certain generic drug products are also included in that listing. Further, this proposed rule will eliminate an unnecessary administrative hurdle that could otherwise stand in the way of allowing generic drugs to reach the American consumer without undue delay.

Executive Order 12866

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order 12866, 3(d)(1).

Executive Order 12988

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

Executive Order 13132

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

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

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

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Pursuant to the authority vested in the Attorney General under sections 201, 202, and 501(b) of the CSA (21 U.S.C. 811, 812, and 871(b)), delegated to the Administrator and Deputy Administrator pursuant to section 501(a) (21 U.S.C. 871(a)) and as specified in 28 CFR 0.100 and 0.104, and Appendix to Subpart R, sec. 12, the Deputy Administrator hereby orders that Title 21 of the Code of Federal Regulations, Part 1308, is proposed to be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

2. Section 1308.13 is proposed to be amended by revising paragraph (g) to read as follows:

§ 1308.13 Schedule III.

* * * * *

(g) *Hallucinogenic substances.*

(1)(i) Dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved for marketing by the U.S. Food and Drug Administration (FDA)—7369

(ii) Any drug product in tablet or capsule form containing natural dronabinol (derived from the cannabis

[9] When Congress enacted the CSA in 1970, it scheduled codeine and certain other opiates in three different schedules depending on their respective concentrations. See 21 U.S.C. 812(c), schedule II(a)(1), schedule III(d), and schedule V. However, this differential scheduling for opiates does not specify drug product formulation in a manner that would result in a generic version of an opiate drug product being scheduled separately from the innovator drug.

[10] See note 9.

[11] The last eight-factor analysis for Marinol was completed in 1998, as part of the process of transferring it from schedule II to schedule III. 64 FR 35928 (July 2, 1999).

plant) or synthetic dronabinol (produced from synthetic materials) for which an abbreviated new drug application (ANDA) has been approved by the FDA under section 505(j) of the Federal Food, Drug, and Cosmetic Act which references as its listed drug the drug product referred to in the preceding paragraph (g)(1)(i) of this section.—7369

[Some other names for Dronabinol: (6a R-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6 H-dibenzo [b,d]pyran-1-ol] or (-)-delta-9-(trans)-tetrahydrocannabinol]

(2) [Reserved]

Dated: September 17, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–18714 Filed 9–21–07; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2005–0011; FRL–8471–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Tabernacle Drum Dump Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 2 is issuing this notice of intent to delete the Tabernacle Drum Dump Superfund Site (Site), located in Tabernacle Township, Burlington County, New Jersey from the National Priorities List (NPL) and requests public comment on this action. The NPL is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which the EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. The EPA and the State of New Jersey, through the New Jersey Department of Environmental Protection, have determined that responsible parties have implemented all appropriate response actions required. No further operation and maintenance activities or five-year reviews are required at this site.

DATES: Comments concerning this site may be submitted on or before October 24, 2007.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–2005–0011, by one of the following methods:

- *http://www.regulations.gov.* Follow on-line instructions for submitting comments.
- *E-mail: tomchuk.doug@epa.gov.*
- *Fax:* (212) 637–4429.
- *Mail:* Douglas Tomchuk, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 19th Floor, New York, NY 10007–1866.
- *Hand delivery:* Douglas Tomchuk, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 19th Floor, New York, NY 10007–1866.

Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–2005–0011. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going to *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

EPA Region 2 Superfund Records Center, 290 Broadway, Room 1828, New York, New York 10007–1866, (212) 637–4308, *Hours:* 9 a.m. to 5 p.m., Monday through Friday, excluding holidays, by appointment only.

Information on the Site is also available for viewing at the Site's information repository located at: Tabernacle Municipal Building, 163 Carranza Road, Tabernacle, New Jersey 08088.

FOR FURTHER INFORMATION CONTACT: Douglas Tomchuk, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 19th Floor, New York, NY 10007–1866, *Telephone:* (212) 637–3956, *Fax:* (212) 637–4429, *E-mail: tomchuk.doug@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Environmental Protection Agency (EPA) Region II announces its intent to delete the Tabernacle Drum Dump, located on Carranza Road in Tabernacle Township, Burlington County, New Jersey, from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of the NCP, 40 CFR part 300, which EPA promulgated pursuant to section 105 of CERCLA, as amended. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

The EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL.

Section III discusses procedures that EPA is using for this action. Section IV discusses how the site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e)(l)(i)–(iii), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further cleanup by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA will conduct site remedy reviews every five years to ensure that the implemented remedy protects public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazardous Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this site:

(1) EPA selected a remedy for this site in a June 30, 1988 Record of Decision (ROD).

(2) The Potentially Responsible Parties (PRPs) have completed a comprehensive cleanup at the site. The work included the removal and off-site disposal of drums, other containers, contaminated liquids and contaminated soil. Contaminated ground water was extracted, treated and then re-injected into the ground. The ground water cleanup was verified by a monitoring program that lasted five years. In addition, the property where the ground water treatment system was located has been restored in accordance with an approved Site Restoration Plan. No further remedial action is necessary at the Tabernacle Drum Dump site to ensure protection of human health and the environment.

(3) All appropriate responses under CERCLA have been documented in the Final Close Out Report dated June 6, 2007.

(4) The State of New Jersey, through the Department of Environmental Protection, has concurred with the proposed deletion decision;

(5) A notice has been published in the local newspaper and has been distributed to appropriate federal, state and local officials and other interested parties announcing the commencement of a 30 day public comment period for EPA's Notice of Intent to Delete; and

(6) All relevant documents have been made available for public review in the local Site information repositories.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this Notice, § 300.425(e)(3) of the NCP states that deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Region 2 office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary, which will address any significant public comments received during the public comment period.

The deletion occurs when the EPA Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect any deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Region 2 Office.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for the proposal to delete this Site from the NPL and the Agency's finding that the criteria in 40 CFR 300.425(e) are satisfied:

(A) Site History

The Tabernacle Drum Dump is located in Tabernacle Township, Burlington County, New Jersey. The Site is a wooded one-acre parcel of undeveloped land, bordered to the northwest by farmland and to the south and east by residential properties. The Site is located in the northern region of the New Jersey Pinelands.

Between 1977 and 1984 Atlantic Disposal Services, Inc., (ADS) disposed of approximately 200 containers on the property. The containers included 55-gallon drums, 5-gallon paint cans and 20-gallon containers, which held solvents, paint sludges and heavy metals. Deterioration and leakage of some of the containers resulted in visible contamination of the soils, and ultimately, contamination of ground water underlying and downgradient of the Site.

In September 1983, the Tabernacle Drum Dump site was proposed to the NPL, and the site was approved for inclusion on the NPL in September 1984.

(B) Immediate Actions

In February 1984, EPA issued an administrative order to ADS to perform a surface cleanup of the site, along with certain investigations of ground water contamination. ADS completed the surface cleanup of the site in July 1984, which consisted of removing the containers found at the site, 40 cubic yards of material from the drums, eight truck loads of excavated contaminated soil and approximately 3,000 gallons of liquid material. However, ADS did not implement the investigations of the subsurface soils or ground water.

(C) Remedial Investigation/Feasibility Study

EPA conducted a Remedial Investigation/Feasibility Study (RI/FS) for the site, beginning with preliminary sampling in July 1985. The Remedial Investigation report found chromium, cyanide and lead in the surface soils above background levels, but below New Jersey soil cleanup levels. In the groundwater, cadmium, chromium, lead, 1,1,1-trichloroethane, 1,1-dichloroethane were found exceeding background levels and Applicable or Revelant and Appropriate Requirements (ARARs). The Remedial Investigation was completed in December 1987.

(D) Selected Remedy

Based on the RI/FS, EPA selected a remedy for the Site in a Record of Decision (ROD) which was signed on June 30, 1988, which included the following major elements:

- Installation of additional ground-water monitoring wells to further delineate the extent of the contaminant plume;
- Implementation of a ground water monitoring program for downgradient residential wells to delineate the contaminant plume;
- Additional soil sampling at the former drum dumping and storage area to confirm previous data which indicated only trace levels of contaminants;

- Extraction of the contaminated ground water through pumping followed by on-site treatment and reinjection of the treated effluent into the ground, until federal and state cleanup standards have been attained to the maximum extent practicable; and
- Implementation of a ground water monitoring program for a period of five years after site cleanup goals have been achieved.

(E) Remedial Actions

The cleanup of the Site was completed through various remedial actions including the removal and off-site disposal of drums, containers and contaminated surface soils, and the extraction of contaminated ground water with treatment and re-injection. The sampling in the former drum dump and storage area, subsequent to the removal action, found only trace levels of contaminants remaining in surface and subsurface soils at the Site (below NJDEP Cleanup Standards for contaminated sites (N.J.A.C. 7:26D)), and therefore no further action was warranted for the soil. The pump and treat system was constructed and subsequently ran from August 30, 1993 to June 21, 1997 at a rate of approximately 7,000,000 gallons per month (160 gallons per minute). The cleanup levels specified in the ROD were 26 parts per billion (ppb) for 1,1,1-trichlorethane and 2 ppb for 1,1-dichloroethene. A post-construction monitoring program was conducted between July 1997 and July 2001, and found no detections of 1,1,1-trichloroethane in the designated monitoring wells above the detection limit of 1 ppb after October 1999, and no detections above the detection limit of 1 ppb of 1,1 dichloroethene during the post-construction monitoring period.

(F) Operation and Maintenance

There are no operations, maintenance or monitoring activities remaining to be performed. All remedial activities, including monitoring, are complete and the site poses no unacceptable risk to human health or the environment. The property utilized for ground water treatment has been restored. All structures and underground piping have been removed, all wells have been properly sealed and vegetation has been re-established. Monitoring of the new plantings and seeding will occur for three growing seasons in accordance with an approved Site Restoration Plan.

(G) Five Year Review

A Five-year review of the selected remedy for the Site was signed on September 10, 1998. It found that there are no hazardous substances, pollutants, or contaminants remaining at this site above levels that would allow for unlimited use and unrestricted exposure. The remedy was found to protect public health and the environment and was likely to remain so. No further five-year reviews required and no other engineered, access or institutional controls are needed.

(H) Community Involvement

Public participation activities for the Tabernacle Drum Dump site have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and section 117, 42 U.S.C. 9617. The RI/FS, the ROD, as well as other documents and information that EPA relied on or considered in recommending that no further action is necessary at the Tabernacle Drum Dump Site, and that the site should be deleted from the NPL, are available for the public to review at the information repositories.

(I) Site Meets Deletion Criteria

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if EPA, in consultation with the State, has determined that responsible parties or other persons have implemented all appropriate response actions required; 40 CFR 300.425(e)(1)(i).

EPA, with the concurrence of the State of New Jersey, through the New Jersey Department of Environmental Protection, believes that this criterion for deletion has been met. Consequently, EPA is proposing deletion of this site from the NPL. Documents supporting this action are available at the information repositories in the deletion docket.

In a letter dated August 30, 2006, the New Jersey Department of Environmental Protection concurred with EPA that all appropriate CERCLA response actions have been completed at the Tabernacle Drum Dump site and protection of human health and the environment has been achieved.

Dated: August 17, 2007.

Alan Steinberg,

Regional Administrator, Region 2.

[FR Doc. E7–18579 Filed 9–21–07; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 72, No. 184
Monday, September 24, 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

Forest Service

RIN 0596–AC61

[FSM 2720, FSH 2609.13 and FSH 2709.11]

Wind Energy, Proposed Forest Service Directives

AGENCY: Forest Service, USDA.

ACTION: Proposed directives; request for comment.

SUMMARY: The Forest Service proposes to amend its internal agency directives for special use authorizations and wildlife monitoring. The proposed amendments would provide direction and guidance specific to wind energy development on National Forest System (NFS) lands. These amendments supplement, rather than supplant or duplicate, existing special use and wildlife directives to address issues specifically associated with siting, processing proposals and applications, and issuing special use permits for wind energy uses. The proposed directives would ensure consistent and adequate analyses for evaluating wind energy proposals and applications and issuing wind energy permits. Public comment is invited and will be considered in the development of final directives.

DATES: Comments must be received in writing by November 23, 2007.

ADDRESSES: Send written comments to Wind Energy Proposed Directives, Attention: Director, Lands Staff, 4th Floor-South, USDA Forest Service, 1400 Independence Avenue, SW., Mailstop 1124, Washington, DC 20250, or by facsimile to 202–205–1604. You may also submit comments by following the instructions at the Federal e-rulemaking portal at *http://www.regulations.gov.*

All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received on the proposed directives in the USDA Forest Service Headquarters located at 201 14th Street, SW., Washington, DC, on business days between 8:30 a.m. and 4:30 p.m. eastern time. Those wishing to inspect comments are encouraged to call ahead to (202) 205–1248 or (202) 205–0895 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Paul Johnson, Minerals and Geology Management, (703) 605–4793, or Julett Denton, Lands Staff, (202) 205–1256.

SUPPLEMENTARY INFORMATION:

1. Background

The Forest Service is responsible for managing 193 million acres of NFS lands. To date, the Forest Service has issued over 74,000 special use authorizations on NFS lands covering over 180 types of uses. Wind energy uses are governed by the Forest Service's special use regulations at 36 CFR part 251, subpart B. Wind energy proposals and applications are currently processed in accordance with 36 CFR 251.54 and direction in Forest Service Manual (FSM) 2726 and FSH 2709.11 on administration of special uses.

These proposed directives would add a new chapter 70, ''Wind Energy Uses,'' to the Special Uses Handbook, FSH 2709.11, and a new chapter 80, ''Monitoring at Wind Energy Sites,'' to the Wildlife Monitoring Handbook, FSH 2609.13. These new chapters would supplement, rather than supplant or duplicate, existing special use and wildlife directives. In particular, new chapter 70 would provide direction on siting, processing proposals and applications, and issuing permits for wind energy uses. New chapter 80 would provide specific guidance on wildlife monitoring at wind energy sites before, during, and after construction. The direction in chapter 70 would be similar to the procedures established by the United States Department of the Interior, Bureau of Land Management, for managing wind energy uses on public lands.

In addition, the proposed directives would make corresponding revisions to FSM 2726, ''Energy Generation and Transmission,'' and FSH 2709.11, Chapter 40, ''Special Uses Administration.''

2. Need for Wind Energy Directives

The emphasis on development of alternative energy sources in the Energy Policy Act of 2005 and increasing industry interest in development of wind energy facilities on NFS lands have prompted the Forest Service to issue proposed directives that address issues specifically associated with siting wind energy uses, processing wind energy proposals and applications, and issuing wind energy permits.

The proposed directives would provide a consistent framework and terminology for making decisions regarding proposals and applications for wind energy uses. Specifically, the directives would provide guidance on siting wind energy turbines, evaluating a variety of resource interests, and addressing issues specifically associated with wind energy in the special use permitting process. These issues include potential effects on scenery, national security, significant cultural resources, and wildlife, especially migratory birds and bats.

Summary of Changes

The proposed directives address proposals and applications for and issuance of two types of wind energy permits: (1) Site testing and feasibility permits for the collection of data on the wind resource, and (2) permits for construction and operation of a wind energy facility. The proposed directives also address competitive interest in wind energy uses, land use fees for wind energy permits, and potential effects from wind energy uses on wildlife, scenery, significant cultural resources, and national security. The proposed directives follow the sequence for processing special use proposals and applications and issuing permits in 36 CFR 251.54.

Since the proposed directives supplement existing special use regulations and directives and wildlife monitoring directives, reviewers may find it helpful to become familiar with the special use regulations at 36 CFR part 251, subpart B, and existing direction in Forest Service Handbook (FSH) 2709.11, chapter 10 and chapter 40, and FSH 2609.13 before reviewing the proposed directives.

Section-by-Section Analysis

Proposed Revisions to FSM 2726, ''Energy Generation and Transmission''

The proposed directives would amend FSM 2726 to include policy statements about the goals of the Forest Service when authorizing wind energy facilities on NFS lands, as well as responsibility for and direction on how to achieve those goals.

Proposed Revisions to FSH 2709.11, Chapter 40, ''Special Uses Administration''

The proposed revisions to FSH 2709.11, Chapter 40, would clarify that the wind energy designation pertains only to facilities using wind to generate electric power.

Proposed Revisions to FSH 2709.11, Chapter 70, '' Wind Energy Uses''

The proposed directives would add a new Chapter 70, entitled ''Wind Energy Uses,'' to FSH 2709.11. The salient sections of the new chapter are discussed below.

Section 70.5—Definitions

New Chapter 70 would include the following definitions:

Adaptive Management. A management system that incorporates emerging science and monitoring into decision-making and ongoing operations.

Minimum Area Permit. A site testing and feasibility permit covering the minimum area necessary, but no more than five acres, for construction, operation, and maintenance of a single meteorological tower (MET) to study the wind resource.

Nacelle. The housing that protects the major components (such as the generator and gear box) of a wind turbine.

Plan of Development. A document that describes a proposed wind energy facility and how it will be constructed, operated, and decommissioned.

Project Area Permit. A site testing and feasibility permit covering more than five acres for construction, operation, and maintenance of multiple METs to study the wind resource.

Significant Cultural Resource. A National Historic Landmark or a cultural resource, including historic, prehistoric, archaeological, or an architectural site, structure, place, or object that is important to the public or scientific community or a site or place of traditional cultural or religious importance to a social or cultural group, which is eligible for listing or listed in the National Register of Historic Places.

Site Plan. A scaled, two dimensional graphic representation of the location of all proposed wind turbines, buildings, service areas, roads, structures, and site boundaries for a wind energy facility. These proposed elements are displayed in relationship to existing site features such as topography, major vegetation, water bodies, and constructed elements on one or more drawings.

Species of Management Concern. Federally listed threatened and endangered species, candidates for listing as threatened or endangered, Forest Service species of concern, species of interest, species of high public interest, and management indicator species, any one or more of which may include species of wildlife, fish, or rare plants and, for purposes of this directive, generally include migratory bird and bat species because of their susceptibility to collision with wind energy improvements during migration.

String. A number of wind turbines oriented in close proximity to one another that are usually sited in a line, such as along a ridgeline.

Section 71—Types of Wind Energy Permits

This section would address the two principal types of permits for wind energy uses: (1) A site testing and feasibility permit (sec.75.1) and (2) a permit for construction and operation of a wind energy facility (sec.75.2).

A site testing and feasibility permit would be issued for the installation of meteorological towers (MET) to gather data on the wind resource and to determine the feasibility of producing wind energy. A site testing and feasibility permit would be issued for up to 5 years.

A proponent for a permit for construction and operation of a wind energy facility would have to submit data collected under a site testing and feasibility permit or otherwise establish the feasibility of producing wind energy at a particular site. A permit for construction and operation of a wind energy facility would be issued for up to 30 years.

Section 72—Wind Energy Proposals

This section woud apply to proposals for all types of wind energy permits.

Section 72.1—Pre-Proposal Meetings

This section would provide direction specific to wind energy uses regarding pre-proposal meetings between proponents of wind energy uses and the Forest Service.

Section 72.2—Federal Interagency Coordination

This section would advise proponents for all wind engery permits of the need to file a feasibility proposal with the Federal Aviation Administration (FAA) to obtain an early assessment of whether their proposed wind energy improvements would have any implications for civilian aviation.

Section 72.3—Screening of Proposals

This section would provide direction on screening of proposals for wind energy uses.

Section 72.31—Siting Considerations

This section would outline the siting considerations that apply to screening of proposals for all types of wind energy permits (36 CFR 251.54(e)). This section would not apply to processing of wind energy special use applications, which would be governed by section 73 of the proposed directives.

Section 72.31a—General Considerations

This section would address general siting considerations for wind energy uses. Specifically, this section would ensure that wind energy proposals are consistent or can be made consistent with the applicable land management plan (36 CFR 251.54(e)(1)(ii)) and follow procedures for special uses management in FSM 2700. The specific factors that would be considered for wind energy planning include (1) The suitability of the site for the intended use, which may be influenced by scenery, soil, or geological factors; the presence of significant cultural resources, federally listed fish, wildlife, or rare plant habitat; known and important bird or bat migration routes; or other environmental or human resource considerations, and (2) the wind resource, including existing wind speed and direction at proposed locations.

Section 72.31b—Recreational and Scenery Considerations

This section would enumerate the considerations that would be given to recreational settings and experiences and scenery in making siting decisions regarding wind energy uses. The Recreation Opportunity Spectrum (ROS) (FSM 2311.1) would be used to identify the recreational activities, settings, and facilities in the area proposed for a wind energy use. In addition, consideration would be given to how recreational settings could be affected by noise and lighting impacts; dust or air quality impacts; and road construction. The Scenery Management System (SMS) (FSM 2380) would be used to assess the value of scenery in the project area, the

experience scenery provides relative to competing resource demands, and the impacts to scenery associated with project construction and operation.

Section 72.31c—Community Tourism Considerations

This section would address community tourism considerations in siting wind energy uses.

Section 72.31d—Public Access Considerations

This section would address public access considerations in siting wind energy uses.

Section 72.31e—Wildlife, Fish, and Rare Plant Considerations

This section would ensure that proponents avoid locating METs and wind energy facilities in sensitive habitats or in areas where ecological resources are known to be sensitive to human activities or in documented bird or bat migration corridors. Additionally, this section would ensure that proponents, to the maximum extent possible, avoid proposing sites with a high incidence of fog and mist and install facilities to avoid disruption of critical wildlife activities.

Section 73—Wind Energy Applications.

Section 73.1—Application Requirements for All Wind Energy Permits.

Section 73.11—Design Requirements.

Section 73.11a—Wildlife, Fish, and Rare Plant Considerations

This section would provide direction on design requirements for improvements addressed in wind energy applications. Specifically, this section would require the authorized officer to ensure that in designing improvements to be authorized under all types of wind energy permits, applicants (1) avoid guy wires on METs to the maximum extent possible; (2) locate wind turbines, roads, and ancillary facilities in the least environmentally sensitive areas; (3) to the maximum extent possible, avoid placing wind turbines in areas with a high incidence of fog and mist; (4) avoid, minimize, or mitigate the potential for bird and bat collisions by configuring wind turbines to avoid landscape features known to attract migrating wildlife, if site studies show that placing wind turbines in that location would have adverse impacts; (5) avoid placing wind turbines near bat hibernation, breeding, and maternity colonies; in important migration corridors; or in flight paths between colonies and feeding areas; (6) use designs for wind energy structures, including utility poles and wires, that discourage use as perching or nesting substrates for birds and bats; and (7) where possible, bury utility and distribution lines to minimize visual disturbance and impacts on wildlife, in a manner that minimizes additional surface disturbance. Use existing utility corridors and structures to the extent possible to avoid the development of new infrastructures.

Section 73.11b—Scenery Management

This section would provide direction on scenery management in connection with wind energy applications. For example, this section would require the authorized officer to ensure that wind energy applicants (1) limit MET height to the minimum necessary for proper functioning; (2) integrate wind turbine arrays and design into the surrounding landscape and meet the scenic integrity objectives of the applicable land management plan; where appropriate, consider turbine clustering; (3) use tubular towers, and non-reflective Forest Service approved finishes; (4) address proportion and color of wind turbines; (5) consult appropriate Agriculture and Forest Service direction when planning and designing associated structures and facilities; (6) avoid placing substations or large buildings at high elevations and along skylines that are visible to the public and conceal these structures or make them as inconspicuous as possible; and (7), where possible, bury distribution lines to minimize visual disturbance.

Section 73.11c—Noise Management

This section would require the authorized officer to ensure that in designing wind energy improvements, applicants minimize noise where possible and to the extent feasible, and minimize to the maximum extent possible the amplitude of wind turbine and associated generator noise. Specifically, the authorized officer would ensure that, when possible, (1) applicants restrict noise to 10 decibels above background noise levels at nearby residences and campsites and near wildlife habitat to avoid habitat abandonment or disruption of reproductive activities or hibernation and other sensitive areas; (2) compare noise measurements taken during wind turbine operation with background noise levels taken during the same time of day; and,(3) where possible, minimize wind turbine noise through the use of acoustic shielding in nacelles and associated facilities.

Section 73.11d—Lighting

This section would require the authorized officer to ensure that in designing wind energy improvements, applicants reduce the attraction of bats and migratory birds to wind turbines and towers by (1) using the minimum amount of warning lighting required by the FAA; (2) unless otherwise required or requested for safety, using the minium number and intensity of white strobe lights at night, with the minumum number of flashes per minute specified by the FAA; (3) avoiding use of solid or pulsating red incandescent lights; (4) down-shielding security lighting for facilities and equipment to keep light within the site boundaries; and (5) designing the site to minimize or eliminate the need for security lights.

Section 73.12—Public Outreach

This section would address public outreach by wind energy applicants.

Section 73.2—Application Requirements for a Pemit for Construction and Operation of a Wind Energy Facility

This section would require the authorized officer to ensure that applicants for a permit for construction and operation of a wind energy facility submit a study plan, plan of development, and site plan. Applicants for a site testing and feasibility permit would have to submit a study plan, plan of development, and site plan (sec. 75.1).

Section 73.21—Study Plans

This section would enumerate the requirements for a study plan. The studies described in the study plan would enable the authorized officer to evaluate the application fully during environmental analysis.

Section 73.22—Plan of Development

This section would enumerate the requirements for a plan of development (POD). A POD would establish that a wind energy site is consistent with the standards and guidelines in the applicable land management plan, provides for the needs of the public, and facilitates the safe, orderly development of a wind energy site. A POD would be used to develop the proposed action for purposes of environmental analysis for a permit for construction and operation of a wind energy facility.

Section 73.23—Site Plan

This section would enumerate the requirements for a site plan. A site plan would document the location of all proposed facilities, including the location of wind turbines, buildings,

service areas, roads, office and maintenance structures, site boundaries, and any area within the proponent's proposed permit boundary which the Forest Service has excluded from development.

Section 74—Requirements for Processing Wind Energy Applications

Section 74.1—Effects on Species of Management Concern

This section would provide guidance on how to assess effects on wildlife during the evaluation of proposed wind energy uses. As applicable, the authorized officer would consider (1) in the absence of intensive survey efforts, each potentially affected species with range overlaps in the proposed area to be present in that area; (2) the status of bats and birds as continental migrant, semi-migrant, regional migrant, or year-round resident species; unique landscape features that may attract migrating birds and bats to the area; migration stopover areas; and bird and bat susceptibility to mortality from collision with or electrocution by the proposed wind energy facilities during migration or movement; and (3) for resident species and migrants, loss of or disturbance to critical roosting, nesting, or foraging habitat; loss of ecologically significant habitats; and habitat fragmentation, edge effects, and mortality from collision with or electrocution by wind energy improvements.

Section 74.2—Applications Involving Lands Under the Jurisdiction of Multiple Agencies

This section would provide for coordination and address applicable processing requirements for applications involving lands under the jurisdiction of multiple agencies.

Section 74.3—Proprietary Information

This section would address withholding and use of proprietary data collected during the term of a site testing and feasibility permit.

Section 74.4—Change in Ownership of an Applicant

This section would address application procedures if there is a change in ownership of an applicant with a pending wind energy application.

Section 74.5—Cost Recovery Requirements

This section would address cost recovery requirements associated with wind energy applications and permits.

Section 75—Wind Energy Permits

Section 75.1—Site Testing and Feasibility Permits

This section would require the authorized officer to determine whether a monitoring plan is needed for a site testing and feasibility permit, and if so, the contents of the plan, based on the National Environmental Policy Act decision document. If a monitoring plan is not needed, this section would require the authorized officer to encourage the holder to conduct monitoring of adverse effects on wildlife. This section cross-references the new chapter in the FSH on wildlife monitoring (FSH 2609.13, chapter 80). The results of monitoring could facilitate processing an application for a permit for construction and operation of a wind energy facility.

This section also would address key terms of a site testing and feasibility permit. Specifically, the holder of a site testing and feasibility permit would have to collect all information and complete all studies needed to process an application for construction and operation of a wind energy facility. If METs were not operational within 2 years after issuance of the permit, the permit would terminate. Furthermore, if MET test results are not reported to the Forest Service within 3 years after issuance of the permit, the permit would terminate, unless a request for an extension is submitted at least 6 months before termination and is approved by the authorized officer. The authorized officer could approve up to 2 additional years for site testing and feasibility (up to the maximum permit term of 5 years) if the authorized officer determined that the holder had shown due diligence in site testing and feasibility. This section also would provide that issuance of a site testing and feasibility permit would not ensure issuance of a permit for construction and operation of a wind energy facility.

Section 75.11—Types of Site Testing and Feasibility Permits

This section would enumerate the requirements for issuance of the two types of site testing and feasibility permits: minimum area permits and project area permits. Multiple minimum area permits could be issued for a single area if it could accommodate more than one MET. Only one project area permit would be issued for each study area. Proponents for a project area permit would be required to justify the number of METs and acreage they are proposing to use.

Section 75.12—Determination of Competitive Interest

Forest Service special use regulations provide that when there is one or more unsolicited proposals and the authorized officer determines that competitive interest exists, the Forest Service must issue a prospectus (36 CFR 251.58(c)(3)(ii)).

Minimum area permits would be issued on a first-come, first-served basis and only for the minimum acreage necessary for the construction and maintenance of authorized equipment and facilities, but no more than 5 acres. Therefore, there would be no competition for minimum area permits, and the authorized officer would not need to determine whether competitive interest exists in minimum area permits.

Project area permits, however, would be issued for a single study area that is larger than what is required for construction and maintenance of the authorized equipment and facilities, thereby excluding other proponents for site testing and feasibility permits. Consequently, there could be competitive interest in project area permits, and they would require a determination of competitive interest. Proposed section 75.12, paragraph 2a, would provide guidance on determining competitive interest for project area permits and, if it exists, on issuance of a prospectus in accordance with FSM 2712.1.

Proposed section 75.12, paragraph c, would provide that the holder of a project area permit has an interest in the project area, which is limited to precluding other site testing and feasibility permits during the term of the project area permit and precluding competition for a wind energy facility. The holder of a project area permit would have to obtain a separate permit for construction and operation of a wind energy facility. The Forest Service would retain the right to authorize other compatible uses of National Forest System lands covered by a project area permit.

Section 75.13—Site Testing and Feasibility Permit Form

This section would prescribe the form and use code for site testing and feasibility permits.

Section 75.2—Permits for Construction and Operation of a Wind Energy Facility

Section 75.21—Pre-Authorization Requirements

This section would enumerate the prerequisites for issuance of a permit for construction and operation of a wind energy facility. Specifically, the

applicant would have to submit (1) Documentation that construction and operation of a wind energy facility will not hinder national security, military readiness and training areas, radar and electronic security, and military and civilian airspace; (2) a complete POD; (3) a final site plan revised to reflect the NEPA decision document for the project; (4) an annual operating plan that addresses specific requirements during the construction and operational phases of the wind energy facility; and (5) a monitoring plan prepared in accordance with FSH 2609.13, Chapter 80.

Section 75.22—Authorization of Wind Energy Facilities

This section would address key terms in a permit for construction and operation of a wind energy facility. In particular, the permit would terminate if construction had not commenced within 2 years after issuance of the permit and if wind turbines were not operational within 5 years after issuance of the permit. The permit holder would have to obtain a construction bond for site restoration upon completion of construction. Additional bonding could be required at the discretion of the authorized officer.

Section 76—Land Use Fees

Section 76.1—Land Use Fees for Site Testing and Feasibility Permits

This section would provide instruction on how to calculate the annual land use fee for the two types of site testing and feasibility permits. The land use fee for a minimum area permit would be the Regional minimum fee (FSH 2709.11, section 31.51a) or a minimum of $100 for each MET or instrumentation facility, whichever is higher. An additional land use fee for the acreage authorized would not be charged. The land use fee for a project area permit would be determined by appraisal of the authorized use, in accordance with FSH 2709.11, section 31.1.

Section 76.2—Land Use Fees for Permits for Construction and Operation of a Wind Energy Facility

This section would specify how to calculate the land use fee for permits for construction and operation of a wind energy facility. During the construction phase, the land use fee would be based on the total acreage of National Forest System lands covered by the permit and would be determined by appraisal of the authorized use, in accordance with FSH 2709.11, section 31.1. During the operational phase, the land use fee would be based on the market value of the authorized use, determined by appraisal in accordance with FSH 2709.11, section 31.1, or some other valuation method recommended by the Regional Appraiser.

Section 76.3—Land Use Fee Updates

This section would provide for annual updates to the land use fee for all wind energy permits.

Section 77—Administration of Wind Energy Permits

This section would apply to all types of wind energy permits.

Section 77.1—General Administration

This section would provide for administration of wind energy permits in accordance with the applicable land management plan and the terms and conditions of the permit. Permit holders would be responsible for technical inspections and administrative duties associated with wind energy facilities.

Section 77.2—Inspections

This section would ensure that holders provide annual technical inspection reports of METs and other wind energy equipment covered by their permit to ensure that the equipment is operating in accordance with the operating plan, the permit, and applicable federal and state requirements; certified inventory statements are accurate; and the equipment is secure, safe, and otherwise properly operated and maintained. In addition, the authorized officer would have to ensure that the holder complies with FAA lighting requirements.

Section 77.3—Construction Requirements

The section would specify requirements for construction of a wind energy facility. Specifically, this section would require the authorized officer to ensure that holders (1) minimize the area disturbed by site testing and feasibility and construction of a wind energy facility; (2) conduct site restoration as soon as possible after completion of construction to minimize habitat conversion and to expedite habitat recovery; (3) use dust abatement techniques; (4) use explosives only at specified times and at specified distances from sensitive wildlife and streams and lakes; and (5) schedule installation of MET towers to avoid disruption of wildlife reproductive activities.

Section 77.4—Operational Requirements

This section would address requirements for operation of a wind energy facility. In particular, this section would require the authorized officer to ensure that holders (1) completely repair, replace, or remove inoperative wind turbines; (2) activate security lights through the use of motion detectors; (3) repair or replace inoperative downshielding for lighting; (4) have sound-control devices on all equipment; (5) control noxious weeds and invasive species; (6) Develop an integrated pest management plan if pesticides are used at the site; and (7) use adaptive management as appropriate to respond to results from monitoring of impacts on species of management concern and their habitat.

Section 77.5—Site Restoration Upon Discontinuation of the Authorized Use

This section would address site restoration upon discontinuation of wind energy uses. Upon revocation of a wind energy permit or termination of a wind energy permit without renewal of the authorized use, the authorized officer would have to ensure that holders remove the authorized facilities, decommission access roads, and reestablish predevelopment vegetation cover, composition, configuration, and structural characteristics, unless otherwise determined by the authorized officer.

Proposed FSH 2609.13, Chapter 80, ''Wildlife Monitoring at Wind Energy Sites''

The proposed directive would add a new Chapter 80, entitled ''Wildlife Monitoring at Wind Energy Sites'' to FSH 2609.13. The new chapter would provide direction on wildlife monitoring at sites that have been identified for potential wind energy development. The salient sections of the new chapter are discussed below.

Section 81—Monitoring Plans

This section would require the development of a monitoring plan for every species or group of species with similar monitoring objectives. The monitoring plan would state the plan objectives, the target species, the selected monitoring measure(s), the sampling design, data collection methods, the anticipated methods of analysis, and expected reports. The sampling design section would include the seasons when monitoring will be performed, the length of time between monitoring intervals, and the anticipated length of the entire monitoring program. To the extent possible, monitoring plans would be designed or reviewed by an interagency committee of wildlife experts.

Section 82—Monitoring Objectives

This section would provide guidance on the primary objectives of monitoring plans: (1) Monitoring changes in wildlife presence before and after the establishment of a wind energy facility; (2) monitoring mortality rates and associated factors post-construction, and (3) the need to appropriately address both direct and indirect effects.

Endangered and threatened species and other federally protected species, such as bald and golden eagles and migratory birds, would be included in a monitoring plan, as appropriate. Bats would also be included due to their known sensitivity to wind energy developments, along with other species that are of management concern or of high public interest.

Section 82.1—Monitoring Wildlife Presence and Abundance

This section would provide guidance on how to monitor so that environmental changes due to the construction and operation of a wind energy facility affect wildlife presence or abundance and activity levels can be determined. If data from monitoring indicates that wildlife presence or abundance has changed due to the construction and operation of a wind energy facility, then the information would be used to develop mitigation measures and modify stipulations in the holders operating plan to reduce adverse effects to wildlife.

The use of the Before-After-Control-Impact (BACI) study design would be recommended as an effective approach to meet this objective (Anderson *et al.* 1999). The BACI design is applicable when the monitoring objective is to look for treatment effects, which in the present context, is the construction and operation of a wind energy facility.

Section 82.2—Monitoring Mortality

This section would provide guidance on post construction mortality monitoring, to determine, to the extent possible, the factors associated with changes in mortality rates, in order to minimize adverse effects to wildlife. The authorized official would determine the length of term for post construction mortality monitoring. To the maximum extent possible, post-construction mortality monitoring would last not less than three years and would occur during multiple seasons. If sampling every turbine regularly would be cost prohibitive, then a subset of turbines may be sampled.

The frequency (how often searches should occur) and intensity (amount of area searched based on number of turbines) of mortality searches would vary depending on the site-specific scavenging and decomposition rates of carcasses. If those rates are high, mortality searches would need to be conducted daily, at least during periods of high mortality (such as during bird/bat migratory periods). If removal rates are low, then searches would be conducted every other day or every three days.

The holder would be authorized for promptly notifying the authorized official when an endangered or threatened species or bald or golden eagle is found. Other migratory bird species and other species would be reported in progress reports to the authorized official at intervals specified in the monitoring plan. An annual report would be prepared by the holder which summarizes each year's survey effort. The annual report would be used to set the terms and conditions of the next year's operating plan, including plans for mitigation of turbine impacts.

Section 84—Adaptive Management

Adaptive management is a system that is designed to incorporate emerging science and monitoring into the decisionmaking process. As data from monitoring emerges, management strategies would change or adapt in response to the newly available information and changing circumstances. The purpose of monitoring wildlife at wind energy facilities would be to ensure that these facilities do not have long-term, unacceptable impacts to wildlife.

Pre-construction monitoring would be designed to provide site-specific information on wildlife responses that could be used in an adaptive management context to ensure that the siting of wind turbines (location and configuration) in the project area is done in a manner that reduces potential impacts to wildlife.

Post-construction monitoring would be designed to provide site-specific information on wildlife responses that could be used in an adaptive management context to alter the structure or operation of the facility in a manner that reduces those impacts.

3. Regulatory Certifications

Environmental Impacts

Section 31.12, paragraph 2, of FSH 1909.15 (67 FR 54622, August 23, 2002) excludes from documentation in an environmental assessment or environmental impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The agency has concluded that the proposed special use and wildlife monitoring directives fall within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Regulatory Impact

The proposed directives have been reviewed under USDA procedures and Executive Order 12866, as amended by E.O. 13422, on regulatory planning and review. The Office of Management and Budget (OMB) has determined that the proposed directives are not significant. Accordingly, the proposed directives are not required to be reviewed by OMB.

Moreover, the proposed directives have been considered in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). It has been determined that the proposed directives would not have a significant economic impact on a substantial number of small entities as defined by the act because the proposed directives would not impose record-keeping requirements on them; would not affect their competitive position in relation to large entities; and would not affect their cash flow, liquidity, or ability to remain in the market. The proposed directives would have no direct effect on small businesses. The proposed directives merely clarify existing requirements that apply to processing special use proposals and applications and issuing permits for wind energy uses.

No Takings Implications

The proposed directives have been analyzed in accordance with the principles and criteria contained in Executive Order 12630. It has been determined that the proposed directives would not pose the risk of a taking of private property.

Civil Justice Reform

The proposed directives have been reviewed under Executive Order 12988 on civil justice reform. After adoption of the proposed directives, (1) all State and local laws and regulations that conflict with the proposed directives or that impede their full implementation would be preempted; (2) no retroactive effect would be given to the proposed directives; and (3) administrative proceedings would not be required before parties could file suit in court challenging their provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed

into law on March 22, 1995, the agency has assessed the effects of the proposed directives on state, local, and tribal governments and the private sector. The proposed directives would not compel the expenditure of $100 million or more by any state, local, or tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Federalism and Consultation and Coordination With Indian Tribal Governments

The agency has considered the proposed directives under the requirements of Executive Order 13132 on federalism and has determined that the proposed directives conform with the federalism principles set out in this Executive order; would not impose any compliance costs on the states; and would not have substantial direct effects on the states, the relationship between the federal government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, the agency has determined that no further assessment of federalism implications is necessary.

Moreover, these proposed directives do not have tribal implications as defined by Executive Order 13175, entitled ''Consultation and Coordination With Indian Tribal Governments,'' and therefore advance consultation with tribes is not required.

Energy Effects

The proposed directives have been reviewed under Executive Order 13211 of May 18, 2001, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' It has been determined that the proposed directives would not constitute a significant energy action as defined in the Executive order. To the contrary, the proposed directives could have a positive, rather than a negative effect on the supply, distribution, or use of energy to the extent the proposed directives provide direction on processing proposals and applications and issuing special use authorizations for wind energy uses.

Controlling Paperwork Burdens on the Public

The proposed directives do not contain any record-keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Text of Proposed Directives

Reviewers may obtain a copy of the proposed revisions to the FSM and FSH from the address cited in the addresses section above or from the Forest Service home page on the World Wide Web at: *http://www.fs.fed.us/recreation/permits/energy.htm.*

Dated: September 6, 2007.

Sally Collins,

Associate Chief, Forest Service.

[FR Doc. E7–18715 Filed 9–21–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

[Docket No.: 070703259–7518–02]

Privacy Act of 1974: System of Records

AGENCY: Department of Commerce.

ACTION: Notice to amend all Privacy Act System of Records.

SUMMARY: In accordance with the President's Identity Theft Task Force's Strategic Plan, the Department of Commerce (Commerce) publishes this notice to announce the effective date of a new routine use to be added to all Privacy Act System of Records.

DATES: The proposed new routine use becomes effective on September 24, 2007

ADDRESSES: For a copy of the system of records please mail requests to Brenda Dolan, U.S. Department of Commerce, Room 5327, 1401 Constitution Avenue, NW., Washington, DC 20230, 202–482–4258, *BDolan1@doc.gov*.

FOR FURTHER INFORMATION CONTACT: Brenda Dolan, U.S. Department of Commerce, Room 5327, 1401 Constitution Ave., NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: On August 10, 2007, the Commerce published and requested comments on a proposed new routine use to be added to all Privacy Act System of Records. The new routine use for all Commerce systems of records permits disclosure to appropriate persons or entities for purposes of response and remedial efforts in the event of a suspected or confirmed breach of the data contained in the systems. No comments were received in response to the request for comments. By this notice, the Department is adopting the new routine use as final without changes effective September 25, 2007.

Dated: September 18, 2007.

Brenda Dolan,

U.S. Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E7–18750 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–834]

Stainless Steel Sheet and Strip in Coils from the Republic of Korea; Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 24, 2007.

FOR FURTHER INFORMATION CONTACT: Irina Itkin, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0656.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2007, the Department of Commerce (the Department) published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on stainless steel sheet and strip in coils from the Republic of Korea (Korea) for the period July 1, 2006, through June 30, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 36420 (July 3, 2007). On July 30, 2007, DaiYang Metal Co., Ltd. (DMC), a Korean producer/exporter, requested a review of the antidumping duty order on stainless steel sheet and strip in coils from Korea in accordance with 19 CFR 351.213(b)(2).

On August 20, 2007, the Department initiated an administrative review for DMC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 48613, 48614 (Aug. 24, 2007).

Rescission of Review

On August 23, 2007, DMC withdrew its request for review in accordance with 19 CFR 351.213(d)(1). Section 351.213(d)(1) of the Department's regulations requires that the Secretary rescind an administrative review if a party requesting a review withdraws the request within 90 days of the date of

publication of the notice of initiation. Therefore, because DMC's request for an administrative review was timely withdrawn and the Department received no other requests for an administrative review of the antidumping duty order on stainless steel sheet and strip in coils from Korea, we are rescinding this review.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at the rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of this notice.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: September 17, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–18782 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Clean Energy Trade Mission, China and India, January 8–17, 2008

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce is organizing a Clean Energy Trade Mission to China and India, January 8–17, 2008. The trade mission will target a broad range of clean energy technologies such as renewable energy, biofuels, energy efficiency, clean coal, and distributed generation, and be led by Assistant Secretary of Commerce David Bohigian.

ITA seeks to match participating U.S. companies with prescreened partners, agents, distributors, representatives, licensees or retailers in each of these important sectors. In addition to one-on-one business meetings, the agenda will also include meetings with national and local government officials, networking opportunities, country briefings, and site visits.

This mission builds on the first U.S. Clean Energy Technologies Trade Mission, which took place in April 2007 and brought 17 U.S. companies to China and India. The trade mission takes place within the context of both the President's new international framework on climate change, energy security, and economic growth involving the 15 major economies (the Global-15), as well as the Asia-Pacific Partnership on Clean Development and Climate (APP).

On May 31, 2007, President Bush announced an effort to develop and implement the Global-15 framework by 2012, which would complement the current United Nations Framework Convention on Climate Change and advance the APP. The APP is a public-private partnership in which member countries work together to facilitate commercial deployment of technologies that reduce greenhouse gas emissions and enhance energy security.

DATES: Recruitment will begin immediately and will close on November 5, 2007. The Trade Mission will take place January 8–17, 2008.

FOR FURTHER INFORMATION CONTACT: Justin Rathke, U.S. Department of Commerce, E-mail: *cleanenergymission@mail.doc.gov*, Telephone: 202–482–7916, Mission Web site: *http://www.export.gov/cleanenergymission.*

SUPPLEMENTARY INFORMATION:

Commercial Setting

China

To decrease its dependence on traditional fossil energy, China seeks to lower its share of fossil fuel consumption in its energy mix and increase its use of alternative energy sources over the next five years. Recently, China unveiled an energy strategy as part of its Eleventh Five-Year Plan (2006–2010). The plan aims to double the country's renewable energy supply by 2020.

In another promising move, the Chinese Government passed the Law on Renewable Energy, which seeks to promote cleaner energy technologies and seeks to increase renewable energy to 10 percent of the country's electricity consumption by 2020 (up from roughly 3 percent in 2003). This law is partly responsible for the increase in new renewable energy projects, particularly in the areas of wind, solar, and biomass. Achieving the targets for wind energy alone (30 GW from 1.2 GW in 2005) will require $21–28 billion in investment. China invested $7 billion in renewable energy capacity in 2005.

More recently, China announced its first national plan to address climate change. The plan calls for a 20 percent reduction in energy consumption per unit of GDP by 2010 while increasing the use of renewable energy. The Chinese Government specified wind, nuclear and hydropower, as well as more energy-efficient coal-fired plants, as the technology approaches that it would use to achieve the reductions.

All these initiatives underscore China's intention to deploy cleaner and more efficient technologies. U.S. technology providers with accurate market information and a sound business strategy have the potential to take advantage of the growing Chinese clean energy market.

Beijing: With a population of over 15 million, Beijing is China's largest city. Its Gross Domestic Product (GDP) was $84 billion in 2005, an increase of 11.1% from the previous year. As the national capital, Beijing offers unparalleled access to Chinese policymakers. Since China's energy sector is regulated by the central government, interaction with these officials can be critical to a companies' success.

There is also a strong local market for clean energy technologies in Beijing, due to its size, its political and economic importance, and the poor environmental conditions caused by development. Beijing is unique in China in that it has provincial status, which enables its municipal government to approve independent foreign investment projects up to a value of $30 million. This has positioned Beijing as an attractive location for foreign investment in China. The selection of the city as host of the 2008 Summer Olympic Games has spurred substantial government investment in projects that improve environmental quality.

To facilitate trade and investment in clean energy technologies and help create commercial opportunities for mission participants, ITA is working with the Chinese Government to hold the first U.S.-China Clean Energy Technologies Industry Forum (CETIF). The creation of a U.S.-China CETIF would establish an annual forum designed to establish dialogue between U.S. and Chinese industry and appropriate government representatives on a variety of energy and environmental trade, technology, and policy issues. This event is expected to take place on Wednesday, January 9, 2008, and is open to all mission participants.

Guangzhou: Guangzhou is the economic center of the Pearl River Delta and is the heart of one of China's

leading commercial and manufacturing regions. With an estimated population of 12 million, Guangzhou is the third most populous metropolitan area in China. Its proximity to Hong Kong has provided the region with an influx of investment and fostered a Western business culture that has made Guangdong province one of the most developed provinces in the Pearl River Delta. In 2005, Guangdong's GDP rose to $278.9 billion, ranking first in the country and accounting for about 10 percent of the national GDP. By the end of 2006, Guangdong had received $177.37 billion in total stock of foreign direct investment (FDI), representing one fourth of the national total, and accounted for 40 percent of all international trade between China and other countries.

The Pearl River Delta has experienced serious environmental problems due to its rapid industrialization and heavy manufacturing base. The Guangdong Government has budgeted 3 percent of its GDP for overall environmental spending during the Eleventh Five-Year Plan, more than $8 billion.

Strong commercial prospects for Guangdong include energy efficiency and cleaner production technologies, combined heat and power, wind energy, solar energy, hydropower, biogas, and waste-to-energy. The Guangdong Government plans to spend $726 million between 2005 and 2010 and $1.93 billion between 2010 and 2020 on wind power projects, and China's renewable energy law contains incentives to make wind power more cost competitive with coal-fired generation. The city of Guangzhou plans to treat 90 percent of its solid waste using waste-to-energy plants.

Hong Kong: Hong Kong is affected by pollution from the mainland and particularly from Guangdong Province and the Pearl River Delta. The Pollution Prevention and Energy Efficiency (P2E2) environmental financing program is designed to address this issue and to develop business opportunities for U.S. companies. Through financial support from the Asian Development Bank, International Finance Corporation, and U.S. Export-Import Bank, the P2E2 program encourages Hong Kong-based Environment and Energy Service Companies (EESCOs) to develop pollution prevention and energy efficiency projects throughout mainland China and other developing Asian countries. These projects focus on correcting production and energy consumption inefficiencies in existing manufacturing plants and other facilities, thereby creating cost savings while addressing the region's growing pollution problem. The technology upgrades required to complete these projects provide significant opportunities for American technology vendors.

India

India is experiencing dramatic economic growth and a rapidly increasing demand for energy. Currently the world's sixth-largest energy consumer, India will be the third largest by 2030. Both India's cities and villages lack adequate energy supply, so there is need to add on-grid and off-grid power generation. The Government of India has specified renewable energy in its development plans and has developed numerous government incentives. The federal government has set a goal of electrifying 18,000 remote villages and meeting 10 percent of its energy demand with clean energy by 2012. The Indian market for clean energy is estimated at $600 million with an annual growth rate of 25 percent. The current 8,000 MW of installed capacity is expected to reach 20,000 MW by 2012.

The clean energy market in India offers strong business prospects to U.S. companies, particularly in solar, biomass, gasification, wind, hydro, and solid and industrial waste-to-energy. The market for energy efficiency is estimated to be about $2 billion, concentrated especially in energy-intensive industries such as cement, aluminum, fertilizers, pulp and paper, petrochemicals, and steel.

Kolkata: With a metropolitan population of 13 million, Kolkata (formerly Calcutta) is the capital of the state of West Bengal. Kolkata is the main commercial and financial hub of eastern India, which is home to a population of 280 million people living in 12 states and contributing 22 percent of India's annual net domestic product. The Communist party-led state government has in recent years adopted more investor-friendly policies, which has led to regional growth, consistently among the highest in all of India. Over 100 U.S. firms have a presence in Kolkata in sectors such as IT, mining, chemicals and petrochemicals, food processing, financial services, consumer goods, and engineering. Significant opportunities are emerging in infrastructure development projects, including power generation.

West Bengal is implementing one of the largest clean energy programs in India, covering a broad spectrum of energy technologies such as solar thermal, solar photovoltaic, wind turbines, micro-turbines, biogas plants, biomass gasifiers, small hydro and tidal power. The total current generation from renewable sources is about 62 MW, and another 100 MW in renewable power capacity is being added through $183 million in private investment in the next two years. Much more private investment is being sought to meet the State's rapidly growing energy demands.

Bangalore: With a population of 7 million, Bangalore is the capital of the State of Karnataka and is ''the Silicon Valley of India.'' Also known as the Knowledge Capital and Biotechnology Capital, the city is India's high-profile Information Technology (IT) center. In addition to its thriving IT and biotech sectors, Bangalore is the hub of India's aerospace, electronics, machine tools, automation and food processing industries. These growing industrial and commercial entities need access to reliable energy and the State of Karnataka is known for its clean energy initiatives.

The state agency in this sector, the Karnataka Renewable Energy Development Ltd. (KREDL), is widely known as one of the most progressive in India and has many programs to promote clean energy. Karnataka currently has 1,600 MW of installed renewable energy capacity. This is expected to reach 2,500 MW by 2012. The wind sector is witnessing very high growth rates, and the State has plans to increase installed wind capacity (especially in and around the Chitradurga area of the State) at the rate of 200 MW per year. Biomass cogeneration, solar, and small hydro are also areas of high growth.

Mission Goals: The Trade Mission will facilitate market entry or increased sales into these significant markets for U.S. clean energy technologies and services firms, and to assist mission participants in gaining first-hand market information and access to key government officials and potential business partners.

Mission Scenario: In China and India, the International Trade Administration will:

- Provide a market briefing highlighting opportunities in the clean energy technologies sectors.
- Schedule one-on-one appointments with potential business partners for each participant.
- Provide a venue for the one-on-one appointments and provide interpreters as needed.
- Provide networking opportunities with the private and public sectors.
- Organize relevant site visits.

Proposed Mission Timetable:

Tuesday, January 8, 2008. Arrive in Beijing, Embassy Briefing, Welcome Reception.

Wednesday, January 9, 2008. U.S.-China Clean Energy Technologies Industry Forum, One-on-One Business Meetings, Networking Reception.

Thursday, January 10, 2008. Meeting with China's National Development and Reform Commission, Site Visit, One-on-One Business Meetings (Optional), Depart Beijing, Arrive Guangzhou.

Friday, January 11, 2008. Consulate Briefing, Local Government Meetings, One-on-One Business Meetings, Depart Guangzhou, Arrive Hong Kong.

Saturday, January 12, 2008. Clean Energy Finance Seminars and Networking Events in Hong Kong.

Sunday, January 13, 2008. Depart Hong Kong, Arrive Kolkata.

Monday, January 14, 2008. Consulate Briefing, Local Clean Energy Market Briefing, One-on-One Business Meetings, Networking Reception.

Tuesday, January 15, 2008.
Depart Kolkata,
Arrive Bangalore,
Local Clean Energy Market Briefing,
Consulate Briefing,
Dinner or Reception.

Wednesday, January 17, 2008.
Government/Business Meetings,
One-on-One Business Meetings,
Dinner or Reception.

Thursday, January 18, 2008.
Depart Bangalore.

(It is possible for companies to participate in one or both countries of this trade mission.)

Criteria for Participation:

- Relevance of the company's business line to the mission scope and goals;
- Potential for business in the selected markets;
- Timeliness of the company's completed application, participation agreement, and payment of the mission participation fee;
- Provision of adequate information on the company's products and/or services and communication of the company's primary objectives to facilitate appropriate matching with potential business partners;
- Certification that the company's products and/or services are manufactured or produced in the United States or, if manufactured/produced outside of the United States, the products/services must be marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished goods or services; and
- Diversity of sectors represented.

Any partisan political activities of an applicant, including political contributions, will be entirely irrelevant to the selection process.

The mission will be promoted through the following venues: ITA's Export Assistance Centers, the Energy Team, the Asia Pacific Team, the Africa, Near East, and South Asia Team, Global Trade Programs; the Trade Events List *http://www.export.gov;* industry newsletters; the **Federal Register**; the Asia-Pacific Partnership for Clean Development and Climate; relevant trade publications; relevant trade associations; past Commerce trade mission participants; various in-house and purchased industry lists; the Commerce Department trade missions calendar: *http://www.ita.doc.gov/doctm/tmcal.html;* and the Web: *http://www.export.gov/cleanenergymission.*

Recruitment will begin immediately and will close on November 5, 2007. Qualified U.S companies/applicants will be selected on a rolling basis. The trade mission participation fee will be U.S.$3,500 per company. (If a company would like to participate in just the China or India portion of the trade mission, the participation fee will be $1,750) There will be an additional fee of $750 per country for each additional participant a company sends. The participation fee does not include the cost of travel, lodging, some ground transportation, or some meals. Participation is open to 25 qualified U.S. companies. Invited companies must submit the trade mission participation fee and completed participation agreement within two weeks of receipt of their invitation in order to secure their place in the mission. After that time other companies may be invited to fill that spot. Applications received after the closing date will be considered only if space and scheduling constraints permit.

Dated: September 12, 2007.

Stephen Jacobs,

Deputy Assistant Secretary of Commerce for Market Access & Compliance.

[FR Doc. 07–4681 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Announcement of Great Bay National Estuarine Research Reserve Revised Management Plan Including a Boundary Expansion

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 Approval and Availability of the Revised Management Plan for the Great Bay 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 has approved the revised management plan and expansion of the boundary for the Great Bay National Estuarine Research Reserve.

The Great Bay Reserve was designated in 1989 pursuant to section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. The reserve has been operating under a management plan approved in 1989. Pursuant to 15 CFR 921.33(c), a state must revise their management plan every five years. The submission of this plan fulfills this requirement and sets a course for successful implementation of the goals and objectives of the reserve.

The mission of the Great Bay Reserve is to promote informed management of the Great Bay estuary and estuarine habitats through linked programs of stewardship, public education, and scientific understanding.

The management plan establishes goals consistent with the reserve's mission. These goals cover three general areas: (1) Protect and improve habitat and biological diversity within the boundary of the Reserve, (2) improve decisions affecting estuarine and coastal resources, and (3) promote education, stewardship, and scientific research focusing on estuarine ecosystems. Organized in a framework of programmatic goals and objectives, the Great Bay Reserve's management plan identifies specific strategies or actions for research, education/interpretation, public access, construction, acquisition, and resource protection, restoration, and manipulation. Overall, the plan seeks to accomplish the mission of the reserve by facilitating scientific research, encouraging stewardship, and addressing the local education and outreach needs.

Specifically, stewardship is encompassed under resource protection, habitat restoration, and resource manipulation plans. These plans address reserve efforts to evaluate natural and anthropogenic processes that affect the reserve and its habitats, support for research and monitoring of important resources, restore and protect natural habitats and to actively educate

the public to inform resource management.

Research and monitoring support independent research projects within the reserve and its vicinity with resources and background data. Staff and visiting researchers conduct monitoring and research within the boundaries of the reserve and Great Bay watershed and use GIS to map critical habitats. Research and monitoring results are made available to others and are translated to public and private users through education, training and outreach programs.

Education at the reserve targets a wide variety of audiences including students, teachers, adults, resource users and coastal decision-maker audiences. The reserve's comprehensive approach to education including a K–12 education program, outreach and a coastal training program are designed to increase knowledge about estuaries for target audiences.

Public access at Great Bay Reserve includes improving and enhancing water access to facilitate the implementation of reserve programs. Also, the reserve will reduce impacts on natural resources and maximize public outreach by designating specific areas (*i.e.*, boardwalks) and create guidelines for public access.

Administration at the reserve includes supporting the staffing and budget necessary to carry out the goals and objectives of the plan. The administration of the Great Bay Reserve is a collective effort involving the New Hampshire Department of Fish and Game, other state or local agencies and organizations, and the Reserve Advisory Committee. An established administrative framework implements and coordinates Reserve programs under the plan.

The boundary expansion incorporates additional open water and salt marsh in Little Bay and up to the first dams of five of the seven tidal rivers, namely: Bellamy River, Oyster River, Lamprey River, Squamscott River, and Winnicut River. Additional upland includes parcels purchased through the Nature Conservancy (TNC) on behalf of the Great Bay Resource Protection Partnership and transferred to New Hampshire Fish and Game Department, and the rest of the Great Bay National Wildlife Refuge. The expansion provides a broader and more representative diversity of wetland and water habitats. The new boundary of the reserve includes tidal freshwater riverine, emergent and forested wetland communities that are necessary to protect the ecological units of the natural estuarine system for research purposes.

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.

Dated: September 14, 2007.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E7–18773 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS or Sanctuary) is seeking applicants for both primary and alternate members of the following seats on its Sanctuary Advisory Council, (Council): Education, Fishing, Hawaii County, Honolulu County, Kauai County, Maui County, Native Hawaiian, and Research. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve 2-year terms, pursuant to the Council's Charter.

DATES: The application deadline has been extended until October 5, 2007.

ADDRESSES: Application kits may be obtained from Mary Grady, 6600 Kalanianaole Hwy, Suite 301, Honolulu, HI 96825 or *Mary.Grady@noaa.gov*. Completed applications should be sent to the same address. Applications are also available online at *http://hawaiihumpbackwhale.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Naomi McIntosh, 6600 Kalanianaole Hwy, Suite 301, Honolulu, HI 96825 or *Naomi.McIntosh@noaa.gov* or 808.397.2651.

SUPPLEMENTARY INFORMATION: The HIHWNMS Advisory Council was established in March 1996 to assure continued public participation in the management of the Sanctuary. Since its establishment, the Council has played a vital role in the decisions affecting the Sanctuary surrounding the main Hawaiian Islands.

The Councils's twenty-four voting members represent a variety of local user groups, as well as the general public, plus ten local, state and federal governmental jurisdictions.

The Council is supported by three committees: A Research Committee chaired by the Research Representative, an Education Committee chaired by the Education Representative, and a Conservation Committee chaired by the Conservation Representative, each respectively dealing with matters concerning research, education and resource protection.

The Council represents the coordination link between the Sanctuary and the state and federal management agencies, user groups, researchers, educators, policy makers, and other various groups that help to focus efforts and attention on the humpback whale and its habitat around the main Hawaiian Islands.

The Council functions in an advisory capacity to the Sanctuary Manager and is instrumental in helping to develop policies and program goals, and to identify education, outreach, research, long-term monitoring, resource protection and revenue enhancement priorities. The Council works in concert with the Sanctuary Manager by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Manager in achieving the goals of the Sanctuary program within the context of Hawai'i's marine programs and policies.

Authority: 16 U.S. C. Sections 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

September 17, 2007

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Ocean Services, National Oceanic and Atmospheric Administration.

[FR Doc. 07–4706 Filed 9-21–07; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the *Monitor* National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The *Monitor* National Marine Sanctuary (MNMS or Sanctuary) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): Recreational Diving; Maritime Archaeological Research; Conservation; Heritage Tourism; and Citizen-At-Large.

Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve 2-year terms, pursuant to the Council's Charter.

DATES: Applications are due by November 9, 2007.

ADDRESSESS: Application kits may be obtained on the Web (*http://monitor.noaa.gov*) or from: Krista Trono, *Monitor* National Marine Sanctuary, 100 Museum Drive, Newport News, VA 23606. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Krista Trono, Communications Coordinator, *Monitor* National Marine Sanctuary, 100 Museum Drive, Newport News, VA 23606. (757) 591–7328, Fax: (757) 591–7353, *Krista.Trono@noaa.gov*.

SUPPLEMENTARY INFORMATION: The MNMS Advisory Council was established in 2005 and representation currently consists of twelve members, including four government agency representatives and eight members from the general public. The Council functions in an advisory capacity to the Sanctuary Manager. The Council works in concert with the Sanctuary Manager by keeping him or her informed about issues of concern throughout the Sanctuary, offering recommendations on specific issues, and aiding the Manager in achieving the goals of the Sanctuary program. Specifically, the Council's objectives are to provide advice on: (1) Protecting cultural resources, and identifying and evaluating emergent or critical issues involving Sanctuary use or resources; (2) identifying and realizing the Sanctuary's research objectives; (3) identifying and realizing educational opportunities to increase the public knowledge and stewardship of the Sanctuary environment; and (4) assisting to develop an informed constituency to increase awareness and understanding of the purpose and value of the Sanctuary and the Office of National Marine Sanctuaries.

Authority: 16 U.S.C. Sections 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: September 17, 2007.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Oceanic and Atmospheric Administration.

[FR Doc. 07–4705 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

Marine Protected Areas Federal Advisory Committee; Public Meeting

AGENCY: National Ocean Service, NOAA, Department of Commerce

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of a meeting of the Marine Protected Areas Federal Advisory Committee (MPA FAC) in Alpena, Michigan.

DATES: The meeting will be held Tuesday, October 23, 2007, from 8:30 a.m. to 5 p.m., Wednesday, October 24, 2007, from 8 a.m. to 5 p.m., and Thursday, October 25, 2007, from 8 a.m. to 3:45 p.m. These times and the agenda topics described below are subject to change. Refer to the Web page listed below for the most up-to-date meeting agenda.

ADDRESSES: The meeting will be held at the Great Lakes Maritime Heritage Center, 500 West Fletcher Street, Apena, Michigan 49707.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, Designated Federal Officer, MPA, FAC, National Marine Protected Areas Center, 1305 East West Highway, Silver Spring, Maryland 20910. (Phone: 301–713–3100 x136, Fax: 301–713–3110; e-mail: *lauren.wenzel@noaa.gov;* or visit the National MPA Center Web site at *http://www.map.gov*).

SUPPLEMENTARY INFORMATION: The MPA FAC, composed of external, knowledgeable representatives of stakeholder groups, was established by the Department of Commerce (DOC) to provide advice to the Secretaries of Commerce and the Interior on implementation of Section 4 of Executive Order 13158 on MPAs. The meeting will be open to public participation from 4:15 p.m. to 5 p.m. on Tuesday, October 23, 2007, and from 8:05 a.m. to 9:05 a.m. on Thursday, October 25, 2007. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. If members of the public wish to submit written statements, they should be submitted to the Designated Federal Official by October 19, 2007.

Matters to be Considered: The MPA FAC will work in Subcommittees and as a full Committee to develop recommendations for the Department of Commerce and the Department of the Interior on the regional coordination of the national system of marine protected areas; incentives; and natural and social science needed to support the national system. The Agenda is subject to change, and the latest version will be posted at *http://www.mpa.gov.*

Dated: September 17, 2007.

David M. Kennedy,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 07–4704 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC76

U.S. Climate Change Science Program Synthesis and Assessment Product Draft Report 5.1 ''Uses and limitations of observations, data, forecasts, and other projections in decision support for selected sectors and regions''

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publishes this notice to announce a 45-day public comment period for the draft report titled, U.S. Climate Change Science Program Synthesis and Assessment Product 5.1: ''Uses and limitations of observations, data, forecasts, and other

projections in decision support for selected sectors and regions.''

This draft document is being released solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by NOAA. It does not represent and should not be construed to represent any Agency policy or determination. After consideration of comments received on the draft report, a revised version along with the comments received will be published on the CCSP Web site.

DATES: Comments must be received by November 8, 2007.

ADDRESSES: The draft Synthesis and Assessment Product 5.1: ''Uses and limitations of observations, data, forecasts, and other projections in decision support for selected sectors and regions'' is posted on the CCSP Web site at: *http://www.climatescience.gov/Library/sap/sap5–1/public-review-draft/default.htm*

Detailed instructions for making comments on the draft Report are provided on the SAP 5.1 Web page. Comments should be prepared and submitted in accordance with these instructions to: *5.1-observations_DecisionSupport@usgcrp.gov*

FOR FURTHER INFORMATION CONTACT: Dr. Fabien Laurier, Climate Change Science Program Office, 1717 Pennsylvania Avenue, NW., Suite 250, Washington, DC 20006, Telephone: (202) 419–3481.

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global change and climate change sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that promote climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues.

Dated: September 18, 2007.

William J. Brennan,

Deputy Assistant Secretary of Commerce for International Affairs, and Acting Director, Climate Change Science Program.

[FR Doc. E7–18790 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN XC74

U.S. Climate Change Science Program Synthesis and Assessment Draft Prospectus 2.3

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publish this notice to announce the availability of the draft Prospectus for one of the U.S. Climate Change Science Program (CCSP) Synthesis and Assessment Products for public comment. This draft Prospectus addresses the following CCSP Topic:Product 2.3 ''Aerosol properties and their impacts on climate.''After consideration of comments received on the draft Prospectus, the final Prospectus along with the comments received will be published on the CCSP web site.

DATES: Comments must be received by October 24, 2007.

ADDRESSES: The draft Prospectus is posted on the CCSP Program Office web site. The web addresses to access the draft Prospectus is: *http://www.climatescience.gov/Library/sap/sap2–3/default.php*

Detailed instructions for making comments on the draft Prospectus is provided on the document's web address (see link here). Comments should be prepared in accordance with these instructions.

FOR FURTHER INFORMATION CONTACT: Dr. Fabien Laurier, Climate Change Science Program Office, 1717 Pennsylvania Avenue NW., Suite 250, Washington, DC 20006, Telephone: (202) 419–3481.

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global change and climate change sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that support climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues. The Prospectus addressed by this notice provides a topical overview and describes plans for scoping, drafting, reviewing, producing, and disseminating one of 21 final synthesis and assessment Products that will be produced by the CCSP.

Dated: September 18, 2007.

William J. Brennan,

Deputy Assistant Secretary of Commerce for International Affairs, and Acting Director, Climate Change Science Program.

[FR Doc. E7–18818 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–12–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) 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: United States Patent and Trademark Office (USPTO), Department of Commerce.

Title: Trademark Trial and Appeal Board (TTAB) Actions.

Form Number(s): PTO 2120, PTO 2151, PTO 2153, PTO 2188 through PTO 2190.

Agency Approval Number: 0651–0040.

Type of Request: Revision of a currently approved collection.

Burden: 18,311 hours annually.

Number of Respondents: 79,000 responses per year with an estimated 62,150 responses filed electronically.

Avg. Hours Per Response: The USPTO estimates that it will take the public between 10 to 45 minutes (0.17 to 0.75 hours), depending upon the complexity of the situation, to gather the necessary information, prepare, and submit the forms and requirements in this collection. The USPTO believes that it will take the same amount of time (and possibly less time) to gather the necessary information, prepare the submission, and submit it electronically as it does to submit the information in paper form.

Needs and Uses: Individuals or entities who believe that they would be damaged by the registration of a trademark or service mark may file an opposition to the registration of that mark or request an extension of time to file an opposition under section 13 of the Trademark Act, 15 U.S.C. 1063. Section 14 of the Trademark Act, 15 U.S.C. 1064 allows individuals and entities, who believe that they are or will be damaged by the registration of a mark, to file a petition to cancel the registration of that mark. Individuals or entities may also appeal any final decision of the Trademark Examining Attorney assigned to review an

application for registration of a mark under section 20 of the Trademark Act, 15 U.S.C. 1070. The USPTO administers the Trademark Act according to 37 CRF Part 2. These actions are governed by the Trademark Trial and Appeal Board (TTAB), an administrative tribunal empowered to determine the right to register and subsequently determine the validity of a trademark. If a mark is successfully opposed or canceled, registration will not take place. There are no paper forms associated with this collection; however, this collection contains two suggested formats and six electronic forms available through the Electronic System for Trademark Trials and Appeals (ESTTA).

Affected Public: Business or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by any of the following:

E-mail: Susan.Fawcett@uspto.gov. Include ''0651–0040 copy request'' in the subject line of the message.

Fax: 571–273–0112, marked to the attention of Susan K. Fawcett.

Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before October 24, 2007 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: September 17, 2007.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division.

[FR Doc. E7–18739 Filed 9–21–07; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DOD–2007–OS–0104]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), DoD.

ACTION: Notice of proposed amendments to the Manual for Courts-Martial, United States (2005 ed.) and notice of public meeting.

SUMMARY: The Department of Defense is considering recommending changes to the *Manual for Courts-Martial, United States* (2005 ed.) (MCM). The proposed changes constitute the 2007 annual review required by the MCM and DoD Directive 5500.17, ''Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice,'' May 3, 2003. The proposed changes concern the rules of procedure and evidence and the punitive articles applicable in trials by courts-martial. These proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, ''Preparation, Processing and Coordinating Legislation, Executive Orders, Proclamations, Views Letters Testimony,'' June 15, 2007, and do not constitute the official position of the Department of Defense, the Military Departments, or any other Government agency.

This notice also sets forth the date, time and location for the public meeting of the JSC to discuss the proposed changes.

This notice is provided in accordance with DoD Directive 5500.17, ''Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice,'' May 3, 2003. This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

In accordance with paragraph III.B.4 of the Internal Organization and Operating Procedures of the JSC, the committee also invites members of the public to suggest changes to the Manual for Courts-Martial in accordance with the described format.

DATES: Comments on the proposed changes must be received no later than November 27, 2007 to be assured consideration by the JSC. A public meeting will be held on October 19, 2007 at 10 a.m. in the 14th Floor Conference Room, 1777 N. Kent St., Rosslyn, VA 22209–2194.

ADDRESSES: You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Thomas E. Wand, Executive Secretary, Joint Service Committee on Military Justice, Air Force Legal Operations Agency, Military Justice Division, 112 Luke Avenue, Suite 343, Bolling Air Force Base, DC 20032, (202) 767–1539, e-mail *Thomas.wand@pentagon.af.mil.*

SUPPLEMENTARY INFORMATION: The proposed amendments to the MCM are as follows:

Section 1. Part II of the Manual for Courts-Martial, United States, is amended as follows:

(a) R.C.M. 103 is amended by adding the following new subparagraph (20) and re-designating the current subparagraph (20) as subparagraph (21):

''(20) ''Writing'' includes printing and typewriting and reproductions of visual symbols by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.''

(b) R.C.M. 1103(b)(2)(B) is amended to read as follows:

''(B) *Verbatim transcript required.* Except as otherwise provided in subsection (j) of this rule, the record of trial shall include a verbatim transcript of all sessions except sessions closed for deliberations and voting when:''

(c) R.C.M. 1103(e) is amended to read as follows:

''(e) *Acquittal; courts-martial resulting in findings of not guilty only by reason of lack of mental responsibility; termination prior to findings; termination after findings.* Notwithstanding subsections (b), (c), and (d) of this rule, if proceedings resulted in an acquittal of all charges and specifications, in a finding of not guilty only by reason of lack of mental responsibility of all charges and specifications, or if the proceedings were terminated by withdrawal, mistrial, or dismissal before findings, or if the proceedings were terminated after findings by approval of an

administrative discharge in lieu of court-martial, the record may consist of the original charge sheet, a copy of the convening order and amending orders (if any), and sufficient information to establish jurisdiction over the accused and the offenses (if not shown on the charge sheet). The convening authority or higher authority may prescribe additional requirements.''

(d) R.C.M. 1103(g)(1)(A) is amended to read as follows:

''(A) *In general.* In general and special courts-martial which require a verbatim transcript under subsections (b) or (c) of this rule and are subject to a review by a Court of Criminal Appeals under Article 66, the trial counsel shall cause to be prepared an original record of trial.''

(e) R.C.M. 1103(j)(2) is amended to read as follows:

''(2) *Preparation of written record.* When the court-martial, or any part of it, is recorded by videotape, audiotape, or similar material under subsection (j)(1) of this rule, a written, as defined in R.C.M. 103, transcript or summary as required in subsection (b)(2)(A), (b)(2)(B), (b)(2)(C), or (c) of this rule, as appropriate, shall be prepared in accordance with this rule and R.C.M. 1104 before the record is forwarded under R.C.M. 1104(e), unless military exigencies prevent transcription.''

(f) R.C.M. 1104(a)(1) is amended to read as follows:

''(1) *In general.* A record is authenticated by the signature of a person specified in this rule who thereby declares that the record accurately reports the proceedings. An electronic record of trial may be authenticated with the electronic signature of the military judge or other authorized person. Service of an authenticated electronic copy of the record of trial with a means to review the record of trial satisfies the requirement of service under R.C.M. 1105(c) and 1305(d). No person may be required to authenticate a record of trial if that person is not satisfied that it accurately reports the proceedings.''

(g) R.C.M. 1106(d) is amended to read as follows:

''(d) *Form and content of recommendation.*

(1) The purpose of the recommendation of the staff judge advocate or legal officer is to assist the convening authority to decide what action to take on the sentence in the exercise of command prerogative. The staff judge advocate or legal officer shall use the record of trial in the preparation of the recommendation, and may also use the personnel records of the accused or other matters in advising the convening authority whether clemency is warranted.

(2) *Form.* The recommendation of the staff judge advocate or legal officer shall be a concise written communication.

(3) *Required contents.* The staff judge advocate or legal advisor shall provide the convening authority with a copy of the report of results of trial, setting forth the findings, sentence, and confinement credit to be applied, a copy or summary of the pretrial agreement, if any, any recommendation for clemency by the sentencing authority, made in conjunction with the announced sentence, and the staff judge advocate's concise recommendation.''

(h) R.C.M. 1111 is amended by inserting the following sentence at the end of the rule:

''Forwarding of an authenticated electronic copy of the record of trial satisfies the requirements under this rule.''

(i) R.C.M. 1113 is amended by adding the following new subparagraph (d) and re-designating the current subparagraph (d) as subparagraph (e):

''(d) *Self-executing punishments.* Under regulations prescribed by the Secretary concerned, a dishonorable or bad conduct discharge that has been approved by an appropriate convening authority may be self-executing after final judgment at such time as:

(1) The accused has received a sentence of no confinement or has completed all confinement;

(2) The accused has been placed on excess or appellate leave; and,

(3) The appropriate official has certified that the accused's case is final. Upon completion of the certification, the official shall forward the certification to the accused's personnel office for preparation of a final discharge order and certificate.''

(j) R.C.M. 1114(a) is amended by inserting the following as subsection (a)(4):

''(4) *Self-executing final orders.* An order promulgating a self-executing dishonorable or bad conduct discharge need not be issued. The original action by a convening authority approving a discharge and certification by the appropriate official that the case is final may be forwarded to the accused's personnel office for preparation of a discharge order and certificate.''

(k) R.C.M. 1305(b) is amended by changing the first sentence to read as follows:

''(b) *Contents.* The summary court-martial shall prepare a written record of trial, which shall include:''

(l) R.C.M. 1305(c) is amended to read as follows:

''(c) *Authentication.* The summary court-martial shall authenticate the record by signing the record of trial. An electronic record of trial may be authenticated with the electronic signature of the summary court-martial.''

(m) R.C.M. 1305(d)(1)(A) is amended to read as follows''

''(A) *Service.* The summary court-martial shall cause a copy of the record of trial to be served on the accused as soon as it is authenticated. Service of an authenticated electronic copy of the record of trial with a means to review the record of trial satisfies the requirement of service under this rule.''

(n) R.C.M. 1306(b)(3) is amended to read as follows:

''(3) *Signature.* The action on the record of trial shall be signed by the convening authority. The action on an electronic record of trial may be signed with the electronic signature of the convening authority.''

Section 2. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 14, Article 90, Assaulting or willfully disobeying superior commissioned officer, paragraph c.(2)(g) is amended to read as follows:

''c.(2)(g) *Time for compliance.* When an order requires immediate compliance, an accused's declared intent not to obey and the failure to make any move to comply constitutes disobedience. Immediate compliance is required for any order which does not explicitly or implicitly indicate that delayed compliance is authorized or directed. If an order requires performance in the future, an accused's present statement of intention to disobey the order does not constitute disobedience of that order, although carrying out that intention may.''

(b) Paragraph 44, Article 119, Manslaughter, paragraph b. is amended to read as follows:

''b. *Elements.*

(1) Voluntary manslaughter.

(a) That a certain named or described person is dead;

(b) That the death resulted from the act or omission of the accused;

(c) That the killing was unlawful; and

(d) That, at the time of the killing, the accused had the intent to kill or inflict great bodily harm upon the person killed.

Note: Add the following if applicable.

(e) That the person killed was a child under the age of 16 years.

(2) Involuntary manslaughter.

(a) That a certain named or described person is dead;

(b) That the death resulted from the act or omission of the accused;

(c) That the killing was unlawful; and

(d) That this act or omission of the accused constituted culpable negligence, or occurred while the accused was perpetrating or attempting to perpetrate an offense directly affecting the person other than burglary, sodomy, rape, robbery, or aggravated arson.

Note: Add the following if applicable.

(e) That the person killed was a child under the age of 16 years.''

(c) Paragraph 44, Article 119, Manslaughter, paragraph c.(1)(c) is added following paragraph c.(1)(b):

''(c) *When committed upon a child under 16 years of age.* The maximum punishment is increased when voluntary manslaughter is committed upon a child under 16 years of age. The accused's knowledge that the child was under 16 years of age at the time of the offense is not required for the increased maximum punishment.''

(d) Paragraph 44, Article 119, Manslaughter, paragraph c.(2)(c) is added following paragraph c.(2)(b):

''(c) *When committed upon a child under 16 years of age.* The maximum punishment is increased when involuntary manslaughter is committed upon a child under 16 years of age. The accused's knowledge that the child was under 16 years of age at the time of the offense is not required for the increased maximum punishment.''

(e) Paragraph 44, Article 119, Manslaughter, paragraph e.(3) is added following paragraph e.(2):

''(3) *Voluntary manslaughter of a child under 16 years of age.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.''

(f) Paragraph 44, Article 119, Manslaughter, paragraph e.(4) is added following paragraph e.(3):

''(4) *Involuntary manslaughter of a child under 16 years of age.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.''

(g) Paragraph 44, Article 119, Manslaughter, paragraph f. is amended to read as follows:

''f. *Sample specifications.*

(1) *Voluntary manslaughter.*

In that _____(personal jurisdiction data), did, (at/on board—location) (subject matter jurisdiction data, if required), on or about _____, willfully and unlawfully kill _____, (a child under 16 years of age) by _____him/her (in) (on) the _____with a _____.

(2) *Involuntary manslaughter.*

In that _____(personal jurisdiction data), did, (at/on board location) (subject matter jurisdiction data, if required), on or about _____, (by culpable negligence) (while (perpetrating) (attempting to perpetrate) an offense directly affecting the person of _____, to wit: (maiming) (a battery) (_____)) unlawfully kill _____(a child under 16 years of age) by _____him/her (in) (on) the _____with a _____.''

Section 3. These amendments shall take effect on [30 days after signature].

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to [30 days after signature] that was not punishable when done or omitted.

(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceedings, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to [30 days after signature], and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

THE WHITE HOUSE

Changes to the Discussion Accompanying the Manual for Courts Martial, United States

(a) The following Discussion is added immediately after R.C.M. 103(20):

''The definition of 'writing' includes letters, words, or numbers set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or any other form of data compilation. This section makes it clear that computers and other modern reproduction systems are included in this definition, and consistent with the definition of 'writing' in Military Rule of Evidence 1001. The definition is comprehensive, covering all forms of writing or recording of words or word-substitutes.''

(b) The Discussion immediately following R.C.M. 1103(g)(1)(A) is amended to read as follows:

''An original record of trial includes any record of the proceedings recorded in a form that satisfies the definition of a 'writing' in R.C.M. 103. Any requirement to prepare a printed record of trial pursuant to this rule, either in lieu of or in addition to a record of trial recorded or compiled in some other format, including electronic or digital formats, is subject to service regulation.''

Changes to Appendix 11, Forms of Sentences

(a) a. is amended to read as follows:

''a. *Announcement of sentence*

See R.C.M. 1007

In announcing the sentence, the president or, in cases tried by military judge alone, the military judge should announce:

''(Name of accused), this court-martial sentences you .''

The sentence should now be announced following one of the forms contained in *b* below, or any necessary modification or combination thereof. Each of the forms of punishment prescribed in *b* are separate, that is, the adjudging of one form of punishment is not contingent upon any other punishment also being adjudged. The forms in *b*, however, my be combined and modified so long as the punishments adjudged is not forbidden by the code and does not exceed the maximum authorized by this Manual (*see* R.C.M. 1003 and Part IV) in the particular case being tried. In announcing a sentence consisting of combined punishments, the president or military judge may, for example, state:

''To forfeit all pay and allowances, to be reduced to Private, E–1, to be confined for one year, and to be dishonorably discharged from the service.''

''To forfeit $350.00 pay per month for six months, to be confined for six months, and to be discharged from the service with a bad conduct discharge.''

''To forfeit all pay and allowances, to be confined for one year and to be dismissed from the service.''

''To forfeit $250.00 pay per month for one month, and to perform hard labor without confinement for one month.''''

Changes to Appendix 12, Maximum Punishment Chart

Appendix 12 is amended as follows:

(a) Amend Article 119 by inserting the following:

''Voluntary manslaughter of a child under the age of 16 years DD, BCD 20 yrs. Total.

Involuntary manslaughter of a child under the age of 16 years DD, BCD 15 yrs. Total''.

Changes to Appendix 22, Analysis of the Military Rules of Evidence

(a) Amend the Analysis accompanying Mil. R. Evid. 801(d)(1)(B) to read as follows:

''Rule 801(d)(1)(B) makes admissible as substantive evidence on the merits a statement consistent with the in-court testimony of the witness and ''offered to

rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive.'' Unlike Rule 801(d)(1)(A), the earlier consistent statement need not have been made under oath or at any type of proceeding. On its face, the Rule does not require that the consistent statement offered have been made prior to the time the improper influence or motive arose or prior to the alleged recent fabrication. Notwithstanding this, the Supreme Court has read such a requirement into the rule. *Tome* v. *United States,* 513 U.S. 150 (1995); *see also United States* v. *Allison,* 49 M.J. 54 (C.A.A.F. 1998). The limitation does not, however, prevent admission of a consistent statement made after an inconsistent statement but before the improper influence or motive arose. *United States* v. *Scholle,* 553 F. 2d 1109 (8th Cir. 1977). Rule 801(d)(1)(B) provides a possible means to admit evidence of fresh complaint in prosecution of sexual offenses. Although limited to circumstances in which there is a charge, for example, of recent fabrication, the Rule, when applicable, would permit not only fact of fresh complaint, as is presently possible, but also the entire portion of the consistent statement.''

Dated: September 18, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. E7–18787 Filed 9–21–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Defense Science Board Task Force on Nuclear Weapons Surety will meet in closed session on October 10–11, 2007; at the Institute for Defense Analyses, 4850 Mark Center Drive, Alexandria, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting, the Defense Science Board Task Force will: Assess all aspects of nuclear weapons surety; continue to build on the work of the former Joint Advisory Committee on Nuclear Weapons Surety, the Nuclear C2 System End-to-End Review and the Drell Panel; and review and recommend methods and strategies to maintain a safe, secure and viable nuclear deterrent.

The task force's findings and recommendations, pursuant to 41 CFR 102–3.140 through 102–3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decision maker.

Pursuant to 41 CFR 102–3.120 and 102–3.150, the Designated Federal Officer for the Defense Science Board will determine and announce in the **Federal Register** when the findings and recommendations of the October 10–11, 2007, meeting are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed below; at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. David McDarby, HQ DTRA/OP–CSNS, 8725 John J. Kingman Road, Stop 6201, Ft. Belvoir, VA 22060; via e-mail at *david.mcdarby@dtra.mil*; or via phone at (703) 767–4364.

Dated: September 17, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–4707 Filed 9–21–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 24, 2007.

ADDRESSES: Comments should be e-mailed to *ICDocketMgr@ed.gov* or faxed to (202) 245–6623. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 18, 2007.

James Hyler,

Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title: National Assessment of Educational Progress 2008–2010 Operational and Pilot Surveys System Clearance—Wave 3.

Frequency: One time.

Affected Public: Individuals or household; not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 3,270.

Burden Hours: 1,082.

Abstract: These materials are questionnaires to be used in 2008 for the NAEP for administrators/teachers to complete to describe students identified

as English language learners or students with disabilities. The materials in this clearance constitute Wave 3 of the 2008 materials.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3461. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–18726 Filed 9–21–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 18, 2007.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP00–426–031.

Applicants: Texas Gas Transmission, LLC.

Description: Texas Gas Transmission, LLC submits Third Revised Sheet 52 et al to FERC Gas Tariff, Second Revised Volume 1.

Filed Date: 09/17/2007.

Accession Number: 20070917–0178.

Comment Date: 5 p.m. Eastern Time on Monday, October 1, 2007.

Docket Numbers: RP96–312–168.

Applicants: Tennessee Gas Pipeline Company.

Description: Tennessee Gas Pipeline Co submits its Ninth Revised Sheet 413A to its FERC Gas Tariff, Fifth Revised Volume 1, in compliance with FERC's 2/15/07 Order.

Filed Date: 09/14/2007.

Accession Number: 20070917–0196.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 26, 2007.

Docket Numbers: RP99–301–164.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Co submits Rate Schedule FTS–1 negotiated rate service agreement with CenterPoint Energy Services, Inc, to be effective 11/1/07.

Filed Date: 09/14/2007.

Accession Number: 20070917–0202.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 26, 2007.

Docket Numbers: RP99–301–165.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Co submits Rate Schedule FTS–1 negotiated rate service agreements with Tenaska Gas Storage, LLC.

Filed Date: 09/14/2007.

Accession Number: 20070917–0203.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 26, 2007.

Docket Numbers: RP99–301–166.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Co submits Rate Schedule FTS–1 negotiated rate service agreements with Nexen Marketing U.S.A. Inc.

Filed Date: 09/14/2007.

Accession Number: 20070917–0204.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 26, 2007.

Docket Numbers: RP07–525–002.

Applicants: Energy West Development, Inc.

Description: Energy West Development, Inc submits Second Revised Sheet 29, superceding Substitute First Revised Sheet 29.

Filed Date: 09/13/2007.

Accession Number: 20070917–0179.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 25, 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 e-mail 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.

Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

[FR Doc. E7–18741 Filed 9–21–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 5, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–127–000.

Applicants: Klamath Energy LLC, PPM Energy, Inc.

Description: PPM Energy, Inc *et al.* submits an application for authorization for a transaction under section 203 of the Federal Power Act and request for waivers, 21-day comment period etc.

Filed Date: 08/31/2007.

Accession Number: 20070904–0297.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: EC07–128–000.

Applicants: Iberdrola Renewable Energies USA, Ltd., PPM Energy, PPM Wind Energy LLC, Aeolus Wind Power IV LLC, Klondike Wind Power III LLC, MinnDakota Wind LLC, Northern Iowa Windpower II, LLC.

Description: Joint application of Iberdrola Renewable Energies USA, Ltd. and PPM Energy, Inc *et al.* requesting authorization for the indirect disposition of jurisdictional facilities owned by the Project Companies etc.

Filed Date: 08/31/2007.

Accession Number: 20070905–0075.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER07–1280–000.

Applicants: Portland General Electric Company.

Description: Portland General Electric Co. submits amendments to certain non-rate terms and conditions of its OATT.

Filed Date: 08/13/2007.

Accession Number: 20070815–0001.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 14, 2007.

Docket Numbers: ER07–1315–001.

Applicants: Idaho Power Company.

Description: Idaho Power Co. submits an errata to the 8/30/07 filing of modifications to non-rate terms and conditions in its Order 890.

Filed Date: 08/31/2007.

Accession Number: 20070905–0066.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1316–000.

Applicants: Entergy Services, Inc.

Description: Entergy Arkansas, Inc submits its First Revised Rate Schedule 130, an Interconnection Agreement with Associated Electric Coop, Inc.

Filed Date: 08/31/2007.

Accession Number: 20070904–0236.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1317–000.

Applicants: Citizens Electric Co of Lewisburg.

Description: Citizens Electric Co of Lewisburg, PA submits FERC Oil Tariff, Original Volume No.1.

Filed Date: 08/31/2007.

Accession Number: 20070904–0235.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1318–000.

Applicants: Wellsboro Electric Co.

Description: Wellsboro Electric Co requests acceptance of their FERC Oil Tariff, Original Volume 1.

Filed Date: 08/31/2007.

Accession Number: 20070904–0234.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1319–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits an executed service agreement for Network Integration Transmission Service *et al.* with Sunflower Electric Power Corp.

Filed Date: 08/31/2007.

Accession Number: 20070904–0233.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1320–000

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool Inc submits executed service agreement for Network Integration Transmission Service with Kansas Electric Power Cooperative Inc etc.

Filed Date: 08/31/2007.

Accession Number: 20070904–0294.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1321–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co. submits a revised rate sheet to the Amended and Restated Midway Interconnection Agreement with Pacific Gas and Electric Co.

Filed Date: 08/31/2007.

Accession Number: 20070904–0232.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1322–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits an executed Wholesale Market Participation Agreement with Salem County Landfill Energy, LLC *et al.*

Filed Date: 08/31/2007.

Accession Number: 20070904–0324.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1323–000.

Applicants: New England Power Company.

Description: New England Power Company dba National Grid submits amendment to Schedule 21–NEP in Section II of the ISO-NE Tariff etc.

Filed Date: 08/31/2007.

Accession Number: 20070904–0293.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1324–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc et al submits its proposal to add a new Schedule 5 to section IV.A of the ISO Tariff for the purpose of recovering funding for the operation of the New England States Committee on Electricity.

Filed Date: 08/31/2007.

Accession Number: 20070904–0296.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1325–000; ER07–1326–000.

Applicants: Delmarva Power & Light Company.

Description: Delmarva Power & Light Company submits revised interconnection agreement with Old Dominion Electric Cooperative designated as First Revised Service Agreement 1132 etc.

Filed Date: 08/31/2007.

Accession Number: 20070904–0295.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1327–000.

Applicants: Wabash Valley Power Association, Inc.

Description: Wabash Valley Power Association, Inc submits the Distribution Agreement for Electric Service implementing Industrial Load rate Schedule 2.

Filed Date: 08/31/2007.

Accession Number: 20070904–0231.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1328–000.

Applicants: New England Power Pool.

Description: New England Power Pool Participants Committee submits copies of the counterpart signature pages of the New England Power Pool Agreement, dated as of 9/1/71, as amended.

Filed Date: 08/31/2007.

Accession Number: 20070831–0068.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1329–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc *et al.* submits an executed Small Generator Interconnection Agreement and requests waiver of the 60-day notice period.

Filed Date: 08/31/2007.

Accession Number: 20070905–0067.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1330–000.

Applicants: Twin Cities Hydro LLC.

Description: Twin Cities Hydro LLC's application for market-based authorizations, certain waivers and blanket Authorizations and request for expedited action.

Filed Date: 08/31/2007.

Accession Number: 20070905–0068.

Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1334–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits proposed amendments to the Market Power Mitigation Measures for implementing the Real-Time Guarantee Payment Impact Test etc.

Filed Date: 08/31/2007.

Accession Number: 20070905–0072.
Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1335–000.
Applicants: Santa Rosa Energy Center, LLC.
Description: Santa Rosa Energy Center, LLC submits a Notice of Succession re a change in name.
Filed Date: 08/31/2007.
Accession Number: 20070905–0062.
Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1336–000.
Applicants: TransAlta Centralia Generation LLC.
Description: TransAlta Centralia Generation, LLC submits changes to its Rate Schedule FERC 1 and 2.
Filed Date: 08/31/2007.
Accession Number: 20070905–0063.
Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Docket Numbers: ER07–1337–000.
Applicants: New York State Electric & Gas Corporation.
Description: New York State Electric & Gas Corp submits a notice of cancellation of a Service Agreement.
Filed Date: 08/31/2007.
Accession Number: 20070905–0073.
Comment Date: 5 p.m. Eastern Time on Friday, September 21, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES07–43–002.
Applicants: PSEG Fossil LLC
Description: Supplemental filing of PSEG Nuclear LLC, *et al.*
Filed Date: 09/04/2007.
Accession Number: 20070904–5103.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 14, 2007.

Docket Numbers: ES07–44–002.
Applicants: PSEG Nuclear LLC.
Description: Supplemental filing of PSEG Nuclear LLC, *et al.*
Filed Date: 09/04/2007.
Accession Number: 20070904–5103.
Comment Date: 5 pm Eastern Time on Tuesday, September 25, 2007.

Docket Numbers: ES07–45–002.
Applicants: PSEG Energy Resources & Trade LLC.
Description: Supplemental filing of PSEG Nuclear LLC, *et al.*
Filed Date: 09/04/2007.
Accession Number: 20070904–5103.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 14, 2007.

Docket Numbers: ES07–58–000.
Applicants: Old Dominion Electric Cooperative, Inc.
Description: Application for Authorization to Issue Long-term Debt of Old Dominion Electric Cooperative.
Filed Date: 08/31/2007.
Accession Number: 20070831–5086.
Comment Date: 5 p.m. Eastern Time on Friday, September 21, 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 e-mail 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.

Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

[FR Doc. E7–18737 Filed 9–21–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 2

September 18, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–133–000.
Applicants: Central Vermont Public Service Corp.; Green Mountain Power Corporation.
Description: Central Vermont Public Service Corp and Green Mountain Power Corp submit their joint application for approval of the anticipated purchase of certain securities of Vermont Transco, LLC.
Filed Date: 09/14/2007.
Accession Number: 20070918–0176.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES07–61–000.
Applicants: PacifiCorp.
Description: PacifiCorp Energy submits an application for an order to issue promissory notes and other evidences of unsecured short-term indebtedness, from time to time, in an aggregate principal amount of up to $1.5 billion etc.
Filed Date: 09/17/2007.
Accession Number: 20070918–0178.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 9, 2007.

Docket Numbers: ES07–62–000.
Applicants: Southwestern Electric Power Company; Public Service Company of Oklahoma; Indiana Michigan Power Company; Kentucky Power Company; AEP GENERATING CO; Kingsport Power Company; Wheeling Power Company; AEP Texas North Company; Appalachian Power Company.
Description: Form 523—Request for Permission to Issue Securities for AEP Generating Company, et al.
Filed Date: 09/17/2007.
Accession Number: 20070917–5046.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 9, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–1435–014.
Applicants: Avista Corporation.
Description: Avista Corp submits First Revised Sheet 10 to FERC Electric Tariff, Sixth Revised Volume 9, effective 7/7/07.
Filed Date: 09/14/2007.

Accession Number: 20070918–0145.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER05–1178–012; ER05–1191–012.

Applicants: Gila River Power, L.P.; Union Power Partners, LP.

Description: Gila River Power, LP et al submits notice of non-material change in status re the upstream ownership structure.

Filed Date: 09/14/2007.
Accession Number: 20070918–0144.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER07–905–003.

Applicants: Sierra Pacific Resources Operating Company.

Description: The Nevada Companies submits Fifth Revised Sheet 126 et al to FERC Electric Tariff, Third Revised Volume 1, effective 7/13/07.

Filed Date: 09/14/2007.
Accession Number: 20070918–0146.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER07–1230–001.

Applicants: American Electric Power Service Corp.

Description: Ohio Power Co and Columbus Southern Power Co submit an amendment to the tenth revision to the Interconnection and Local Delivery Service Agreement.

Filed Date: 09/13/2007.
Accession Number: 20070917–0135.
Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Docket Numbers: ER07–1290–001.

Applicants: Mid-Continent Area Power Pool.

Description: Mid-Continent Area Power Pool submits an errata to their 8/16/07 filing of seventeen non-conforming agreements for reassignments of non-firm service under MAPP Schedule F.

Filed Date: 09/13/2007.
Accession Number: 20070917–0131.
Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Docket Numbers: ER07–1370–000.

Applicants: American Electric Power Service Corp.

Description: Ohio Power Company et al submits and requests acceptance of an eleventh revised Interconnection and Local Delivery Service Agreement with Buckeye Power Inc.

Filed Date: 09/13/2007.
Accession Number: 20070917–0136.
Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Docket Numbers: ER07–1372–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits revisions and amendments to its electric tariff filing to reflect ancillary service markets.

Filed Date: 09/14/2007.
Accession Number: 20070917–0168.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER07–1377–000.

Applicants: Central Vermont Public Service Corp.

Description: Central Vermont Public Service Corporation submits revised sheets for its Schedule 21–CV under the ISO New England Inc open access transmission tariff.

Filed Date: 09/14/2007.
Accession Number: 20070918–0150.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER07–1378–000.

Applicants: Providence Heights Wind, LLC.

Description: Application for Providence Heights Wind LLC for order accepting initial market-based rate tariff, waiving regulations, and granting blanket approvals.

Filed Date: 09/14/2007.
Accession Number: 20070918–0151.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER07–1379–000.

Applicants: Central Vermont Public Service Corp.

Description: Central Vermont Public Service Corp submits a notice of termination and tariff sheet terminating it Power Sales Agreement with New Hampshire Electric Cooperative, Inc.

Filed Date: 09/14/2007.
Accession Number: 20070918–0140.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER07–1380–000.

Applicants: EPCOR Power Development, Inc.

Description: EPCOR Power Development, Inc submits a notice of cancellation of its market-based rate tariff, designated as FERC Electric Tariff, Original Volume 1.

Filed Date: 09/14/2007.
Accession Number: 20070918–0147.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 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 e-mail 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.

Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

[FR Doc. E7–18754 Filed 9–21–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

September 18, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–39–002.

Applicants: The Goldman Sachs Group, Inc.

Description: The Goldman Sachs Group, Inc submits the organizational chart showing the relationship of all the Applicants and Segregation Units.

Filed Date: 09/11/2007.
Accession Number: 20070914–0134.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 2, 2007.

Docket Numbers: EC07–131–000.
Applicants: Airtricity Munnsville Wind Farm, LLC; Airtricity Munnsville WF HOLDCO, LLC; Airtricity MV HOLDCO, LLC.
Description: Application for authorization for the disposition of jurisdictional facilities, request for expedited consideration and confidential treatment re Airtricity Munnsville Wind Farm, LLC et al.
Filed Date: 09/11/2007.
Accession Number: 20070913–0016.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 2, 2007.

Docket Numbers: EC07–132–000.
Applicants: CottonWood Energy Company LP; Dogwood Energy LLC; Magnolia Energy LP; Redbud Energy LP.
Description: Cottonwood Energy Co, LP et al submits an application for order authorizing blanket authorization of certain future transactions under Section 203 of the Federal Power Act.
Filed Date: 09/11/2007.
Accession Number: 20070913–0015.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 2, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG07–81–000.
Applicants: EnergyCo Cedar Bayou 4, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of EnergyCo Cedar Bayou 4, LLC.
Filed Date: 09/13/2007.
Accession Number: 20070913–5066.
Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Docket Numbers: EG07–82–000.
Applicants: Hackberry Wind, LLC.
Description: Exempt Wholesale Generator Notice of Self-Certification of Hackberry Wind, LLC.
Filed Date: 09/14/2007.
Accession Number: 20070913–5074.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER94–1188–043; ER98–1279–014; ER98–4540–012; ER99–1623–012.
Applicants: LG&E Energy Marketing Inc.; Louisville Gas & Energy Company; Kentucky Utilities Company; Western Kentucky Energy Corporation.
Description: The E.ON Parties submit amendments to their market-based rate tariffs in compliance with Order 697.
Filed Date: 09/10/2007.
Accession Number: 20070914–0125.
Comment Date: 5 p.m. Eastern Time on Monday, October 1, 2007.

Docket Numbers: ER97–2801–019: ER96–719–018; ER99–2156–012.
Applicants: PacifiCorp.
Description: PacifiCorp et al submits a notice of change in status under Market-Based Rate Authority filing in compliance with Order 697.
Filed Date: 08/27/2007.
Accession Number: 20070829–0051.
Comment Date: 5 p.m. Eastern Time on Monday, September 17, 2007.

Docket Numbers: ER00–2738–007; ER00–2740–007; ER01–1570–001; ER01–1721–005; ER02–564–005; ER02–73–009; ER02–862–009; ER06–1410–004; ER06–653–002; ER99–1004–008; ES07–53–001; ES07–55–001.
Applicants: Entergy Nuclear Fitzpatrick, LLC; Entergy Nuclear Indian Point 3, LLC; Northern Iowa Windpower LLC; Entergy Nuclear Indian Point 2, LLC; Entergy Nuclear Vermont Yankee, LLC; Llano Estacado Wind, Limited Partnership; Entergy Power Ventures, L.P.; Entergy Nuclear Palisades, LLC; Entergy Nuclear Power Marketing, LLC; Entergy Nuclear Generation Company.
Description: Supplemental Application Requesting Superseding Blanket Section 204 Authorization of Entergy Services, Inc.
Filed Date: 09/13/2007.
Accession Number: 20070913–5006.
Comment Date: 5 p.m. Eastern Time on Monday, September 24, 2007.

Docket Numbers: ER01–205–022; ER06–819–005; ER98–2640–020; ER99–1610–026;
Applicants: Xcel Energy Services Inc.; Northern States Power Company; Public Service Company of Colorado; NEW CENTURY PUB SVC CO OF CO.
Description: Change in Status Report Compliance Filing of Xcel Energy Services Inc.
Filed Date: 09/14/2007.
Accession Number: 20070914–5112.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER02–2018–009; ER03–155–008; ER04–127–006; ER04–947–007; ER05–222–005;
Applicants: Blythe Energy, LLC; High Winds, LLC; FPL Energy Green Power Wind, LLC; POSDEF Power Company, LP; Diablo Winds, LLC; Description: Notice of Change in Status of Blythe Energy, LLC, *et al.*
Filed Date: 09/14/2007.
Accession Number: 20070914–5121.
Comment Date: 5 p.m. Eastern Time on Friday, October 5, 2007.

Docket Numbers: ER02–2458–010.
Applicants: Midwest Independent Transmission System Operator Inc.
Description: Midwest Independent Transmission System Operator Inc et al submits its First Amendment to the Second Amended and Restated Settlement Agreement and proposed revisions of rate schedules etc.
Filed Date: 09/10/2007.
Accession Number: 20070913–0013.
Comment Date: 5 p.m. Eastern Time on Monday, October 1, 2007.

Docket Numbers: ER04–157–022; ER04–714–012; EL05–89–002.
Applicants: Bangor Hydro-Electric Company; Florida Power & Light Co New England.
Description: New England Transmission Owners submits its revised compliance filing pursuant to FERC's 7/26/07 order under ER04–157 et al.
Filed Date: 08/27/2007.
Accession Number: 20070911–0085.
Comment Date: 5 p.m. Eastern Time on Monday, September 17, 2007.

Docket Numbers: ER05–644–006.
Applicants: PSEG Energy Resources & Trade LLC.
Description: Informational filing being made pursuant to Section III (3) of PSEG Energy Resources & Trade LLC's Cost of Service Recovery Rate Tariff.
Filed Date: 09/11/2007.
Accession Number: 20070911–5063.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 2, 2007.

Docket Numbers: ER06–880–009; ER07–632–003.
Applicants: PJM Interconnection, LLC.
Description: PJM Interconnection, LLC on behalf of Neptune Regional Transmission System, LLC submits amendments to Schedule 14 filed on 3/16/07.
Filed Date: 09/13/2007.
Accession Number: 20070914–0126.
Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Docket Numbers: ER07–720–002.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits its Second Compliance Filing.
Filed Date: 09/13/2007.
Accession Number: 20070913–5062.
Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Docket Numbers: ER07–1215–001.
Applicants: The Royal Bank of Scottland plc.
Description: The Royal Bank of Scotland PLC submits revisions to its proposed market—based rate tariff in order to conform the proposed tariff to requirements of Order 697.
Filed Date: 09/13/2007.
Accession Number: 20070917–0054.

Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Docket Numbers: ER07–1287–001.

Applicants: Apple Group LLC.

Description: Apple Group LLC submits two amendments to Market Based Rate Application and a revised tariff designated at Original Sheet 1 to FERC Electric Tariff, Original Volume 1.

Filed Date: 09/13/2007.

Accession Number: 20070917–0055.

Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Docket Numbers: ER07–1368–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy Inc submits A Notice of Cancellation of an Electric Power Supply Agreement with the City of St Marys, Kansas designated as First Revised Rate Schedule 244.

Filed Date: 09/13/2007.

Accession Number: 20070917–0057.

Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Docket Numbers: ER07–1369–000.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits Joint Operating Agreement executed on 5/20/07 and 5/22/07 with New York Independent System Operator, Inc.

Filed Date: 09/13/2007.

Accession Number: 20070917–0056.

Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES07–54–001.

Applicants: Electric Transmission Texas, LLC.

Description: Electric Transmission Texas, LLC submits pro-forma financial information as a supplement to its 8/1/07 Application.

Filed Date: 09/13/2007.

Accession Number: 20070917–0067.

Comment Date: 5 p.m. Eastern Time on Thursday, October 4, 2007.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–31–001.

Applicants: Aquila, Inc.

Description: Order No. 890 Errata Filing of Aquila, Inc.

Filed Date: 09/14/2007.

Accession Number: 20070914–5008.

Comment Date: 5 p.m. Eastern Time on Friday, October 5, 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 e-mail 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.

Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

[FR Doc. E7–18755 Filed 9–21–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8472–2]

Science Advisory Board Staff Office; Notification of Public Meetings of the Science Advisory Board Radiation Advisory Committee MARSAME Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces two public meetings of the SAB Radiation Advisory Committee (RAC) augmented with additional experts to review the draft document entitled ''*Multi-Agency Radiation Survey and Assessment of Materials and Equipment (MARSAME) Manual,*'' December 2006.

DATES: The SAB Radiation Advisory Committee (RAC) MARSAME Review Panel will hold a public teleconference on Tuesday, October 9, 2007 from 1 p.m. to 4 p.m. Eastern Time, and a public face-to-face meeting on October 29 through October 31, 2007, commencing at 9 a.m. Eastern Time on Monday, October 29, 2007.

The final agendas for these public meetings will be posted on the SAB's Web site at *http://www.epa.gov/sab.*

ADDRESSES: The public teleconference meeting of October 9, 2007 will take place via telephone only. The October 29—31, 2007 meeting will take place at the Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the call-in number and access code for the public teleconference meeting, or further information concerning the face-to-face public meeting may contact Dr. K. Jack Kooyoomjian, Designated Federal Officer (DFO), by mail at the EPA SAB Staff Office (1400F), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; by telephone at (202) 343–9984; by fax at (202) 233–0643; or by e-mail at: *kooyoomjian.jack@epa.gov.* General information concerning the SAB can be found on the SAB Web Site at: *http://www.epa.gov/sab.*

Technical Contact: For questions and information concerning the draft MARSAME document, background information, as well as briefing and other background materials provided to the RAC MARSAME Review Panel which are pertinent to the meetings in this notice, please contact Dr. Mary E.

Clark of the U.S. EPA, ORIA by telephone at (202) 343–9348, fax at (202) 243–2395, or e-mail at *clark.marye@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The EPA's Office of Radiation and Indoor Air (ORIA) on behalf of the Federal agencies participating in the development of the MARSAME Manual (see below) requested the SAB to provide advice on a draft document entitled ''*Multi-Agency Radiation Survey and Assessment of Materials and Equipment (MARSAME) Manual,*'' December 2006. MARSAME is a supplement to the ''*Multi-Agency Radiation Survey and Site Investigation Manual*'' (MARSSIM, EPA 402–R–970–016, Rev.1, August 2000 and June 2001 update). The SAB Staff Office announced this advisory activity and requested nominations for technical experts to augment the SAB's Radiation Advisory Committee (RAC) in the **Federal Register** (72 FR 11356; March 13, 2007). MARSAME was developed collaboratively by the multi-agency work group (60 FR 12555; March 7, 1995) and provides technical information on approaches for planning, conducting, evaluating, and documenting radiological disposition surveys to determine proper disposition of materials and equipment (M&E). The techniques, methodologies, and philosophies that form the basis of this manual have been developed to be consistent with current Federal limitations, guidelines, and procedures. The multi-agency work group which developed the MARSAME manual consists of the U.S. Department of Defense (DOD); the U.S. Department of Energy (DOE); the U.S. Environmental Protection Agency (EPA); and the U.S. Nuclear Regulatory Commission (NRC).

MARSSIM was limited to surfaces soils and building surfaces. The MARSAME supplement addresses M&E potentially affected by radioactivity, including metals, concrete, tools, equipment, piping, conduit, furniture and dispersible bulk materials such as trash, rubble, roofing materials, and sludge. Such M&E may be containers and packages in general commerce or from licensed users of radioactivity. The wide variety of M&E requires additional flexibility in the survey process, and this has been incorporated in MARSAME. MARSAME encourages an effective use of resources, and when finalized, will be a multi-agency consensus document.

The purpose of this supplement to MARSSIM is to provide information for the design and implementation of technically defensible surveys for disposition of M&E, where disposition is defined as the future use, fate, or final location of something. MARSAME provides information on selecting and properly applying disposition survey strategies and selecting measurement methods.

The U.S. EPA SAB conducted the scientific peer reviews of the companion Multi-Agency documents, MARSSIM (EPA–SAB–RAC–97–008, dated September 30, 1997) and the Multi-Agency Radiological Laboratory Analytical Protocols (MARLAP) Manual (EPA–SAB–RAC–03–009, dated June 10, 2003). Two previous SAB consultations have taken place for MARSAME (EPA–SAB–RAC–CON–03–002, dated February 27, 2003, and EPA–SAB–RAC–CON–04–001, dated February 9, 2004). The SAB reports can be found on the EPA SAB's Web site at *http://www.epa.gov/sab.*

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the SAB Staff Office hereby gives notice of one public teleconference meeting and one face-to-face public meeting of the SAB Radiation Advisory Committee (RAC) augmented to deal with this subject. The SAB was established by 42 U.S.C. 4365 to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for Agency positions and regulations. The augmented RAC will comply with the provisions of FACA and all appropriate SAB procedural policies.

Purpose of the Teleconference and Meeting: The purpose of the teleconference is to: introduce the subject and discuss the charge to the Panel; determine if the review and background materials provided are adequate to respond to the charge questions directed to the SAB's RAC MARSAME Review Panel; and agree on charge assignments for Panelists. The purpose of the meeting is to: receive presentations by the Multi-Agency Work Group Staff; deliberate on the charge questions; and draft a report in response to the charge questions pertaining to the draft MARSAME Manual, dated December 2006.

Availability of Meeting Materials: A roster and biosketches of the RAC MARSAME Review Panel members, the meeting agenda, and the charge to the SAB's RAC MARSAME Review Panel will be posted on the SAB Web Site at (*http://www.epa.gov/sab*) prior to the meetings. The draft document, ''*Multi-Agency Radiation Survey and Assessment of Materials and Equipment (MARSAME) Manual,*'' December 2006 (NUREG–1575, Supp. 1; EPA 402–R–06–002; and DOE/EH–707) is available at *http://63.151.45.33/marsame/system/index.cfm,* or *http://epa.gov/radiation/marssim/publicpreview.htm#obtain.* In addition to the hotlinks above, the charge to the RAC's MARSAME Review Panel, and other supplemental information may be found at the SAB Web Site (*http://www.sab.gov/sab*).

Additional background materials on the December, 2006 draft MARSAME Manual and other materials related to this topic may be found at:

MARSAME: *http://63.151.45.33/marsame/system/index.cfm,* or: *http://epa.gov/radiation/marssim/publicpreview.htm#obtain* for the draft document itself,

MARSSIM: *http://epa.gov/radiation/marssim/index.html,* or: *http://epa.gov/radiation/marssim/obtain.htm* for the document itself; and

MARLAP: *http://epa.gov/radiation/marlap/index.html,* or: *http://epa.gov/radiation/marlap/manual.htm#voli* for the document itself.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for the SAB Panel to consider during the advisory process.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes per speaker with no more than a total of fifteen minutes for all speakers. For face-to-face meetings, in general, individuals or groups requesting an oral presentation at a public face-to-face meeting will be limited to five minutes per speaker. Interested parties should contact the DFO, contact information provided above, in writing via e-mail seven days prior to the teleconference meeting date. For the October 9, 2007 teleconference meeting, the deadline is Tuesday, October 2, 2007. For the October 29, 30, and 31, 2007 meeting, the deadline is Monday, October 22, 2007 to be placed on the public speaker list. *Written Statements:* Written statements should be received in the SAB Staff Office seven days prior to the teleconference meeting. For the Tuesday, October 9, 2007 teleconference meeting, the deadline is Tuesday, October 2, 2007; for the October 29, 30 and 31, 2007 meeting the deadline is Monday, October 22, 2007, so that the information may be made available to the SAB RAC MARSAME Review Panel for their consideration. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature, and one electronic copy via e-mail to *kooyoomjian.jack@epa.gov* (acceptable file format: Adobe Acrobat,

WordPerfect, Word, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Meeting Accommodations: For information on access or services for individuals with disabilities, please contact the DFO, contact information provided above. To request accommodation of a disability, please contact the DFO, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 18, 2007.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–18813 Filed 9–21–07; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Agency Recognition of Multiple Principal Investigators on Federally Funded Research Projects

AGENCY: Executive Office of the President, Office of Science and Technology Policy (OSTP) and Office of Management and Budget (OMB), Office of Federal Financial Management.

ACTION: Notice of policy on recognition of multiple Principal Investigators (PIs) on awards made under Federal research and research-related programs.

SUMMARY: Many areas of today's research require multi-disciplinary teams in which the intellectual leadership of the project is shared among two or more individuals. To facilitate this team approach through recognition of the contributions of the team leadership members, OSTP issued a memorandum to all Federal research agencies on January 4, 2005, requiring them to formally allow more than one PI on individual research awards. The Federal agencies then sought input from the research community—scientists, research administrators, and organizations that represent components of the scientific community—on how best to implement this policy. This input was sought via a Request for Information published in the **Federal Register** on July 18, 2005 that posed a series of questions around core elements that will comprise each agency's implementation plan. The six core elements, to be posted on the Research Business Models (RBM) Web Site, include: (1) Statement of what constitutes a PI; (2) designation of contact PI; (3) application instructions for listing more than one PI; (4) PIs at different institutions; (5) access to award and review information; and (6) identification of all PIs in public data systems. The **SUPPLEMENTARY INFORMATION** section of this Notice provides background on the Research Business Models (RBM) Subcommittee of the Committee on Science (COS), the plan to recognize multiple PIs on Federal research projects, a summary of the responses to the Request for Information, and the government response to the comments submitted. The final policy on the recognition of multiple PIs is contained in the Policy Section.

SUPPLEMENTARY INFORMATION:

I. Background on RBM

This project is an initiative of the Research Business Models (RBM) Subcommittee of the Committee on Science (COS), a committee of the National Science and Technology Council. The RBM Subcommittee's objectives include:

- Facilitating a coordinated effort across Federal agencies to address policy implications arising from the changing nature of scientific research, and
- Examining the effects of these changes on business models for the conduct of scientific research sponsored by the Federal Government.

The Subcommittee used public comments, agency perspectives, and input from a series of regional public meetings to identify priority areas in which it would focus its initial efforts. In each priority area, the Subcommittee is pursuing initiatives to promote, as appropriate, either common policy, the streamlining of current procedures, or the identification of agencies' and institutions' ''effective practices.'' As information about the initiatives becomes available, it is posted at the Subcommittee's Internet site *http://rbm.nih.gov*.

II. Background on the Recognition of Multiple PIs on Federal Research Projects

Many areas of research, in particular, translations of complex discoveries into useful applications, require multi-disciplinary and inter-disciplinary teams. Innovation and progress still spring from and depend on creative individual investigators, but collaborative synergy plays an increasingly important role in advancing science and engineering.

Multi-disciplinary research teams can be organized in a variety of ways. Research teams vary in terms of size, hierarchy, location of participants, goals, and structure. Depending on the size and the goals, the management structure of a team may include: A director and/or multiple directors, assistant or associate directors, managers, group leaders, team leaders, investigators, and others as needed. Regardless of how a research team is organized, a pertinent and important question is how to apportion credit fairly if multiple individuals provide the intellectual leadership and direction of the team effort.

Acting on the recommendation of the RBM Subcommittee, the COS concluded that team research would be enhanced if all Federal agencies allowed more than one PI on individual research awards. Some agencies already do this, either formally or informally, but the COS action, which led to a directive to all research agency heads by the Director, OSTP, dated January 4, 2005, extends the practice to all research agencies as a matter of policy.

Request for Information

A Request for Information soliciting input from the research community on several core issues related to recognizing multiple PIs was published in the **Federal Register** on July 18, 2005 to guide the agencies as they developed their plans for implementing the policy on recognizing multiple PIs.

Respondents: A total of sixty-three comments were received from twenty-nine biomedical scientists, twenty-three universities (Office of Sponsored Projects or Vice President for Research), nine professional associations, one small business, and one unknown affiliation.

Core Elements of Agency Implementation Plans, RFI Questions, Comments From Respondents, and Agency Responses to Comments

General: Overall opinions on the Multiple PI policy (if stated in the comment) were overwhelmingly favorable: 45 in favor, 8 opposed. Answers to the individual questions in the RFI were listed and categorized only if the respondent addressed that issue specifically. Many respondents did not reply to the questions individually or address some of the issues at all. Numbers in parentheses indicate multiple responses citing the same issue or suggestion.

#1: Statement of What Constitutes a PI

Q 1: Will listing more than one individual as a PI present any difficulties for you or your institution?

Comments:

- Need explicit criteria, give examples of what is and is not a PI. (7)
- PI means and needs to be just one individual. (12)

- Keep Co-PI or Co-I titles. (9)
- Possible abuse—too many PIs. (6)
- Maintain maximum institutional flexibility and autonomy in designating PIs. (7)
- Institutions will have to revise processes and databases. (7)
- Concerns about accountability. (3)
- New investigators named as PI might lose status as new investigator. (4)
- May be administratively cumbersome. (2)
- Increased administrative burden. (2)
- Concern about decision-making; if no one is in charge, nothing gets done. (2)
- Harder to evaluate departments for grant ranking.
- Should be reserved for large, complex projects, not R01-type.
- Should allow use for just two close collaborators on R01-type.
- Require minimum percent effort (e.g., 20%). (2)
- Do not require minimum effort.

Agency Response: The Research Business Models Subcommittee Task Group on Multiple PIs considered these comments. The task group viewed most of these as concerned with the basic role and definition of what it means to be a PI. The agencies have agreed on a common basic definition that is suitable across all agencies and research institutions. (See Policy Section of this Notice.) In their implementation plans, agencies may elaborate on the criteria for PIs in their respective areas of science, giving examples of what does and does not qualify as a PI for particular kinds of projects, as well as the specific nomenclature that will be employed in implementation of the multiple PI concept, e.g., Project Coordinator, PI and Co-PIs, or Coordinating PI.

Institutions have the option to name one or more than one PI for each project. It is the prerogative and responsibility of the applicant organization to designate PI(s) for projects.

All PIs will be named in the official award. There will be no Federal-wide limit to the number of PIs per project; however, an agency may impose a limitation as part of their implementation plan.

#2: Designation of Contact PI

Q 2: Do you see any difficulties that would be created by designation of one PI as the Contact PI? Are there institutional issues that the agencies should consider?

Comments:

- Contact PI may become the *de facto* chief PI. (6)
- Favor since it is important that institution/project speak with one voice. (3)
- Most junior PI may be assigned this role and/or may feel put upon. (4)
- Must be able to enforce communication responsibilities. (2)
- Create Chief Operating/Admin Officer. (2)
- Create Lead PI or Project Director for management and regulatory compliance issues.
- Agency or institution could set up e-mail group for all PIs. (2)
- Diffusion of accountability. (2)
- Not practical if awards to more than one institution.
- Should be able to switch over course of grant.

Agency Response: All comments addressed the need for a single point of contact between the institution and the Federal agency on issues concerning scientific and technical aspects of the project. There was some concern that either the designated Contact PI would become the *de facto* overall PI on the project or the most junior PI would be assigned this as a largely clerical role. It is the prerogative of the applicant organization to designate the single point of contact. The agencies consider this ''Contact PI'' role to be primarily for communication purposes on the scientific and related budgetary aspects of the project (see Agency Implementation section below.)

#3: Application Instructions for Listing More Than One PI

Q3: What issues should the agencies consider in developing their instructions for applications naming more than one PI?

Comments:

- Management plan a good idea, but only when needed by the type of project. (15)
- Need detailed description of each PI's role and why that justifies PI status; give examples of contributions that do or do not justify PI status. (15)
- When is agency approval needed for budget reallocation. (3)
- Grants.gov form allows only one PI. (3)
- Uniform criteria should be adopted across agencies; definition in RFI is adequate. (2)
- Limit # of PIs.
- Need guidelines for compliance, coordination, decision-making, publication.

Agency Response: Each agency will specify how its standard application procedures will be modified, if necessary, to reflect the overall policy accommodating multiple PIs. This may include instructions for describing, within the research plan, the specific areas of responsibility for each PI and how the team will function. The government-wide policy does not mandate a formal management or leadership plan, but a specific agency funding opportunity or solicitation may require it.

#4: PIs at Different Institutions

Q 4: Recognizing that agencies differ in the structure of their business arrangements with institutions, are there ways for the agencies to recognize PIs for a team effort involving multiple departments or institutions that would work well for your institution? What issues should the agencies consider in deciding on the most appropriate award structure?

Comments:

- Each type of award structure (subawards, separate awards) has its advantages in different situations; maintain range of award structures as appropriate to each situation. (12)
- Linked awards are a good idea, when appropriate. (5)
- Linked awards may affect institution's FAR simplified acquisition threshold.
- Need to address distribution of indirect costs among institutions/departments. (3)
- Accountability issues between institutions. (3)
- Institutions can handle these issues themselves.

Agency Response: Many respondents noted that each type of award structure (e.g., subawards or separate awards) has advantages in different situations. The agencies agree and will continue to use a range of award mechanisms. Institutions will have great latitude in proposing arrangements that will work best for the particular project and institutions involved. Agencies may, for example, use linked awards (separate awards to each research organization participating in a project), but the government-wide policy does not mandate their use.

#5: Access to Award and Review Information

Q 5: Do you favor granting access to award and review information to all named PIs, not just the Contact PI? Do you anticipate any difficulties in granting such access?

Comments:

- Favor granting access to all (27); oppose (0).

Agency Response: Since there was no controversy on this issue, the agencies will make review and award information available to all named PIs, to the extent that they currently make such information available to a single PI. Agency implementation plans will describe how and when this information can be accessed.

#6: Access to Public Data Systems

Q 6a: Do you anticipate significant benefits from listing more than one PI in agency databases? Do you anticipate any difficulties with such listings?

Comments:

- Will guarantee appropriate credit for team PIs (all comments cited this).
- Should include Co-Investigators as well as PIs. (7)
- Enable better tracking of funding by agencies and institutions.
- Will benefit junior investigators. (2)
- NIH ranking tables would be more accurate. (2)
- Harder to monitor duplicate funding. (2)
- Allows identification of potential future collaborators.
- Provides for multiple contacts per project; but not all contacts appropriate.

Q 6b: Do you anticipate using agency data systems with PI information, such that investment in alterations to such systems would be worthwhile?

Comments:

- Warrants investment (9); maybe (2); no (0).
- Numerous comments that this would be the most important single aspect of implementing the multiple PI policy.

Agency Response: The comments emphasized the benefit of giving appropriate credit for shared leadership of a team project. There was some encouragement for agencies to track the participation of scientists at less than PI level as well, but the policy will not require this. Agency data systems will eventually list all PIs on multiple PI projects. Because changes to existing data systems to accommodate this requirement may be extremely costly, there will be no mandated date for achieving these changes. Agency implementation plans will be required to address the issue of when their data systems may be expected to reflect the new policy on listing all PIs. Agencies may also consult with the Office of Management and Budget's Electronic Government (E-gov) office regarding system changes that are part of implementation plans.

Other Considerations

Q 7: Overall, do you think that the changes proposed for official recognition of multiple PIs will benefit multi-disciplinary and inter-disciplinary research?

Comments:

- The public comments uniformly reinforced the importance of official recognition of multiple PIs in facilitating multi-disciplinary and inter-disciplinary research.

Agency Response: No response is necessary; the policy will be implemented as described for the preceding core issues.

Q 8: What other suggestions do you have for facilitating the recognition of multiple PIs?

Comments:

- Apportion budgets among PIs (favor: 18, distributed evenly across PI, university, association respondents; oppose: 2, one university, one association).
- Minimize additional administrative burden of financial and programmatic management. (3)
- Need designation of responsibility for ethical conduct, human subjects, animal welfare. (2)
- Other agencies do not provide tracking data as NIH and NSF do. (2)
- Need procedures for resolving disputes.
- Should have definition of Co-Investigator.
- Urge rapid and uniform implementation across agencies.
- Provide institutions with ability to apportion responsibility along with recognition.
- Allow collaborating PIs to participate in other grant mechanisms (e.g., cap on number of grants/PI).

Agency Response: Most of these issues have been addressed in the previous responses to the core issues. Implementation plans to be posted on the RBM Web site for the policy on multiple PIs will use a common format to address each of the core issues. Agencies will have the latitude to expand upon the basic requirements for each issue, as appropriate for their research communities, and will address these variances in supplemental material provided through links to their own agency Web sites or through published information.

Apportionment of budgets to individual PIs is not a core implementation feature. If it is done at all, it will be addressed in agency-specific implementation plans.

Policy

All Federal research agencies will recognize multiple Principal Investigators (PIs) on research projects (grants and contracts). Proposing institutions may identify individuals as PIs in proposals when those individuals share the major authority and responsibility for leading and directing the project, intellectually and logistically. This policy does not replace the use of a single Principal Investigator when that is most appropriate for the project.

Statement of What Constitutes a Principal Investigator

A Principal Investigator is the individual(s) a research organization designates as having an appropriate level of authority and responsibility for the proper conduct of the research, including the appropriate use of funds and administrative requirements such as the submission of scientific progress reports to the agency. When an organization designates more than one PI, it identifies them as individuals who share the authority and responsibility for leading and directing the research, intellectually and logistically. The sponsoring agency does not infer any distinction in scientific stature among multiple PIs.

Discussion

It should be emphasized that naming multiple PIs for a proposed research project is solely at the discretion of the proposing institution(s). This concept is similar to the widely accepted practice of recognizing the contributions and responsibilities of business partners. The government's recognition of more than one individual as PI also is not intended to alter the working relationship between team members as they collaboratively allocate resources within the team, subject to any constraints of the awardee institution or the Federal agency under the award terms and conditions, nor as they apportion credit for research accomplishments. Compliance requirements will continue to apply to individuals and institutions, as they do today, regardless of the designation of multiple PIs.

The agencies recognize that teams frequently cut across institutional and geographic boundaries and that team efforts therefore often involve subcontracting or consortia arrangements between different institutions. Based on the experience that some agencies already have with research teams spanning multiple institutions, the agencies are confident that recognition of personnel involved in multi-institution research projects will not substantively alter these well established relationships between institutions.

Agency Implementation

In order to implement the policy on recognition of multiple PIs, each Federal research agency will post in the Research Business Models Toolkit its own plan for implementing the policy beginning in calendar year 2008. Because changes to existing data systems to accommodate the policy may

be costly, there will be no mandated date for achieving these changes. Agency implementation plans will be required to address the issue of when their data systems may be expected to reflect the new policy. Agency implementation plans will be posted in the RBM website no later than February 2008. Each agency's implementation plan will include the following elements:

(1) Statement of What Constitutes a Principal Investigator

Each agency will describe if its definition of PI differs in any way from the Federal-wide definition either routinely or in special solicitations.

(2) Designation of Contact PI or Project Coordinator

Each project with multiple PIs will have a Contact PI, or Project Coordinator, to whom agency program officials will direct all communications related to scientific, technical, and budgetary aspects of the project. By recognizing a person as a Contact PI or Project Coordinator, a Federal agency will not confer any difference in scientific stature to that person. Some agencies may designate a specific term for this role in their agency-specific implementation procedures, which may differ by solicitation or type of award mechanism, for example Project Coordinator, PI and Co-PIs, or Coordinating PI.

(3) Application Instructions

Each agency will specify how its standard application procedures will be modified, if necessary, to reflect the overall policy accommodating multiple PIs.

(4) PIs at Different Institutions

Agencies will use the full range of award mechanisms currently used by each agency, and institutions will have great latitude in proposing arrangements that will work best for the particular project and institutions involved.

(5) Access to Review and Award Information

Agencies will make review and award information available to all named PIs, to the extent that they provide this information to single PIs.

(6) Identification of All PIs in Public Data Systems

Agency data systems will eventually list all PIs on multiple PI projects. Agency implementation plans will address the issue of when their data systems may be expected to reflect the new policy on listing all PIs.

Pamela J. Smith,

Budget Analyst, Budget and Administration Division.

[FR Doc. 07–4638 Filed 9–21–07; 8:45 am]

BILLING CODE 3170–W7–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Sub-Saharan Africa Advisory Committee (SAAC) of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Sub-Saharan Africa Advisory Committee was established by Public Law 105–121, November 26, 1997, to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion of the Bank's financial commitments in Sub-Saharan Africa under the loan, guarantee and insurance programs of the Bank. Further, the committee shall make recommendations on how the Bank can facilitate greater support by U.S. commercial banks for trade with Sub-Saharan Africa.

Time and Place: October 10, at 2 to 5 p.m. The meeting will be held at the Export-Import Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

Agenda: Following a panel presentation on China's development strategy and its impact on U.S. commercial interests generally and in Africa specifically, the meeting agenda shall include a status report on the 2006 SAAC recommendations to Congress; discussion on the 2007 SAAC recommendations to Congress; an update on the Competitiveness Working Group; the upcoming Africa focused international business development initiatives; and special recognition of the service by SAAC members to the Board.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to October 10, 2007, Barbara Ransom, Room 1241, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565–3525 or TDD (202) 565–3377.

Further Information: For further information, contact Barbara Ransom, Room 707, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3525.

Kamil Cook,

Deputy General Counsel.

[FR Doc. 07–4700 Filed 9–21–07; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

September 14, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the 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 PRA comments should be submitted on or before November 23, 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: Direct all PRA comments to Les Smith, Federal Communications Commission, Room 1–C216, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Les Smith at (202) 418–0217 or via the Internet at *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rule Health Care Support Mechanism; Lifeline and Link-up; and Changes to the Board of Directors for the National Exchange Carrier Association, Inc., WC Docket No. 05–195 *et al.*, FCC 07–150.

Form Number: N/A

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1.

Estimated Time per Response: 1.0 hours.

Frequency of Response: Recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 1.0 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: Respondents may request that information be withheld from disclosure. Requests for confidentiality are processed in accordance with FCC rules under 47 CFR § 0.459.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On August 29, 2007, the FCC released a *Report and Order (''R&O'')*, Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rule Health Care Support Mechanism; Lifeline and Link-up; and Changes to the Board of Directors for the National Exchange Carrier Association, Inc., WC Docket No. 05–195, *et al.*, FCC 07–150. In this *R&O*, the FCC has adopted new and revised information collection requirements that include timely filing for Telecommunications Reporting Worksheets, a reminder that USF contributors must file FCC Forms 499–A and 499–Q on a periodic basis, document retention and recordkeeping requirements and administrative limitation periods for the high-cost, low-income, and rural health care universal service programs, and various other performance measures and reporting requirements for the universal service programs and for the Universal Service Fund (''USF'') Administrator. These recordkeeping and reporting requirements are part of the FCC's continuing process to deter misconduct and inappropriate uses of the universal service funds. It is the FCC's intention that these requirements will both safeguard the USF from waste, fraud, and abuse and improve the management, administration, and oversight of the USF. These information collection requirements are as follows:

Timely filing for Worksheets. At present, Universal Service Fund contributors must file FCC Form 499–Q, ''Telecommunications Reporting Worksheet'' (''Worksheet''), on a timely filing basis and must not submit inaccurate or untruthful information. In addition, the *R&O* will require the USF Administrator to add information, *e.g.*, a notification requirement, to the monthly invoice sent to contributors. Each monthly invoice must now also include language pertaining to the Debt Collection Improvement Act (DCIA) of 1996, substantially as follows:

A failure to submit payment may result in sanctions, including, but not limited to, the initiation of proceedings to recover the outstanding debt, together with any applicable administrative charges, penalties, and interest pursuant to the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365) and the Debt Collection Improvement Act of 1996, (Pub. L. 104–134) as amended (the ''DCIA''), as set forth below.

The date of payment on the invoice is the due date. If full payment is not received by the date due, the debt is delinquent and the full amount of the outstanding debt may be transferred to the United States Department of Treasury (''Treasury'') for debt collection. Because the unpaid amount is a debt owed to the United States, we are required by the DCIA to impose interest and to inform you what may happen if you do not pay the full outstanding debt. Under the DCIA, the United States will charge interest from the date the contribution was due, you will be required to pay the administrative costs of processing and handling a delinquent claim as set by the Treasury (currently 18 percent of the debt), and you will be charged an additional penalty of 6 percent a year for any part of the debt that is more than 90 days past due. Interest on the outstanding debt (''DCIA Interest'') will be assessed at the published investment rate for the Treasury tax and loan accounts (''Treasury Current Value of Funds Rate''). However, if you pay the full amount of the outstanding debt and associated administrative fees and penalties within 30 days of the due date, the DCIA Interest will be waived. These requirements are set out at 31 U.S.C. 3717. In addition to the language in the invoice, the *R&O* has specified that USF Administrator's invoice shall state clearly that the invoiced amount is due on a specific date and that the debt is delinquent if not paid in full by that date. The USF Administrator's invoices and any letters shall also explain the applicable sanction and administrative changes for late payments, *i.e.*, under 31 U.S.C. section 3717, a delinquent debt that is not paid in full within 30 days from the date due will incur interest, and if not paid in full within 90 days from the due date, will also incur a penalty. In addition, the delinquent contributor will be assessed the administrative costs of collection, pursuant to 47 CFR 54.713 of FCC rules. Finally, an invoice sent after partial payment should show clearly that the payment was applied to outstanding penalties, administrative costs, accrued interest, and then to the oldest outstanding principal (''American Rule'').

Document retention requirements. Having concluded in the *R&O* that document retention and recordkeeping requirements not only prevent waste, fraud, and abuse, but also protect applicants and service providers in the event of vendor disputes, the FCC has adopted or revised several of these requirements that will demonstrate compliance with FCC rules and regulations and be available to the USF Administrator, auditors, and the FCC, as follows:

High-cost program. Recipients of universal service support for high-cost providers must retain all records that they may require to demonstrate to auditors that the support they received was consistent with the Communications Act of 1934, as amended, and FCC rules, assuming that the audits are conducted within five years of disbursement of such support. This *R&O* clarifies that beneficiaries must make available all such documents and records that pertain to them, including those of NECA, contractors, and consultants working on behalf of the beneficiaries to the Commission's Office of Inspector General (''OIG''), to the USF Administrator, and to their auditors. *See* 47 CFR 54.202(e).[1]

Low-income program. With respect to the two low-income universal service programs—Lifeline and Link-Up, the FCC has concluded that it should maintain the current two-tiered

[1] 47 CFR § 54.202(e): All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. These rules should include the following: Data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. This documentation must be maintained for at least five years from the receipt of funding.

document retention requirements—that participating service providers should retain a record verifying the eligibility of a recipient of the program for as long as the recipient continues to receive supported service and three years more, and to make it available in conjunction with any audit to which it may be relevant. However, the *R&O* removes the clause that waives the requirement to retain documentation of eligibility once an audit is completed. The FCC also clarifies that beneficiaries must make available all documentation and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's OIG, to the USF Administrator, and to auditors working on their behalf. *See* 47 CFR 54.417(a).[2]

Rural health care and schools and libraries programs. The FCC maintains the current requirement that rural health care providers and schools and libraries must retain their records, which evidence that the funding they receive was proper, for five years. In addition, this requirement will now also apply to those service providers that receive support for serving rural health care providers. Furthermore, the FCC clarifies that beneficiaries must make available all documents and records that pertain to them, including those of contractors and consultants, working on their behalf, to the Commission's OIG, to the USF Administrator, and to their auditors, as required by 47 CFR 54.516(a)[3] and 47 CFR 54.619(a).[4]

Contributors. The *R&O* also requires contributors to the Universal Service Fund to retain all documents and records, *e.g.*, financial statements and supporting documentation, *etc.*, that they may require to demonstrate to auditors that their contributions were made in compliance with the program rules, assuming that audits are conducted within five years. The FCC clarifies that contributors must make available all documents and records that pertain to them, including those of contractors and consultants working on their behalf, to the Commission's OIG, to the USF Administrator, and to their auditors.

Connectivity. The FCC will require the USF Administrator to work with the Commission's Wireline Competition Bureau to modify the relevant FCC Forms or to create additional questions for USF program participants to determine more accurately how schools and libraries connect to the Internet and their precise levels of connectivity.

These new and revised information collection requirements, which include document retention and recordkeeping requirements, *etc.*, will affect numerous information collections that the FCC currently maintains. Once OMB approves these requirements, the FCC will begin to update these information collections as required by the rules adopted in this *R&O*.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–18712 Filed 9–21–07; 8:45 am]

BILLING CODE 6712–01–P

[2] 47 CFR § 54.417(a): Eligible telecommunications carriers must maintain records to document compliance with all Commission and state requirements governing the Lifeline/Link Up programs for the three full years preceding calendar years and requiring carriers to retain documentation for as long as the customer receives Lifeline service from the ETC or until audited by the Administrator and provide that documentation to the Commission or Administrator upon request.* * *

[3] 47 CFR § 54.516(a) *Recordkeeping requirements*—(1) *Schools and libraries.* Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of the service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools and libraries shall maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for a period of five years after purchase.

[4] 47 § CFR 54.619(d) *Service providers.* Service providers shall retain documents related to the delivery of discounted telecommunications and other supported services for at least five years after the last day of the delivery of discounted services. Any documentation that demonstrates compliance with the statutory or regulatory requirements for the rural health care mechanism shall be retained as well.

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

September 18, 2007.

SUMMARY: The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number.

FOR FURTHER INFORMATION CONTACT: Thomas Butler, Federal Communications Commission, (202) 418–1492 or via the Internet at *Thomas.butler@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0853.

OMB Approval Date: 8/10/2007.

Expiration Date: 04/30/2010.

Title: Compliance with the Children's Internet Protection Act; Receipt of Service Confirmation Form; and Funding Commitment (FRN) Change Request Form.

Form No.: 486, 479, 500.

Estimated Annual Burden: 35 responses; 1,655 total annual hours; 3–65 hours per respondent.

Needs and Uses: This collection was approved as a revision to a currently approved collection by OMB. The Commission eliminated the FCC Form 486–T which was a temporary form to be used in Funding Year 2003. That date has sunset and the form has been eliminated. The Commission also updated the Privacy Act and PRA *343 burden statement notices contained on each form. Finally, the FCC Form 486 has been modified to include a new certification that certain steps have been taken prior to the commencement of service (see the *Fifth Report and Order, CC Docket No. 02–6, FCC 04–190*). The FCC Forms 479 and 500 remain unchanged since the last submission to the OMB. The purpose of this information collection is to ensure that schools and libraries that are eligible to receive discounted Internet access and internal connections have in place certain Internet safety policies. Libraries receiving Internet access and internal connection services supported by the schools and libraries support mechanism must certify, by completing the FCC Form 486 (Receipt of Service Confirmation Form), the respondents are indicating they are enforcing a policy of Internet safety and enforcing the operation of a technology prevention measure. Respondents who received a Funding Commitment Decision Letter indicating services eligible for universal service discounts must file FCC Form 486 in order to start the payment process. In addition, all members of a consortium must submit signed certifications to the Billed Entity (using a FCC Form 479, Certification by Administrative Authority to Billed Entity of Compliance with Children's Internet Protection Act (CIPA)) of each consortium, in language consistent with that adopted on the FCC Form 486. FCC Form 500 is used in conjunction with the FCC Form 486 to adjust funding commitments and/or modify the dates for receipt of Service.

OMB Control No.: 3060–0355.

OMB Approval Date: 7/27/2007.

Expiration Date: 07/31/2010.

Title: Rate-of-Return Reports.

Form No.: 492, 492A.

Estimated Annual Burden: 111 responses; 888 total annual hours; 8 hours per response.

Needs and uses: This collection was approved as an extension to an existing collection with adjustments to the number of respondents and burden hours to reflect the most current information available. FCC Form 492 is filed by each local exchange carrier (LEC) or group of carriers who file individual access tariffs or who are not subject to sections 61.41 through 61.49 of the Commission's rules. Each LEC, or group of affiliated carriers subject to the previously stated sections file FCC Form 492A. Both forms are filed annually. The reports contain rate-of-return information and are needed to enable the Commission to fulfill its regulatory responsibilities.

OMB Control No.: 3060–1062.

OMB Approval Date: 7/27/2007.

Expiration Date: 07/31/2010.

Title: Schools and Libraries Universal Service Support Mechanism—Notification of Equipment Transfers.

Form No.: N/A.

Estimated Annual Burden: 100 responses; 100 total annual hours; 1 hour per response.

Needs and uses: This collection was approved as an extension to an existing collection with adjustments to the number of burden hours to reflect the most current information available. In the event that a participant of the schools and libraries universal service mechanism (also known as the e-rate program) is permanently or temporarily closed and equipment is transferred, the transferring entity must notify the Administrator of the transfer. Both the transferring and receiving entities must maintain detailed records documenting the transfer and the reason for the transfer for a period of five years.

OMB Control No.: 3060–0855.

OMB Approval Date: 9/11/2007.

Expiration Date: 09/30/2010.

Title: Telecommunications Reporting Worksheets and Related Collections.

Form No.: 499–A, 499–Q.

Estimated Annual Burden: 36,068 responses; 273,129 total annual burden, 15–25 hours per response.

Needs and uses: This collection was approved as a revision to a currently approved collection by OMB. 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. E7–18779 Filed 9–21–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 07–3887]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On September 17, 2007, the Commission released a public notice announcing the October 10, 2007 meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and agenda.

DATES: Wednesday, October 10, 2007, 9:30 a.m.

ADDRESSES: Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Portals II, 445 Twelfth Street, SW., Suite 5–C162, Washington, DC 20554. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–1466 or *Deborah.Blue@fcc.gov.* The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: September 17, 2007. The North American Numbering Council (NANC) has scheduled a meeting to be held Wednesday, October 10, 2007, from 9:30 a.m. until 5 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 Twelfth Street, SW., Room TW–C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting.

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 and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). 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. Also include a way we can contact you if we need more information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Proposed Agenda: Wednesday, October 10, 2007, 9:30 a.m:*

1. Announcements and Recent News
2. Approval of Transcript—Meeting of April 17, 2007
3. Report of the North American Numbering Plan Administrator (NANPA)
4. Report of the National Thousands Block Pooling Administrator (PA)
5. Report of the North American Numbering Portability Management (NAPM) LLC
6. Status of the Industry Numbering Committee (INC) activities
7. Report from the North American Numbering Plan Billing and Collection (NANP B&C) Agent
8. Report of the Billing & Collection Working Group (B&C WG)
9. Report of the Numbering Oversight Working Group (NOWG)
10. Report of the Local Number Portability Administration (LNPA) Working Group
11. Report of the Future of Numbering Working Group (FoN WG)
12. Special Presentations
13. Update List of the NANC Accomplishments
14. Summary of Action Items
15. Public Comments and Participation (5 minutes per speaker)
16. Other Business

Adjourn no later than 5 p.m.

* The Agenda may be modified at the discretion of the NANC Chairman with the approval of the DFO.

Federal Communications Commission.

Marilyn Jones,

Attorney, Wireline Competition Bureau.

[FR Doc. E7–18694 Filed 9–21–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC is contemplating initiating a survey relating to large-bank deposit insurance account systems. Institutions with the largest number of deposit accounts would be asked to provide information about their deposit account systems to the FDIC. The FDIC is exploring new methods to modernize its deposit insurance determination process, whereby the insurance status of each depositor is determined in the event of failure, and information collected through the survey would be used to facilitate those efforts.

DATES: Comments must be submitted on or before November 23, 2007.

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

- *Agency Web Site: http://www.fdic.gov/regulations/laws/federal.* Follow instructions for submitting comments on the Agency Web Site.
- *E-mail: Comments@FDIC.gov.*
- *Mail:* Leneta Gregorie, Legal Division, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (EST).

All comments should refer to ''Survey of Large-Bank Deposit Insurance Programs.'' Copies of comments may also be submitted to the OMB desk officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal* including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226, between 9 a.m. and 5 p.m. (EST) on business days. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Interested members of the public may obtain additional information about the collection by contacting Leneta Gregorie at the address identified above or by calling 202–898–3719.

SUPPLEMENTARY INFORMATION: Proposal to seek OMB approval for the following new collection of information:

Title: Survey of Large-Bank Deposit Insurance Programs.

OMB Number: New collection (3064–xxxx).

Frequency of Response: One-time.

Affected Public: Insured depository institutions with over 250,000 deposit accounts and total deposit domestic accounts of at least $2 billion, and institutions with total assets over $20 billion with less than 250,000 deposit accounts and total domestic deposits of at least $2 billion.

Estimated Number of Respondents: 159.

Estimated Time per Response: Estimated average of 16 hours per respondent.

Estimated Total Annual Burden: 159 respondents times 16 hours per respondent = 2544 hours.

General Description of Collection

In view of the significant industry consolidation in recent years, the FDIC is exploring new methods to modernize the process to determine the insurance status of each depositor in the event of a depository institution failure. The FDIC's current procedures to determine deposit insurance coverage may result in unacceptable delays if used for an FDIC insured institution with a large volume of deposit accounts. In developing a new system to determine insurance coverage, the FDIC's goals are to minimize disruption to depositors and communities, and maximize recoveries for the deposit insurance fund in the event one of the largest insured institutions should fail. On December 13, 2005, the FDIC published in the **Federal Register** for a 90-day comment period, an advance notice of proposed rulemaking (''ANPR'') seeking public comment on the best means to accomplish these objectives. 70 FR 73652 (Dec. 13, 2005). On December 13, 2006, the FDIC published a follow-up ANPR seeking further comment on whether and how the largest insured depository institutions should be required to modify their deposit account systems to speed depositor access to funds in the event of failure. 71 FR 74857 (Dec. 13, 2006). The proposed survey is designed to help the FDIC better understand the deposit account systems used by the largest banks. The proposed collection and instructions, in its current form, are set forth in Appendix A.

The focus of the survey is on FDIC-insured institutions with complex deposit systems. These include those institutions with the largest volume of deposit accounts, currently expected to include 152 insured institutions with over 250,000 deposit accounts and total domestic deposits of at least $2 billion, as well as seven additional institutions with total assets over $20 billion, with less than 250,000 deposit accounts and total domestic deposits of at least $2 billion (''Covered Institutions'').

The preferred method for collecting the data is through electronic submission in order to minimize burden on respondents. The study will conform to privacy rules and will not request any information that could be used to identify individual bank customers, such as name, address, or account number. All data from participating insured institutions will remain confidential. It is the intent of the FDIC to publish only general findings of the study.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the 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 automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs, and costs of operation, maintenance and purchase of services to provide the information.

Appendix A—Proposed Collection and Instructions Covered Institution Questionnaire

Instructions. The purpose of this task is to help the FDIC further its understanding of banks covered by the Advance Notice of Proposed

Rulemaking (ANPR). This information will be used to draft detailed technical requirements for the Notice of Proposed Rulemaking (NPR) setting forth the requirements (data and operational) with which covered banks must comply.

The questionnaire consists of five sections. Please ask the most knowledgeable person or particular section in your institution to answer these questions. Please record the time in minutes for you to complete each question. This will provide the FDIC with the time required to complete this questionnaire.

Goal 1: *Identification of Account Ownership.* The purpose is to ensure that the covered institutions can uniquely identify ALL owners and beneficiaries for each account maintained by the institution. When asked by the FDIC, the institution must be able to articulate how accounts are uniquely identified.

1. Does your institution have the means to identify the following roles involved in each deposit account?

	Yes	No
a. Owners		
b. Beneficiaries		
c. Non-Owners		

2. If your institution can identify the roles involved in a deposit account, does this identification occur through a single data field or through multiple data fields?

a. Single
b. Multiple

3. Does your institution have a means of differentiating between SSN and TIN at the account level?

a. Yes
b. No

4. Does your institution maintain SSN/TIN for all the names on a deposit account?

	Yes	No
a. Owners		
b. Beneficiaries		
c. Non-Owners		

5. What percentage of your deposit accounts contains a SSN/TIN for all account owners?

6. Does your institution maintain separate fields for account titles and account addresses?

a. Yes
b. No

7. If your answer to Question 6 is Yes, please provide the number of fields and the field length (characters)?

	Number of fields	Field length
a. Account Title		
b. Account Address		

8. Are multiple address fields maintained for each deposit account? For example, residence mailing or seasonal.

a. Yes
b. No

If Yes, how many?

9. Does the account title contain key words/phrases that identify all the roles involved in the account?

	Yes	No
a. Owners		
b. Beneficiaries		
c. Non-Owners		

Goal 2: FDIC Insurance Determination. The purpose is to ensure that the institution can provide account-level information that the FDIC can use to establish its insurance categories.

1. Does your institution maintain codes that identify the following type of accounts?

	Yes	No
a. Single		
b. Joint		
c. Business		
d. IRA (include Roth IRA, self-directed Keoghs, and traditional IRAs)		
e. Single ITF (e.g., Payable on Death and In Trust For accounts)		
f. Single LIV (Revocable Living Trust account)		
g. Department of Energy		
h. Business Escrow		
i. Government		
j. Irrevocable Trust		
k. Bureau of Indian Affairs		
l. Bank Owned		
m. Brokerage		
n. Employee Benefit Plan		

2. Does your institution maintain account-level product categories/ product types?

	Yes	No
a. DDA (Non-Interest Bearing Checking Accounts)		
b. NOW (Interest Bearing Checking Accounts)		
c. MMA (Money Market Accounts)		
d. SAV (Savings Accounts and Money Market Savings Accounts)		
e. CDS (Time Deposit Accounts and Certificate of Deposit Accounts)		
f. REP (Repurchase Agreements)		

3. Does your institution maintain deposit class types?

	Yes	No
a. RTL (Retail)		
b. FED (Federal)		
c. STATE (State)		
d. COMM (Commercial)		
e. CORP (Corporate)		
f. BANK (Bank Owned)		
g. DUE TO (Other Banks)		

4. Does your institution maintain deposit class codes for the following categories?

	Yes	No
a. Retail RTL deposit class valid code values are:		
1. Payable on Death		
2. Individual		
3. Trust		
4. Estate		
5. Attorney in Fact		
6. Minor (UTMA)		
7. Minor (UGMA)		
8. Bankruptcy Personal		
9. Pre-Need Burial		
10. Escrow		
11. Representative		
12. Payee/Beneficiary		
13. Joint		
14. Non-Minor Custodian		
15. Non-Minor Guardian		
16. Other Retail		
b. STATE valid values are:		
17. City		
18. State		
19. County, Clerk of Court		
20. Other State		
c. Commercial:		
21. Business Escrow		
22. Business DBA		
23. Bankruptcy		
24. Proprietorship		
25. Club		
26. Church		
27. Unincorporated Association		
28. Unincorporated Non-Profit		
29. Other Commercial		
d. Corporation:		
30. Business Trust		
31. Business Agent		
32. Business Guardian		
33. Incorporated Association		
34. Incorporated Non-Profit		
35. Corporation		
36. Corporate Partnership		
37. Corporate Partnership Trust		

	Yes	No
38. Corporate Agent		
39. Corporate Guardian		
40. Pre-Need Funeral Trust		
41. Limited Liability Incorporation		
42. LLC Partnership		
43. Lawyer Trust		
44. Realtor Trust		
e. DUE TO (Other Banks):		
45. Due to U.S. Banks		
46. Due to U.S. Branches of Foreign Banks		
47. Due to Other Deposit Institutions		
48. Due to Foreign Banks		
49. Due to Foreign Branches of U.S. Banks		
50. Due to Foreign Governments and Official Institutions		
f. Bank:		
51. Certified and Official Checks		
52. ATM Settlement		
53. Other Bank User		
g. FED:		
54. FHA		
55. Federal		

Goal 3: Hold Processing. The purpose is to ensure that the institution can apply monetary and non-monetary transactions to accounts en masse.

1. Does your institution support the following types of holds?

	Yes	Length of hold	No
a. Temporary Holds			
b. Term Holds			
c. Partial Holds			

2. Can your institution support the ability to move between temporary holds and term holds?

a. Yes
b. No

3. Does your institution have the ability to place holds on all product types?

a. Yes
b. No

4. How does a hold affect the end-of-day schedule processing cycle?

Goal 4: Processing Segmentation. The purpose is to ensure that the institution has data segmentation that can assist the FDIC in streamline its process.

1. Does your institution maintain separate applications for the following major types of accounts?

	Yes	No
a. Brokerage/Escrow Accounts		
b. IRA Accounts		
c. Business Accounts		
d. Trust		

2. What is the total number of the following types of accounts maintained by your deposit system(s)?

	Total number of accounts
a. Active Accounts	
b. Dormant Accounts	
c. Accounts with Zero Average Daily Balance	

3. Provide the number of accounts for each of the following dollar range.

	Total number of accounts
a. $5,000 or less	
b. 5,000<$<=50,000	
c. 50,000<$<=100,000	
d. 100,000<$<=250,000	
e. Greater than $250,000	

Goal 5: *Miscellaneous Data Collection.* This information will be used to help the FDIC streamline its insurance determination processes.

1. How are the official items drawn on your bank handled (i.e., are official items drawn on your bank, paid through your bank, and processed by your bank)?

If not, what is your method?

2. For official items processed by your institution, are the following elements of information captured and maintained electronically?

	Yes	No
a. Check Number		
b. Check Amount		
c. Payee		
d. Date of Issue		

3. What is the typical daily volume of official items processed by your institution? Please specify—

	Number of items	Total dollar amount
a. Cashier checks		
b. Interest checks		
c. Bank Money Orders		
d. Expense checks		
e. Loan Disbursements		
f. Other checks		

4. Do the account numbers appear on interest checks processed daily by your institution?

a. Yes
b. No

5. Does your institution have an up-to-date data dictionary?

	Yes	No
a. Documenting all fields		
b. Documenting the meaning of all codes		

6. Does the Institution have an automated process in place to ensure integrity of the following:

	Yes	No
a. The linkage of roles is maintained between CIF and DIF records		
b. All product codes are properly maintained		

7. Does the Institution use data quality tools (ETL) to integrate legacy data during a merger process?

a. Yes
b. No

8. Which of the following occurs during the acquisition process?

	Yes	No
a. Legacy data is cleansed		
b. All roles are converted to the resulting institution codes		
c. All roles are established and CIF records are created for all deposit records		

Dated at Washington, DC, this 15th day of September, 2007.

Federal Deposit Insurance Corporation.

Robert Feldman,

Executive Secretary.

[FR Doc. E7–18735 Filed 9–21–07; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested

persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 18, 2007.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. NETEX Bancorporation, Mount Pleasant, Texas; to acquire 100 percent of voting shares of City Bancorp, Inc., Wellington, Texas, and thereby indirectly acquire voting shares of City Delaware Bancorp, Inc., Dover, Delaware, and Community Bank, Wellington, Texas.

Board of Governors of the Federal Reserve System, September 18, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–18723 Filed 9–21–07; 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 October 19, 2007.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. CNB Bancorp, Inc., to become a bank holding company by acquiring 100 percent of the voting shares of Commonwealth National Bank, both of Mobile, Alabama.

Board of Governors of the Federal Reserve System, September 19, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–18734 Filed 9–21–07; 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 October 19, 2007.

A. Federal Reserve Bank of Cleveland (Douglas A. Banks, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. S&T Bancorp, Inc., Indiana, Pennsylvania; to acquire up to 24.99 percent of the voting shares of Allegheny Valley Bancorp, Inc., and thereby indirectly acquire voting shares of Allegheny Valley Bank of Pittsburgh, both of Pittsburgh, Pennsylvania.

Board of Governors of the Federal Reserve System, September 19, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–18736 Filed 9–21–07; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Funds for a Cooperative Agreement to Provide Baccalaureate Nursing Education Supportive of Maternal-Child Nursing at Kabul Medical University (KMU) and Support for the Development of a Nursing Board for Registration and Licensure at the Ministry of Public Health; Cancellation

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice; cancellation.

SUMMARY: The Department of Health and Human Services published a document in the **Federal Register** of August 16, 2007, Vol. 72, No. 158, pages 46063 through 46073. The notice announced the sole source award of funds to provide Baccalaureate Nursing Education Supportive of Maternal-Child Nursing at Kabul Medical University (KMU) and Support for the Development of a Nursing Board for Registration and Licensure at the Ministry of Public Health. This award is being withdrawn.

FOR FURTHER INFORMATION CONTACT: Christopher J. Hickey, Ph.D., Acting Director, Office of Asia and the Pacific, Office of Global Health Affairs, U.S.

Department of Health and Human Services.

SUPPLEMENTARY INFORMATION: The award is cancelled at this time to utilize recent and planned technical assessments by HHS experts to guide subsequent HHS action.

Dated: September 17, 2007.

Mary Lou Valdez,

Deputy Director, Office of Global Health Affairs, U.S. Department of Health and Human Services.

[FR Doc. E7–18763 Filed 9–21–07; 8:45 am]

BILLING CODE 4150–38–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Availability of Funds for a Cooperative Agreement To Provide Basic Medical Education Supportive of Maternal-Child Health at Kabul Medical University (KMU) and Clinical Training in Obstetrics and Gynecology to Resident Physicians and Refresher Training to Attending Physicians at the Rabia Balkhi Women's Hospital; Cancellation

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice; cancellation.

SUMMARY: The Department of Health and Human Services published a document in the **Federal Register** of August 16, 2007, Vol. 72, No. 158, pages 46073 through 46082. The notice announced the sole source award of funds to provide Basic Medical Education Supportive of Maternal-Child Health at Kabul Medical University (KMU) and Clinical Training in Obstetrics and Gynecology to Resident Physicians and Refresher Training to Attending Physicians at the Rabia Balkhi Women's Hospital. This award is being withdrawn.

FOR FURTHER INFORMATION CONTACT: Christopher J. Hickey, Ph.D., Acting Director, Office of Asia and the Pacific, Office of Global Health Affairs, U.S. Department of Health and Human Services.

SUPPLEMENTARY INFORMATION: The award is cancelled at this time to utilize recent and planned technical assessments by HHS experts to guide subsequent HHS action.

Dated: September 17, 2007.

Mary Lou Valdez,

Deputy Director, Office of Global Health Affairs, U.S. Department of Health and Human Services.

[FR Doc. E7–18756 Filed 9–21–07; 8:45 am]

BILLING CODE 4150–38–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Secretary's Advisory Committee on Human Research Protections

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a) of the Federal Advisory Committee Act, U.S.C. Appendix 2, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold its fourteenth meeting. The meeting will be open to the public.

DATES: The meeting will be held on Monday, October 29, 2007, from 8:30 a.m. until 4:30 p.m. and Tuesday, October 30, 2007, from 8:30 a.m. until 4:30 p.m.

ADDRESSES: The Sheraton National Hotel, 900 South Orme Street, Arlington, Virginia 22204. Phone: 703–521–1900.

FOR FURTHER INFORMATION CONTACT: Ivor Pritchard, PhD., Acting Director, Office for Human Research Protections (OHRP), or Kevin Prohaska, D.O., Acting Executive Director, Secretary's Advisory Committee on Human Research Protections; U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852; 240–453–8231; fax: 240–453–6909; e-mail address: *sachrp@osophs.dhhs.gov*.

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services and the Assistant Secretary for Health on issues and topics pertaining to or associated with the protection of human research subjects.

On October 29, 2007, SACHRP will receive and discuss updated information and reports from the Subpart A Subcommittee and the Subcommittee on Inclusion of Individuals with Impaired Decision-Making in Research. The Subpart A Subcommittee addresses issues involving the application of subpart A of 45 CFR part 46 in the current research environment. This subcommittee was established by SACHRP at its October 4–5, 2006, meeting. The Subcommittee on Inclusion of Individuals with Impaired Decision-Making in Research is charged with developing recommendations for consideration by SACHRP about whether guidance and/or additional regulations are needed for research involving individuals with impaired decision-making capacity. This subcommittee was formed as a result of discussions during the July 31–August 1, 2006, SACHRP meeting.

On October 30, 2007, the Committee will receive presentations and hear discussions from representatives on two different panels. The first panel will examine human-subjects protections related issues facing institutions participating in Clinical and Translational Science Awards of the National Institutes of Health. The second panel will examine human-subjects protections related issues relative to research in the setting of natural and/or man-made catastrophes and other such emergencies.

Public attendance at the meeting is limited to space available. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact persons. Members of the public will have the opportunity to provide comments on both days of the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed materials distributed to SACHRP members for this scheduled meeting should submit materials to the Acting Executive Director, SACHRP, prior to the close of business Friday, October 19, 2007. Information about SACHRP and the draft meeting agenda will be posted on the SACHRP Web site at: *http://www.hhs.gov/ohrp/sachrp/index.html*.

Dated: September 19, 2007.

Ivor A. Pritchard,

Acting Director, Office for Human Research Protections, Acting Executive Secretary, Secretary's Advisory Committee on Human Research Protections.

[FR Doc. E7–18757 Filed 9–21–07; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Vaccine Advisory Committee

AGENCY: Department of Health and Human Services, Office of the Secretary.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (DHHS) is hereby giving notice that the National Vaccine Advisory

Committee (NVAC) will hold a meeting. The meeting is open to the public.

DATES: The meeting will be held on October 22, 2007, from 9 a.m. to 5 p.m., and on October 23, 2007, from 9 a.m. to 1:30 p.m.

ADDRESSES: Department of Health and Human Services; Hubert H. Humphrey Building, Room 800; 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION, CONTACT: Ms. Emma English, Program Analyst, National Vaccine Program Office, Department of Health and Human Services, Room 443–H Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; (202) 690–5566, *nvpo@hhs.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to section 2101 of the Public Service Act (42 U.S.C. section 300aa–1), the Secretary of Health and Human Services was mandated to establish the National Vaccine Program to achieve optimal prevention of human infectious diseases through immunization and to achieve optimal prevention against adverse reactions to vaccines. The National Vaccine Advisory Committee was established to provide advice and make recommendations to the Assistant Secretary for Health, as the Director of the National Vaccine Program, on matters related to the program's responsibilities.

Topics to be discussed at the meeting include adult and adolescent immunization, pandemic vaccine prioritization, vaccine financing, vaccine stockpiles, and other Departmental vaccine priorities. Subcommittee meetings will be held on the afternoon of October 22, 2007. A tentative agenda is currently available on the NVAC Web site: *http://www.hhs.gov/nvpo/nvac*.

In anticipation of a discussion regarding the Committee's draft document ''Mandates for Adolescent Immunizations,'' developed by the Adolescent Immunization Working Group, the Committee invites the public to submit written comments to the Executive Secretary, NVAC, through the contact person listed above. Written comment must be received by close of business on October 9, 2007. Additionally, members of the public will be given the opportunity to participate in the discussion on October 22, 2007. Public comment will be limited to five minutes per speaker. A copy of this draft document can be found at *(http://www.hhs.gov/nvpo)* or by contacting the contact person identified above.

Public attendance at the meeting is limited to space available. Individuals must provide a photo ID for entry into the Humphrey Building. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the designated contact person. Members of the public will have the opportunity to provide comments at the meeting. Public comment will be limited to five minutes per speaker. Any members of the public who wish to have printed material distributed to NVAC members should submit materials to the Executive Secretary, NVAC, through the contact person listed above prior to close of business October 16, 2007. Pre-registration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should e-mail *nvpo@hhs.gov* or call 202–690–5566.

Dated: September 19, 2007.

Bruce Gellin,

Director, National Vaccine Program Office.

[FR Doc. E7–18758 Filed 9–21–07; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control Initial Review Group: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the National Center for Injury Prevention and Control Initial Review Group, Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through August 20, 2009.

For information, contact Jane Suen, Ph.D., Executive Secretary, National Center for Injury Prevention and Control Initial Review Group, Centers for Disease Control and Prevention, Department of Health and Human Services, 4770 Buford Highway, Mailstop K02, Atlanta, Georgia 30341, telephone 770/488–4281 or fax 770/488–2489.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 17, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–18748 Filed 9–21–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Advisory Board on Radiation and Worker Health, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, has been renewed for a 2-year period through August 3, 2009.

For information, contact Lewis Wade, Ph.D., Executive Secretary, National Institute for Occupational Safety and Health, CDC, 4976 Columbia Parkway, Cincinnati, Ohio 45226, Telephone (513) 533–6825, Fax (513) 533–6826.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: September 17, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–18749 Filed 9–21–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; Quality of Life Outcomes in Neurological Disorders

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Neurological Disorders and Stroke (NINDS), the National Institutes of Health (NIH) will publish periodic summaries of proposed

projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: Quality of Life Outcomes in Neurological Disorders; *Type of Information Collection Request:* New; *Form Number:* NA; *Need and Use of Information Collection:* In order to improve outcome measurement in clinical trials of neurological conditions, NINDS is developing a health-related quality of life (HRQL) measurement system for major neurological diseases that affect the United States population. This measurement system must be consistent enough across the selected conditions to allow for cross-disease comparison, and yet flexible enough to capture condition-specific HRQL issues. The primary end users of this measurement system will be clinical trialists and other clinical neurology researchers; however the measurement system will also be appropriate for clinical practice. The proposed information collection will support psychometric testing of HRQL item banks and testing of Spanish translation of the final questionnaires. *Frequency of Response:* Once; *Affected Public:* Individuals; *Type of Respondent:* Adults and children. The annual reporting burden is shown in the following table. There are no Capital Costs, Operating Costs or Maintenance Costs to report.

Type of respondents	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Adults	6000	1	0.5	3,000
Children	3000	1	0.5	1,500
Totals	9000			4,500

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points; (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Claudia Moy, Program Director, Clinical Trials Group, NINDS, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 2214, Bethesda, MD 20892, or call non-toll-free number 301–496–2789 or e-mail your request, including your address to: *moyc@ninds.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: September 6, 2007.

Joellen Harper Austin,

Executive Officer, NINDS, National Institutes of Health.

[FR Doc. E7–18772 Filed 9–21–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Method for Predicting and Detecting Tumor Metastasis

Description of Technology: Detecting cancer prior to metastasis greatly increases the efficacy of treatment and the chances of patient survival. Although numerous biomarkers have been reported to identify aggressive tumor types and predict prognosis, each biomarker is specific for a particular type of cancer, and no universal marker that can predict metastasis in a number of cancers have been identified. In addition, due to a lack of reliability, several markers are typically required to determine the prognosis and course of therapy.

Available for licensing are carboxypeptidase E (CPE) inhibitor compositions and methods to prognose and treat cancer as well as methods to determine the stage of cancer. The inventors discovered that CPE expression levels increase according to the presence of cancer and metastasis wherein CPE is upregulated in tumors and CPE levels are further increased in metastatic cancer. This data has been demonstrated both in vitro and in vivo experiments and in liver, breast, prostate, colon, and head and neck cancers. Metastatic liver cells treated with CPE siRNA reversed the cells from being metastatic and arrested cells from further metastasis. Thus, CPE as a biomarker for predicting metastasis and its inhibitors have an enormous potential to increase patient survival.

Applications: Method to prognose multiple types of cancer and determine likelihood of metastasis; Compositions that inhibit CPE such as siRNA; Method to prevent and treat cancer with CPE inhibitors.

Market: 600,000 cancer related deaths in 2006; Global cancer market is worth more than eight percent of total global pharmaceutical sales; Cancer industry is predicted to expand to $85.3 billion by 2010.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Y. Peng Loh (NICHD) *et al.*

Publication: Manuscript in preparation.

Patent Status: U.S. Provisional Application No. 60/885,809 filed 19 Jan

2007 (HHS Reference No. E–096–2007/0–US–01); U.S. Provisional Application No. 60/887,061 filed 29 Jan 2007 (HHS Reference No. E–096–2007/1–US–01); U.S. Provisional Application No. 60/895,912 filed 20 Mar 2007 (HHS Reference No. E–096–2007/2–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute for Child Health and Human Development, Section on Cellular Neurobiology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize CPE as a biomarker for predicting metastasis. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Methods of Determining the Prognosis of Hepatocellular Carcinoma

Description of Technology: Hepatocellular carcinoma (HCC) represents an extremely poor prognostic cancer that remains one of the most common and aggressive malignancies worldwide. A major hallmark of HCC is intrahepatic metastasis and post-surgical reoccurrence. With current diagnostic methods, HCC patients are often diagnosed with end-stage cancer and have poor survival. Thus, there is a need for an accurate method to identify HCC and its proclivity for metastases/relapse, particularly at early stages of this disease.

The inventors have discovered a unique set of microRNA (miRNA) biomarkers that are associated with HCC metastasis/recurrence. This miRNA signature was validated in an independent cohort of 110 HCC samples as an independent predictor of HCC prognosis and likelihood of metastasis and relapse. In particular, the inventors provide evidence that these miRNA markers can predict HCC metastasis in the early stages of cancer. This methodology may enable clinicians to effectively stratify patients for appropriate cancer treatment and prioritize liver transplantation candidates.

Applications: Method to prognose HCC, patient survival and likelihood of HCC metastasis/relapse; Diagnostic tool to aid clinicians in determining appropriate cancer treatment; Compositions that inhibit miRNA HCC biomarkers such as siRNA; Method to treat HCC patients with inhibitory miRNA compositions.

Market: Primary liver cancer accounts for about 2% of cancers in the U.S., but up to half of all cancers in some undeveloped countries; Post-operative five year survival rate of HCC patients is 30–40%.

Development Status: This technology is currently in the pre-clinical stage of development.

Inventors: Xin Wei Wang *et al.* (NCI).

Publication: Budhu et al. A Unique Metastasis-related MicroRNA Expression Signature Predicts Survival and Recurrence in Hepatocellular Carcinoma, manuscript in preparation.

Patent Status: U.S. Provisional Application No. 60/884,052 filed 09 Jan 2007 (HHS Reference No. E–050–2007/0–US–01).

Licensing Availability: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov*.

Mutant Alleles of Hsp90 That Modulates the Lifespan of Yeast

Description of Technology: Heat shock protein 90 (Hsp90) are a class of chaperone proteins that are up-regulated in response to elevated temperature and other environmental stresses. They act as chaperones to other cellular proteins and facilitate their proper folding and repair, and aid in the refolding of misfolded client proteins.

This invention identifies Hsp90 mutant residues that affect the chronological lifespan of yeast. These mutations in addition to a deletion in the sch9 allele, the yeast homolog to human kinase AKT, can increase yeast lifespan from 45 to 57 days, approximately 20% longer than the wildtype strain. These genetically engineered yeast strains may have the longest chronological lifespan reported to date.

Applications: Model to study aging and longevity factors; Model to screen compounds that affect lifespan; A long-lived yeast strain could be used to ferment alcohol in a more efficient and cost effective as an alternative fuel source; Method to extend lifespan of transgenic farm animals.

Market: Anti-aging and alternative fuel industries are worth billions of dollars.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Bradley T. Scroggins (NCI) *et al.*

Related Publication: BT Scroggins et al. An acetylation site in the middle domain of Hsp90 regulates chaperone function. Mol Cell. 2007 Jan 12;25(1):151–159.

Patent Status: U.S. Provisional Application No. 60/848,346 filed 09 Sep 2006 (HHS Reference No. E–319–2006/0–US–01).

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute's Urologic Oncology Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize models to study aging and longevity factors. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Biomarkers for Tissue Status

Description of Technology: Tissue regeneration and tumorigenesis are complex, adaptive processes controlled by cues from the tissue microenvironment. There are complex processes both characterized by cell proliferation, migration, and angiogenesis suggesting that wounds and cancer share a number of phenotypic similarities including cellular behavior, signaling molecules, and gene expression.

Utilizing the kidneys as a model to compare renal regeneration and repair (RRR) from ischemically-injured tissues and renal cellular carcinoma (RCC), the inventors have identified biomarkers which are differentially expressed. The invention relates to methods of quickly and accurately diagnosing RCC and monitoring renal tissue health as well as RCC treatment.

Applications: Method to accurately diagnose RCC; RCC biomarker inhibitors such siRNA; Method to treat RCC; Method to determine and monitor renal tissue health status; Method for improving renal ischemia recovery without promoting RCC; Biomarkers for immunotherapy, drug targeting and drug screening, for targeting tumors and not normal regenerating tissue; Biomarkers for immunotherapy, drug targeting and drug screening, for targeting ischemic tissue and not tumors.

Market: Kidney cancer is one of the top ten most prevalent cancers in the U.S. and it accounts for 12,200 deaths annually; Approximately 35,000 new cases of kidney cancer are diagnosed annually; 50% survival rate after five years of diagnosis; Renal cancer accounts for 3% of all adult male malignancies.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Joseph Riss (NCI) *et al.*

Publications:

1. FF Marshall. Urological Survey. Urological Oncology: Renal, Ureteral and Retroperitoneal Tumors. J Urol. 2007 May;177(5):1732–1734.

2. J Riss *et al.* Cancers as wounds that do not heal: Differences and similarities between renal regeneration/repair and renal cell carcinoma. Cancer Res. 2006 July 15;66(14):7216–7224.

Patent Status: U.S. Provisional Application No. 60/649,208 filed 01 Feb 2005 (HHS Reference No. E–064–2005/0–US–01); PCT Application No. PCT/US2006/003611 filed 01 Feb 2006 (HHS Reference No. E–064–2005/0–PCT–02).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute, Center for Cancer Research, Laboratory of Cancer Biology and Genetics, Wound Healing and Oncogenesis (NCI/CCR/LCBG), is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize topics of invention or related to cancer biology, metastasis, wound healing, bioinformatics, pharmacogenomics and therapeutic. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Dated: September 18, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–18774 Filed 9–21–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

A Transgenic Mouse Expressing Reverse Tetracycline-Controlled Transactivator in Melanocytes

Description of Technology: Available for licensing are transgenic mice that allow for specific and inducible expression of proteins in melanocytes. Melanocytes are difficult to study because of their paucity in mammalian skin, and these mice present a readily available source of these cells and model to study melanocyte diseases such as melanoma of the skin and eye. The mice can be crossed with transgenic mice that harbor the green fluorescent protein (GFP) gene, resulting in melanocyte-specific GFP labeling. GFP labeling can aid in imaging and/or isolation of melanocytes via fluorescence activated cell sorting, and it can be used to study melanocytes at both the cellular and molecular level.

Applications: Research tool to study melanocytes and melanocyte related diseases such as melanoma of the skin and eye.

Model to develop and test cosmetic dermatology products such as skin tanners.

Advantages: Research tool to study melanocytes at the cellular and molecular level.

Melanocytes compose a minute fraction of mammalian skin. These mice present a significant advantage in labeling, imaging and isolating these cells.

Market: An estimated 59,940 Americans will be diagnosed with skin cancer in 2007.

An estimated 8,110 Americans will die of skin cancer in 2007.

Intraocular melanoma is a rare disease. For every 100,000 Americans, there are approximately 17.7 new cases of intraocular melanoma.

Cosmetic dermatology industry is worth billions of dollars.

Inventors: Glenn T. Merlino, M. Raza Zaidi, *et al.* (NCI)

Publication: Planned oral presentation at the Fourth International Congress on Melanoma in New York City, November 1–4, 2007. The technology is mentioned in the Abstract for this meeting.

Patent Status: HHS Reference No. E–308–2007/0—Research Tool. Patent protection is not being sought for this technology.

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301–435–4633; *wongje@mail.nih.gov.*

Collaborative Research Opportunity: The Laboratory of Cancer Biology and Genetics of the National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize use of transgenic mice that allow for specific and inducible expression of proteins in melanocytes. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Chimeric Peptide Antigen Library: A Novel Tool for the Development of Vaccines Against Variable Pathogens Such as HIV, Tuberculosis, Hepatitis C and Malaria

Description of Technology: Many pathogens of dangerous human diseases such as HIV–1, HIV–2, viruses of hepatitis B and C, virus of influenza, viruses of dengue fever of types 1–4, pathogens of malaria and tuberculosis all possess significant variability.

Libraries of chimeric peptides, which imitate the genetic variability of the variable sections of the pathogenic protein, can cause a defensive immune response to the wide spectrum of the pathogen diversity. The immunogenic collections of chimeric peptides (libraries of variable chimeric peptides) in total reflect the natural and potential variability of the sections which determine antigenic activity.

The present invention relates to antigenic peptides, the methods of their preparation and their peptide libraries and it can be used for preparation of vaccines and medicine diagnostics. More specifically, the invention describes that the number of sequences in the library (size of library) is equal to the product of the number of possible residues in each position of peptide. The size of library can be reduced by sequential removal of residues which have the lowest frequency until the size will reach the required value.

Applications: Variable chimeric peptide libraries (VPCLs) can help construct effective vaccines capable of treating variable infectious agents such as HIV, TB, and Malaria.

Advantages: VPCLs represent naturally occurring and potential variability of antigenically active regions in one vaccine.

Such VPCLs can induce production of a wide range of antibodies and cytotoxic T-lymphocytes (CTLs) with joint specificity that covers the diversity of antigenic variants of the variable infectious agent.

Benefits: Several million people worldwide are suffering from diseases caused by variable pathogens. Variable pathogens important for human health include but are not limited to HIV, hepatitis, influenza, malaria and tuberculosis. The HIV market is currently $10 billion U.S. dollars. Additionally, the HIV market is forecast to grow at a rate of 10.3% over the next five years.

Inventors: Amir Maksyutov (VECTOR, Russia) *et al.*

Development Status: Method of constructing VPCLs has been established.

Patent Status: PCT Patent Application PCT/RU2003/000421 was filed 25 Sep, 2003 (HHS Ref. No. E–167–2007/0).

PCT Publication: Antigenic Peptides.

Licensing Contact: Sabarni K. Chatterjee at 301–594–4697 or by e-mail at *chatterjeesa@mail.nih.gov*; or Jasbir Kindra at 301–435–5559 or by e-mail at *kindraj@mail.nih.gov*.

Treatment of Primary Tumors and Tumor Metastases With TNF-alpha Antagonists

Description of Technology: The role of TGF-β1 in tumorigenesis is well-documented. However, the mechanism behind the induction of TGF-β1 remains poorly understood. As a result, potential targets for the treatment of cancers associated with TGF-β1 have escaped detection. This invention uncovers a two-step process of TGF-β1 induction, thereby providing alternative targets for cancer treatment.

TGF-β1 induction requires signaling through by IL–13 through IL13-Rα2. However, IL13-Rα2 must first be induced, requiring signaling by TNFα and IL4 or IL–13 through IL13-Rα1. Thus, by blocking TNFα signaling, one can block the expression of TGF-β1. This invention concerns new methods of treating cancers associated with TGF-β1 expression involving the administration of TNFα antagonists.

Applications and Advantages: New cancer treatment for a wide variety of cancers, including colon cancer.

Provides a treatment option for patients who don't respond to currently available anti-cancer agents.

Benefits: This new method may provide a social benefit by improving the quality/length of patient life for cancer patients who do not respond to currently available treatment methods.

The cancer therapeutic market is expected to reach $27 billion by 2009, providing an excellent financial opportunity.

Inventors: Warren Strober (NIAID) *et al.*

U.S. Patent Status: U.S. Provisional Application filed (HHS Reference No. E–161–2007/0–US–01)

Licensing Contact: David A. Lambertson, Ph.D.; Phone: (301) 435–4632; Fax: (301) 042–0220; E-mail: *lambertsond@mail.nih.gov*

Collaborative Research Opportunity: The National Institutes of Health, NIAID, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize ''Treatment of Primary Tumors and Tumor Metastases with TNF-alpha Antagonists.'' Please contact Dr. Warren Strober at *WStrober@niaid.nih.gov* for more information.

Therapeutic HIV Vaccine and Associated Protocols

Description of Technology: This technology describes a therapeutic HIV DNA vaccine to be administered to individuals who have previously experienced or are undergoing antiretroviral therapy (ART). The therapeutic DNA vaccine can also be administered in combination with a vector encoding an IL–15 and/or IL–15 receptor alpha (IL–15Ra) polypeptide. In primate studies, the technology was found to be particularly effective when the vaccine composition was administered by electroporation and expressed six (6) HIV antigens (including two (2) gag polypeptides and two (2) envelope polypeptides) and IL–15 and IL–15Ra. The antigens are typically modified with a destabilizing sequence, a secretory polypeptide and/or a degradation signal. Successive administration up to as many as nine resulted in continual boost of the immune response against the encoded antigen. A potent immunotherapeutic vaccine as described here could be an important technology for the fight against HIV/AIDS.

Applications: Therapeutic HIV DNA vaccines.

Inventor: Barbara Felber *et al.* (NCI).

Patent Status: U.S. Provisional Application filed 12 Jun 2007 (HHS Reference No. E–103–2007/0–US–01).

PCT Application No. PCT/US2007/000774 filed 12 Jan 2007 (HHS Reference No. E–254–2005/2–PCT–01).

PCT Application No. PCT/US2001/45624, filed 1 Nov 2001, and National Stage filed in AU, JP, US, CA, and EP (HHS Reference No. E–308–2000/0).

U.S. Patent Application No. 11/571,879 filed 9 Jan 2007 (HHS Reference No. E–249–2004/1–US–02).

Development Status: Primate data available

Licensing Status: Available for licensing

Licensing Contact: Susan Ano, Ph.D.; 301–435–5515; *anos@mail.nih.gov*

Collaborative Research Opportunity: The *National Cancer Institute* is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize HIV DNA vaccines. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Optically Active Radio-Labeled Reverse Transcriptase Inhibitors

Description of Technology: Researchers at the NIH developed a novel and efficient method for preparing F-18 labeled reverse transcriptase inhibitors, particularly, F-18 labeled tenofovir analogues for use as PET imaging agents to monitor anti-retroviral drug biodistribution in anatomic compartments in HIV–1 infected patients. Fluorine-18 is often used to prepare radiotracers and radiopharmaceuticals, but its short half-life of 109 minutes demands efficient and rapid radiochemical syntheses and purification techniques. This technology provides high yields of labeled compounds utilizing rapid synthetic methods and HPLC purification in both racemic and optically active forms.

Available for licensing and commercial development are compositions of F-18 labeled tenofovir analogues, as well as methods of synthesis and methods of use for such labeled compounds.

Applications: Non-invasive *in vivo* molecular imaging tracer useful for:

Evaluating the penetration and kinetics of anti-HIV drugs into anatomic compartments *in vivo,* Addressing changes in drug penetration in anatomic compartments during prolonged exposure to anti-HIV drugs.

Market: U.S. sales of diagnostic radiopharmaceuticals reached 1.69 billion dollars in 2005 and are expected to reach 3.52 billion dollars by 2012.

Development Status: Early stage

Inventors: Dale O. Kiesewetter (NIBIB), Michele Di Mascio (NIAID), Esther Lim (CC)

Patent Status: U.S. Provisional Application No. 60/914,732 filed 28 Apr 2007 (HHS Reference No. E–072–2007/0–US–01)

Licensing Status: Available for licensing.

Licensing Contact: Chekesha S. Clingman, Ph.D.; 301/435–5018; *clingmac@mail.nih.gov*

Collaborative Research Opportunity: The NIBIB/IR/Positron Emission Tomography Radiochemistry Group and the NIAID Biostatistic Research Branch are seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize a Fluorine-18 radiolabeled analog of tenofovir. Please contact Peter Moy (NIBIB); 301/496–9270; *moype@mail.nih.gov* for more information.

Dated: September 17, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–18798 Filed 9–21–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contracted proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Heart Study Research Project.

Date: October 18, 2007.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hilton Crystal City, 2399 Jefferson Davis Hwy, Arlington, VA 22202.

Contact Person: Holly Patton, PhD, Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–435–0280, *pattonh@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HSS)

Dated: September 17, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4708 Filed 09–21–07; 8:45 am]

BILLING CODE 4140–07–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Asthma and Allergic Diseases Cooperative Research Centers.

Date: October 16–18, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Quirijn Vos, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 451–2666, *qvos@niaid.nih.gov.*

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee.

Date: October 17, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: North Bethesda Marriott, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Gary S. Madonna, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 496–3528, *gm12w@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Virology Program Project Application.

Date: October 18, 2007.

Time: 9 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, 1202, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Gary S. Madonna, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, Bethesda, MD 20892, (301) 496–3528, *gm12w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 17, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4710 Filed 9–21–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Public Teleconference Regarding Licensing and Collaborative Research Opportunities for: Novel Ligands for Diagnostic Imaging and Radioimmunotherapy; Dr. Martin Brechbiel et al. (NCI)

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice

Technology Summary

The technology describes the composition of several 1,4,7,10-tetraazacyclododecane-1,4,7,10-tetraacetic acid (DOTA) and diethylenetriaminepentaacetic acid (DTPA) compounds, their synthesis, metal complexes, conjugates, and their application in diagnostic imaging and radioimmunotherapy.

Technology Description

Monoclonal antibodies (mAbs) have been employed as targeting biomolecules for the delivery of radionuclides into tumor cells in radioimmunotherapy (RIT). Numerous clinical trials have been performed to validate this modality of cancer therapy.

While one critical variable that influences the effectiveness of RIT is the choice of the radionuclide and its

associated emission characteristics, an equally important aspect is the choice of the chemical means by which the radionuclide is bound to the protein. For RIT applications, radioisotopes such as ^{90}Y (Yttium-90) or ^{177}Lu (Lutetium-177) must be linked as a metal complex to a monoclonal antibody (mAb) or immunoprotein via a suitable bifunctional chelating agent, wherein that complex must be thermodynamically and kinetically stable to minimize release of the isotope in order to minimize toxicity *in vivo.* Compounds that can easily conjugate as metal complexes, and are stable to an extent *in vivo* are needed for new imaging diagnostics and radiotherapy technologies.

In general, DOTA conjugated to mAbs display relatively slow and inefficient radiolabeling with Y(III) isotopes under mild conditions. This is contrary to the rapid and high-yield radiolabeling (>90%) of mAbs conjugated with bifunctional derivatives of the acyclic chelating agent DTPA.

Since the release of the radiometal from the chelate is a potential source of radiotoxic effects to non-tumor cells and normal tissue, a chelate that forms a kinetically inert complex with the radiometal is critical for successful targeted radiotherapy. Additionally, compounds having complex stability comparable to that of DOTA and complexation kinetics characteristics of DTPA are desirable for effective conjugation and *in vivo* efficacy.

This technology family describes the synthesis of several DOTA and DTPA based compounds. The technology family consists of three different types of compounds: (1) Backbone-substituted DOTA compounds, metal complexes, and conjugates (2) two protected variants of the 2-(4-isothiocyanatobenzyl)-6-methyldiethylenetriamine pentaacetic acid (1B4M-DTPA), (3) a protected active ester variant of the CHX-A″ DTPA and (4) Substituted 1,4,7-triazacyclononane-N,N′,N″-triacetic acid (NOTA) compounds with a pendant donor amino group, metal complexes, having the properties of both DOTA and DTPA.

More specifically, the NOTA compounds are substituted 1,4,7-triazacyclononane-N,N′,N″-triacetic acid compounds with a pendant donor amino group. These compounds possess the same octadentate coordinating groups as DOTA and DTPA; however, these compounds have a combined macrocyclic and acyclic character. The macrocyclic component chosen is based upon 1,4,7-triazacyclononane-N,N′,N″-triacetic acid (''NOTA''), while the acyclic component is a pendant bis(carboxymethyl)amino donor group that is connected by an alkylene bridge that is optionally substituted with an aralkyl group. The cooperative binding of the pendant donor groups coupled with the pre-organization and macrocyclic effect of the NOTA sub-structure accelerates complexation with metal ions and isotopes (e.g., Y(III), Gd (III)) while maintaining a high level of stability of the complexes.

The 1B4M-DTPA and the CHX-A″ molecules were synthesized for the following uses: (1) Use in the introduction of the chelator to the N-terminus of peptides, aptamers, PNA, wherein deprotection or cleavage from resin or solid phase support of the product is possible and (2) introduction of the chelator to macromolecular structures such as dendrimer wherein this is accomplished in organic solvents eliminating the gross inefficiency of the prior aqueous methods.

The compounds described in the present technology have several applications. All the compounds are useful in the conjugation of nearly all peptides, and antibodies for targeting antigens/peptides associated with cancers. Additionally, the compounds are useful for modification of macromolecules such as dendrimer, carbon tubes, etc., for labeling with radioactive metal ions suitable for imaging and/or therapy and paramagnetics for magnetic resonance imaging (MRI).

Competitive Advantage of Our Technology

It is estimated that the demand for medical imaging products will expand 3.9 percent annually to $15 billion in 2010. The market for contrast media, radiopharmaceuticals, and other consumables and accessories will total $4.6 billion in 2010. Radiopharmaceuticals will provide the best growth opportunities as advances in biotechnology and nanotechnology expand the availability of safe and effective compounds and extend the range of diseases and disorders that can be studied through nuclear medicine. Additionally, the market of the contrast reagents and media used in radiopharmaceuticals will also see a rise in demand.

Our technologies have several advantages over the existing reagents used as contrast agents and in metal complexes. (1) The chemistry is very flexible and provides the basis for an extensive list of conjugation functional groups to be introduced; (2) The elimination of aqueous chemistry steps in synthesizing the 1B4M-DTPA molecules obviates the possibilities of contamination by spurious metals that could compromise subsequent radiolabeling; (3) Furthermore, the elimination of aqueous steps aids in the introduction of paramagnetic ions such as Gd(III) for MRI applications. (4) The DOTA derivatives are very stable *in vivo;* (5) The NOTA derivatives have improved stability, and faster kinetics of conjugation than either DOTA or DTPA; and (6) The general synthesis process provides a procedure for preparing dendrimer-based MR agents with higher yields and efficiency while enhancing versatility.

Patent Estate

This technology consists of the following patents and patent applications:

1. U.S. Patent Application Serial No. 10/525,673 filed April 18, 2005, entitled ''Backbone-Substituted Bifunctional Dota Ligands, Complexes And Compositions Thereof, And Methods Of Using Same'' [*pub.# 20060165600*];

2. U.S. Patent Serial No. 7,163,935 issued January 16, 2007 entitled ''Scorpionate-Like Pendant Macrocyclic Ligands, Complexes And Compositions Thereof, And Methods Of Using Same'';

3. U.S. Patent Serial No. 7,081,452 issued July 25, 2006 entitled ''Scorpionate-Like Pendant Macrocyclic Ligands, Complexes And Compositions Thereof, And Methods Of Using Same''; and

4. U.S. Provisional Patent Application 60/864,503 filed November 06, 2006 entitled ''Method Of Preparing Macromolecular Contrast Agents And Uses Thereof''.

5. PCT/US2005/028125 filed August 9, 2005 entitled ''Metal Chelators And Methods Of Their Use''.

Next Step: Teleconference

There will be a teleconference where the principal investigator will explain this technology. Licensing and collaborative research opportunities will also be discussed. If you are interested in participating in this teleconference please call or e-mail Mojdeh Bahar; (301) 435–2950; *baharm@mail.nih.gov.* OTT will then e-mail you the date, time and number for the teleconference.

Dated: September 14, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–18771 Filed 9–21–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Intent To Prepare an Environmental Impact Statement (EIS) and Request for Public Comments Concerning Proposed Construction and Operation of Tactical Infrastructure for the U.S. Customs and Border Protection, Office of Border Patrol Rio Grande Valley (Texas) Sector

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Request for Public Comments.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, (NEPA), U.S. Customs and Border Protection (CBP) will prepare an Environmental Impact Statement (EIS) to identify and assess the potential impacts associated with a proposal to construct and operate tactical infrastructure along approximately 70 miles of the international border between the United States and Mexico within the Office of Border Patrol's (OBP's) Rio Grande Valley Sector, Texas (the Proposed Action). The purpose of the Proposed Action is to further CBP's ability to gain effective control of the border by denying pedestrian and other access in high priority sections of OBP's Rio Grande Valley Sector. CBP is the decision-making agency for the Proposed Action.

Notice is hereby given that the public scoping process has been initiated to prepare an EIS that will address the impacts and alternatives of the Proposed Action. The purpose of the scoping process is to solicit public comments regarding the range of issues, including potential impacts and alternatives that should be addressed in the EIS.

FOR FURTHER INFORMATION CONTACT: Visit *http://www.BorderFenceNEPA.com* or e-mail: *information@BorderFenceNEPA.com.* Written requests for information may be submitted to: Charles McGregor, U.S. Army Corps of Engineers, Engineering Construction and Support Office, 819 Taylor St., Room 3A14, Fort Worth, Texas 76102; Phone: (817) 886–1585; and Fax: (817) 886–6404.

Background: An EIS is being prepared in support of a proposal by OBP's Rio Grande Valley Sector for controlling and deterring the influx of illegal immigration and contraband into the United States. In order to secure our nation's borders, CBP is developing and deploying the most effective mix of proven technology, infrastructure, and increased personnel.

The Rio Grande Valley Sector includes the area along the international border between the United States and Mexico from Rio Grande City, Texas, to the Gulf of Mexico. In that area, CBP is proposing to install and operate tactical infrastructure consisting of pedestrian fences, supporting patrol roads, lights, and other infrastructure along approximately 70 miles of the U.S./Mexico international border (the Proposed Action). The Proposed Action includes the installation of tactical infrastructure in 21 segments along the international border in the vicinity of Rio Grande City, Texas; McAllen, Texas; Mercedes, Texas; Harlingen, Texas; Brownsville, Texas; and Fort Brown, Texas. Individual segments might range from approximately 1 mile to more than 13 miles. For much of its length, the proposed infrastructure will follow the International Boundary and Water Commission levee, but some portions will also encroach on multiple privately-owned land parcels. The infrastructure would cross multiple land use types, including rural, agricultural, suburban, and urban land. It may also encroach on portions of the Lower Rio Grande Valley National Wildlife Refuge and Texas state parks in the Rio Grande Valley.

Potential alternatives for the environmental impacts analysis will consider location, construction, and operation of tactical infrastructure. Alternatives must meet the need to gain effective control of our nation's borders, as well as essential technical, engineering, and economic threshold requirements to ensure that a proposed action is environmentally sound, economically viable, and meets all applicable laws and regulations.

The EIS will comply with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality regulations in 40 CFR Parts 1500–1508, and Department of Homeland Security (DHS) Management Directive 5100.1 (*Environmental Planning Program*).

Consistent with 40 CFR 1508.28, the EIS will analyze the site-specific environmental impacts of the Proposed Action, which were broadly described in two previous programmatic EISs prepared by the former U.S. Immigration and Naturalization Service (INS) (which now fall under the responsibility of CBP), Department of Defense, and Joint Task Force 6 (JTF–6). The *Programmatic EIS for JTF–6 Activities Along the U.S./Mexico Border*, August 1994, and its supplementing document, *Supplemental Programmatic EIS for INS and JTF–6 Activities*, June 2001, were prepared to address the cumulative effects of past and reasonably foreseeable projects undertaken by JTF–6 for numerous law enforcement agencies within the four southwestern states (California, Arizona, New Mexico, and Texas). These documents can be obtained from the U.S. Army Corps of Engineers, Fort Worth District, Engineering Construction and Support Office Web site, at *https://ecso.swf.usace.army.mil;* by sending an e-mail request to *charles.mcgregor@swf02.usace.army.mil;* or by mailing a request to Charles McGregor, U.S. Army Corps of Engineers, Engineering Construction and Support Office, 819 Taylor St., Room 3A14, Fort Worth, Texas 76102.

Public Participation: Pursuant to the Council on Environmental Quality's regulations, CBP invites public participation in the NEPA process. This notice requests public participation in the scoping process, establishes a public comment period, and provides information on how to participate.

Public scoping is an open process for determining the scope of the EIS and identifying significant issues related to the Proposed Action. Anyone wishing to provide comments, suggestions, or relevant information on the Proposed Action may do so as follows:

You may submit comments to CBP by contacting SBInet, Tactical Infrastructure Program Office. To avoid duplication, please use only one of the following methods:

(a) *Electronically through the Web site at: http://www.BorderFenceNEPA.com;*

(b) *By e-mail to: RGVcomments@BorderFenceNEPA.com;*

(c) *By mail to:* Rio Grande Valley PF–225 EIS, c/o e2M, 2751 Prosperity Avenue, Suite 200, Fairfax, Virginia 22031; or

(d) *By fax to:* (757) 282–7697.

Comments and related material must reach CBP by October 15, 2007. CBP will consider all comments and material received during the NOI comment period. If you submit a comment, please include your name and address, and identify your comments as related to the Rio Grande Valley Sector EIS. Comments received after October 15, 2007 will receive responses following the publication of the draft EIS.

This scoping period is not the only opportunity you will have to comment. A draft EIS will be prepared, and prior to the development of a final EIS, CBP will release the draft EIS for public

review. At that time, a Notice of Availability (NOA) will be published in the **Federal Register**, the *Brownsville Herald* (Brownsville, Texas), and *The Monitor* (McAllen, Texas). The NOA will announce the availability of the draft EIS, how to obtain a copy, and the dates, times, and places of any associated public informational meetings.

Dated: September 19, 2007.

Eugene H. Schied,

Assistant Commissioner, Office of Finance.

[FR Doc. E7–18829 Filed 9–21–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Intent To Prepare an Environmental Impact Statement (EIS) and Request for Public Comments Concerning Proposed Construction and Operation of Tactical Infrastructure for the U.S. Customs and Border Protection, Office of Border Patrol San Diego Sector

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and Request for Public Comments.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* (NEPA), U.S. Customs and Border Protection (CBP) will prepare an Environmental Impact Statement (EIS) to identify and assess the potential impacts associated with a proposal to construct and operate approximately four miles of tactical infrastructure and supporting patrol roads along the U.S./Mexico international border south of and adjacent to Otay Mountain Wilderness area in San Diego County, California (the Proposed Action). The purpose of the Proposed Action is to further CBP's ability to gain effective control of the border by denying pedestrian and other access in this high priority section of the Office of Border Patrol's (OBP's) San Diego Sector. CBP is the decision-making agency for this Proposed Action.

Notice is hereby given that the public scoping process has been initiated to prepare an EIS that will address the impacts and alternatives of the Proposed Action. The purpose of the scoping process is to solicit public comment regarding the range of issues, including potential impacts and alternatives that should be addressed in the EIS.

FOR FURTHER INFORMATION CONTACT: Visit *http://www.BorderFenceNEPA.com* or e-mail: *information@BorderFenceNEPA.com.* Written requests for information may be submitted to: Charles McGregor, U.S. Army Corps of Engineers, Engineering Construction and Support Office, 819 Taylor St., Room 3A14, Fort Worth, Texas 76102; Phone: (817) 886–1585; and Fax: (817) 886–6404.

Background: An EIS is being prepared in support of a proposal by OBP's San Diego Sector for controlling and deterring the influx of illegal immigration and contraband into the United States. To assist Border Patrol officers, OBP is proposing to install and operate tactical infrastructure consisting of pedestrian fence, vehicle barriers, supporting patrol roads, lights, and other infrastructure along approximately four miles of the U.S./Mexico international border within OBP's San Diego Sector.

In order to secure the nation's borders, CBP is developing and deploying the most effective mix of proven technology, infrastructure, and increased personnel. In some locations, fencing is a critical element of border security. OBP has identified this area of the border as a location where fence would significantly contribute to CBP's priority mission homeland security. As a part of this Proposed Action, two segments of fence are proposed for construction.

One segment is approximately 3.4 miles long and would start at the Puebla Tree and end at boundary monument 250. The proposed segment would be adjacent to and south of the Otay Mountain Wilderness; would follow the Pack Truck Trail; and would not connect to any existing fence. The Otay Mountain Wilderness is on public lands administered by the Bureau of Land Management (BLM), U.S. Department of the Interior in San Diego County, California. The wilderness boundary is at least 100 feet from the U.S./Mexico border, and the proposed fence would occur in this corridor between the U.S./Mexico border and the wilderness boundary. However, due to steep topography, a portion of road or other tactical infrastructure might encroach into the wilderness area.

The second segment would be approximately 0.6 miles long and would connect with existing border fence west of Tecate. This fence segment is an extension of existing fence up Tecate Peak and would pass through a riparian area. This proposed fence segment would be on privately owned land.

Potential alternatives for environmental impacts analysis will consider location, construction, and operation of tactical infrastructure. Potential alternatives must meet the need to gain effective control of our nation's borders, as well as essential technical, engineering, and economic threshold requirements to ensure that the Proposed Action is environmentally sound, economically viable, and meets all applicable laws and regulations.

The EIS will comply with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality regulations in 40 CFR Parts 1500–1508, and Department of Homeland Security (DHS) Management Directive 5100.1 (*Environmental Planning Program*).

Consistent with 40 CFR 1508.28, the EIS will analyze the site-specific environmental impacts of the proposed action which were broadly described in two previous programmatic EISs prepared by the former U.S. Immigration and Naturalization Service (which now falls under the responsibility of CBP), Department of Defense, and Joint Task Force 6 (JTF–6). The *Programmatic EIS for JTF–6 Activities Along the U.S./Mexico Border,* August 1994, and its supplementing document, *Supplemental Programmatic EIS for INS and JTF–6 Activities,* June 2001, were prepared to address the cumulative effects of past and reasonably foreseeable projects undertaken by JTF–6 for numerous law enforcement agencies within the four southwestern states (California, Arizona, New Mexico, and Texas). These documents can be obtained from the U.S. Army Corps of Engineers, Fort Worth District, Engineering Construction and Support Office Web site, at *https://ecso.swf.usace.army.mil/;* by sending an e-mail to *charles.mcgregor@swf02.usace.army.mil;* or by mailing a request to: Charles McGregor, U.S. Army Corps of Engineers, Engineering Construction and Support Office, 819 Taylor St., Room 3A14, Fort Worth, Texas 76102.

Public Participation: Pursuant to the Council on Environmental Quality's regulations, CBP invites public participation in the NEPA process. This notice requests public participation in the scoping process, establishes a public comment period, and provides information on how to participate.

Public scoping is an open process for determining the scope of the EIS and identifying significant issues related to the proposed action. Anyone wishing to provide comments, suggestions, or relevant information on the Proposed Action may do so as follows:

You may submit comments to CBP by contacting the SBInet, Tactical Infrastructure Program Office. To avoid duplication, please use only one of the following methods:

(a) Electronically through the Web site at: *http://www.BorderFenceNEPA.com;*

(b) By e-mail to: *SDcomments@BorderFenceNEPA.com;*

(c) By mail to: San Diego Tactical Infrastructure EIS, c/o e²M, 2751 Prosperity Avenue, Suite 200, Fairfax, Virginia 22031; or

(d) By fax to: (757) 257–7643.

Comments and related material must reach CBP by October 15, 2007. CBP will consider all comments and material received during the NOI comment period. If you submit a comment, please include your name and address, and identify your comments as for the San Diego Sector EIS. Comments received after October 15, 2007 will receive responses following the publication of the draft EIS.

This scoping period is not the only opportunity you will have to comment. A draft EIS will be prepared, and prior to the development of a final EIS, CBP will release the draft EIS for public review. At that time, a Notice of Availability (NOA) will be published in the **Federal Register**, the *San Diego Union Tribune*, and the *San Diego Daily Transcript*. The NOA will announce the availability of the draft EIS, how to obtain a copy, and the dates, times, and places of any associated public informational meetings.

Dated: September 19, 2007.

Eugene H. Schied,

Assistant Commissioner, Office of Finance.

[FR Doc. E7–18830 Filed 9–21–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Coastal Barrier Improvement Act of 1990; Amendments to the John H. Chafee Coastal Barrier Resources System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of distribution and availability of replacement maps of eight of the John H. Chafee Coastal Barrier Resources System.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have replaced maps of eight John H. Chafee Coastal Barrier Resources System units in North Carolina, Georgia, Florida, and Texas, as directed by Congress. We are using this notice to inform the public about the distribution and availability of the replacement maps.

DATES: The replacement map for Units T07/T07P became effective on December 1, 2003. The replacement maps for Unit NC–07P became effective on October 18, 2004. The replacement map for Units P25/P25P became effective on October 30, 2004. The replacement maps for Units FL–95P, FL–96, and GA–06P became effective on October 16, 2006.

ADDRESSES: For information about how to get copies of the maps or where to go to view them, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. Katie Niemi, Department of the Interior, U.S. Fish and Wildlife Service, Division of Habitat and Resource Conservation, (703) 358–2161.

SUPPLEMENTARY INFORMATION:

Background

In 1982, Congress passed the Coastal Barrier Resources Act (Pub. L. 97–348) to restrict Federal spending that has the effect of encouraging development on undeveloped coastal barriers along the Atlantic and Gulf of Mexico coasts. In the Coastal Barrier Improvement Act of 1990 (Pub. L. 101–591), Congress amended the 1982 Act to broaden the definition of a coastal barrier, and approved a series of maps entitled ''John H. Chafee Coastal Barrier Resources System'' dated October 24, 1990. These maps identify and depict those coastal barriers located on the coasts of the Atlantic Ocean, Gulf of Mexico, Great Lakes, Virgin Islands, and Puerto Rico that are subject to the Federal funding limitations outlined in the Act.

The Act also defines Service responsibilities regarding the John H. Chafee Coastal Barrier Resources System maps. We have official custody of these maps and prepare and distribute copies. In the **Federal Register** on June 6, 1991 (56 FR 26304), we published a notice of the filing, distribution, and availability of the maps entitled ''John H. Chafee Coastal Barrier Resources System'' and dated October 24, 1990. We have announced all subsequent map revisions in the **Federal Register**.

Revisions to the John H. Chafee Coastal Barrier Resources System in Texas

Public Law 108–138, enacted on December 1, 2003, replaced one of the six maps relating to Matagorda Peninsula Units T07/T0P in Matagorda County, Texas, with a revised map entitled ''John H. Chafee Coastal Barrier Resources System, Matagorda Peninsula Unit T07/T07P'' for that area. The changes to the map ensure that the boundary of Unit T07 does not include property within the Matagorda Dunes Homesites Subdivision. A full complement of infrastructure was available to each lot within the subdivision prior to 1982, therefore meeting the Coastal Barrier Resources Act definition of ''developed'' at the time the subdivision was included within Unit T07 in 1982. Under the new map, 76 acres (23 fastland acres and 53 associated aquatic habitat acres) were removed from Unit T07, and 3 acres of associated aquatic habitat were added to Unit T07. Additionally, 80 acres were reclassified from Unit T07 to Unit T07P.

Revisions to the John H. Chafee Coastal Barrier Resources System in North Carolina

Public Law 108–339, enacted on October 18, 2004, replaced the two maps relating to Cape Fear Unit NC–07P in New Hanover and Brunswick Counties, North Carolina, with two revised maps entitled ''John H. Chafee Coastal Barrier Resources System, Cape Fear Unit NC–07P.'' The changes to the maps ensure that the boundary of Unit NC–07P follows the exterior boundaries of lands held for conservation or recreation. Under the new maps, 273 acres (13 acres of fastland and 261 acres of associated aquatic habitat) were removed from Unit NC–07P, and 8,117 acres (2,714 acres of fastland and 5,403 acres of associated aquatic habitat) were added to Unit NC–07P.

Revisions to the John H. Chafee Coastal Barrier Resources System in Florida

Public Law 108–380, enacted on October 30, 2004, replaced one of the two maps relating to Cedar Keys Units P25/P25P in Levy County, Florida, with a revised map entitled ''John H. Chafee Coastal Barrier Resources System, Cedar Keys Unit P25/P25P.'' The changes to the map clarify the boundaries of an excluded area on Cedar Key so that the Unit P25 boundary more precisely follows geomorphic features. Under the new map, 41 acres (32 fastland acres and 9 associated aquatic habitat acres) were removed from Unit P25, and 56 acres (1 acre of fastland and 55 acres of associated aquatic habitat) were added to Unit P25.

Public Law 109–355, enacted on October 16, 2006, replaced the map relating to Grayton Beach Unit FL–95P and Draper Lake Unit FL–96 in Walton County, Florida, with a revised map entitled ''John H. Chafee Coastal Barrier Resources System, Grayton Beach Unit FL–95P Draper Lake Unit FL–96.'' The changes to the map ensure that the boundary of Unit FL–95P follows the exterior boundaries of Grayton Beach

State Park, while also excluding from the otherwise protected area Old Miller Place Subdivision, as well as portions of Gulf Trace Subdivision and the Town of Grayton Beach. Under the new map, 22 acres (13 fastland acres and 9 associated aquatic habitat acres) were removed from Unit FL–95P, and 1,582 acres (901 fastland acres and 681 associated aquatic habitat acres) of State park land were added to Unit FL–95P. The changes to the map also ensure that the boundary of Unit FL–96 more precisely follows geomorphic features. Four acres (3 fastland acres and 1 associated aquatic habitat acre) were removed from Unit FL–96, and 2 acres of associated aquatic habitat were added to Unit FL–96.

Revisions to the John H. Chafee Coastal Barrier Resources System in Georgia

Public Law 109–354, enacted on October 16, 2006, replaced the map relating to Jekyll Island Unit GA–06P in Glynn County, Georgia, with a revised map entitled ''John H. Chafee Coastal Barrier Resources System, Jekyll Island Unit GA–06P.'' The changes to the map remove all developed land and approximately 100 acres of undeveloped land from Unit GA–06P. Under the new map, 1,605 acres (1,355 fastland acres and 250 associated aquatic habitat acres) were removed from Unit GA–06P, and 1,478 acres (72 fastland acres and 1,406 associated aquatic habitat acres) were added to Unit GA–06P.

How To Get Copies of the Maps

The Service has given copies of the revised John H. Chafee Coastal Barrier Resources System maps to the House of Representatives Committee on Natural Resources, the Senate Committee on Environment and Public Works, the members of Congress for each affected area, and each appropriate Federal, State, and local agency with jurisdiction over the areas in which the modified units are located.

John H. Chafee Coastal Barrier Resources System maps, including the replacement maps referenced in this **Federal Register**, are available for download from the Coastal Barrier Resources System web page: *http://www.fws.gov/habitatconservation/coastal_barrier.htm*.

The public may also contact the following Service offices to make arrangements to view the maps:

Washington Office—All Coastal Barrier Resources System maps

U.S. Fish and Wildlife Service, Division of Habitat and Resource Conservation, 4401 N. Fairfax Dr., Room 400, Arlington, VA 22203; (703) 358–2161.

Southeast Regional Office—All Coastal Barrier Resources System maps for AL, FL, GA, LA, MS, NC, SC, PR, and VI

Region 4, U.S. Fish and Wildlife Service, 1875 Century Blvd., Suite 400, Atlanta, GA 30345; (404) 679–4000.

Southwest Regional Office—All Coastal Barrier Resources System maps for TX

Region 2, U.S. Fish and Wildlife Service, 500 Gold Ave. SW., Albuquerque, NM 87102; (505) 248–6911.

Field Offices—Coastal Barrier Resources System maps for NC, GA, FL, and TX

Field Supervisor, U.S. Fish and Wildlife Service, P.O. Box 33726, Raleigh, NC 27636–3726; (919) 856–4520.

Field Supervisor, U.S. Fish and Wildlife Service, 4270 Norwich Ave. Ext., Brunswick, GA 31520; (912) 265–9336.

Field Supervisor, U.S. Fish and Wildlife Service, 1601 Balboa Ave., Panama City, FL 32405–3721, (850) 769–0552.

Field Supervisor, U.S. Fish and Wildlife Service, 17629 El Camino Real, Suite #211, Houston, TX 77058–3051, (281) 286–8282.

Dated: July 26, 2007.

Everett Wilson,

Deputy Assistant Director, Fisheries and Habitat Conservation.

[FR Doc. E7–18795 Filed 9–21–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Recovery Plan for the Pacific Coast Population of the Western Snowy Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the recovery plan for the Pacific Coast population of the Western Snowy Plover (*Charadrius alexandrinus nivosus*). The final plan includes recovery criteria and measures for the Pacific coast population of the western snowy plover.

ADDRESSES: You may obtain a copy of the plan by either of the following methods: *Internet:* Download a copy at *http://endangered.fws.gov/recovery/index.html#plans*; or *U.S. mail:* Send a request to U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825. Printed copies of the recovery plan will be available for distribution in 4 to 6 weeks.

FOR FURTHER INFORMATION CONTACT: Craig Aubrey, Fish and Wildlife Biologist, at the above Sacramento address (telephone, 916–414–6600).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program. To help guide the recovery effort, we are working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

Section 4(f) of the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) requires us to provide public notice and an opportunity for public review and comment during recovery plan development. We made the draft recovery plan for the Pacific Coast population of western snowy plover was available for public comment from August 14, 2001, through December 12, 2001 (66 FR 42676). We provided an opportunity to resubmit comments due to the possibility that some comments submitted were not received due to a shutdown in the Department of the Interior's internet access, including receipt of outside electronic mail. Resubmitted comments were accepted through February 15, 2002. We considered information we received during the public comment period in our preparation of this final recovery plan, and also summarized that information in an appendix of the recovery plan. We will forward substantive comments regarding recovery plan implementation to appropriate Federal or other entities so they can take these comments into account in the course of implementing recovery actions.

The Pacific coast breeding population of the western snowy plover (*Charadrius alexandrinus nivosus*) currently extends from Damon Point, Washington, to Bahia Magdalena, Baja California, Mexico. Snowy plovers (Pacific coast population) breed

primarily above the high tide line on coastal beaches, sand spits, dune-backed beaches, sparsely vegetated dunes, beaches at creek and river mouths, and salt pans at lagoons and estuaries. Less common nesting habitats include bluff-backed beaches, dredged material disposal sites, salt pond levees, dry salt ponds, and river bars. The snowy plover winters mainly in coastal areas from southern Washington to Central America. In winter, snowy plovers are found on many of the beaches used for nesting as well as on beaches where they do not nest, in manmade salt ponds, and on estuarine sand and mud flats. Habitat degradation caused by human disturbance, urban development, introduced beachgrass (*Ammophila* spp.), and expanding predator populations has resulted in a decline in active nesting areas and in the size of the breeding and wintering populations.

Our primary objective in this recovery plan is to remove the Pacific coast population of the western snowy plover from the List of Endangered and Threatened Wildlife and Plants by achieving well-distributed increases in numbers and productivity of breeding adult birds, and providing for long-term protection of breeding and wintering plovers and their habitat. Specific actions needed to achieve this objective and described in the recovery plan include (1) protection of breeding and wintering habitat; (2) monitoring and managing breeding habitat; (3) monitoring and managing wintering and migration areas; (4) undertaking scientific research that facilitates recovery efforts; (5) public participation, outreach, and education; and (6) establishing an international conservation program with the Mexican government to protect snowy plovers and their breeding and wintering locations in Mexico.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 17, 2007.

Darrin Thome,

Acting Manager, California/Nevada Operations Office, U.S. Fish and Wildlife Service.

[FR Doc. E7–18638 Filed 9–21–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Supawna Meadows National Wildlife Refuge, Salem County, NJ

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a comprehensive conservation plan and environmental assessment; announcement of public scoping and request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (we, us, Service) is gathering the information needed to prepare a comprehensive conservation plan (CCP) and associated environmental assessment (EA) for Supawna Meadows National Wildlife Refuge (NWR). We publish this notice in compliance with our policy of advising other agencies and the public of our intentions to conduct detailed planning on refuges and obtain suggestions and information about the scope of issues to consider in the planning process.

DATES: We held public scoping meetings in September 2007 after announcing the location, date, and times at least 2 weeks in advance in special mailings, notices in local newspapers, in radio public service announcements, on our Web site (*http://www.fws.gov/northeast/planning*), and through personal contacts. To ensure our consideration of your written comments, you must submit them within 30 days of the publication of this notice.

ADDRESSES: Send your comments or requests for more information on the planning process to Beth Goldstein, Refuge Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA, 01035; 413–253–8564 (telephone); 413–253–8468 (fax); *northeastplanning@fws.gov* (electronic mail). If submitting comments by electronic mail, please put ''Supawna Meadows NWR'' in the subject line.

FOR FURTHER INFORMATION: To obtain more information on the refuge, contact Howard Schlegel, Refuge Manager, Cape May NWR, at 609–463–0994 (telephone); *fw5rw_spmnwr@fws.gov* (electronic mail); *http://www.fws.gov/refuges/profiles/index.cfm?id=52571* (Supawna Meadows NWR Web site).

SUPPLEMENTARY INFORMATION: This notice initiates the comprehensive conservation planning process for Supawna Meadows NWR, which is administered by Cape May NWR staff with headquarters in Cape May Court House, New Jersey.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee), requires us to develop a CCP for each national wildlife refuge. The purpose of a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing to the mission of the National Wildlife Refuge System (NWRS), consistent with the sound principles of fish and wildlife management and conservation, legal mandates, and Service policies. In addition to providing broad management direction on conserving wildlife and habitat, the plans identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years.

We establish each refuge for specific purposes, and use those purposes to develop and prioritize its management goals, objectives, and public uses. The planning process is one way for us and for the public to evaluate those goals and objectives for the best possible conservation of important wildlife habitat, while providing opportunities for wildlife-dependent recreation compatible with those purposes and the mission of the NWRS.

We request your input on all issues, concerns, ideas, improvements and suggestions for the future management of Supawna Meadows NWR. You may submit comments at any time during the planning process by writing to the refuge planner (see **ADDRESSES** above).

We will conduct the environmental review of this project in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality Regulations on NEPA (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and our policies and procedures for complying with them. All of the comments we receive on either our EAs or our environmental impact statements become part of the official public record. We will handle requests for those comments in accordance with the Freedom of Information Act, NEPA (40 CFR 1506.6(f)), and other policies and procedures of the Department of the Interior or the Service. When we receive such a request, we will provide

comment letters with the names and addresses of the individuals who wrote them. However, to the extent permissible by law, we will not provide the telephone numbers of those individuals.

Supawna Meadows NWR

Supawna Meadows NWR currently includes more than 3,000 acres of marsh, grassland, shrubland, and forest habitats. The approved refuge acquisition boundary encompasses 4,500 acres along the Upper Delaware Bay and Salem River in Pennsville Township, New Jersey. The refuge boundaries are defined by the Delaware Bay, Salem River, and Fort Mott Road.

Supawna Meadows NWR was originally established as the Goose Pond addition to the Killcohook NWR (currently termed Killcohook Dredge Spoil Disposal Area), which was established by Executive Order 6582 on February 3, 1934. The refuge was renamed Supawna Meadows NWR and officially separated from Killcohook on April 10, 1974, by the Service. On October 30, 1998, the Service's jurisdiction over Killcohook was revoked.

Supawna Meadows NWR was established as a ''* * *refuge and breeding ground for wild birds and animals;'' ''* * *for particular value in carrying out the national migratory bird management program;'' ''* * *for use as an inviolate sanctuary, or for any other management purpose, for migratory birds;'' and as a refuge ''* * *suitable for (1) incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species or threatened species* * *''

The refuge is located in the Atlantic Flyway, where birds migrating from interior Canada and the coastal Provinces merge to form the main stem of the flyway. The area not only serves as an important migration area, but also provides wintering habitat for large numbers of waterfowl. Recent midwinter waterfowl inventory flights for the Salem River watershed averaged more than 2,000 dabbling ducks and more than 17,000 Canada geese.

Supawna Meadows NWR provides critical foraging habitat for more than 6,000 pairs of 9 species of wading birds that nest on Pea Patch Island, one of the largest rookeries on the east coast. Pea Patch Island and the surrounding area, including the refuge, have been designated a Special Management Area by the States of New Jersey and Delaware, in accordance with the Coastal Zone Management Act.

Supawna Meadows NWR receives significant use by shorebirds during both spring and fall migrations. The refuge and adjacent marshes are currently being investigated for potential inclusion in the Western Hemisphere Shorebird Reserve Network. It also provides habitat for the bald eagle, as well as State-listed endangered and threatened species and species of conservation concern.

A maternity colony of more than 1,500 bats, primarily the little brown bat, roosts in a dilapidated barn on the refuge. The federally endangered Indiana bat is known to form small colonies within large little brown bat colonies. Indiana bats have been documented within the Highlands region of New Jersey, but little survey work has taken place within the southern portion of the State, and it is not yet known if the species is present within the Coastal Plain.

Reptile and amphibian species of conservation concern at Supawna Meadows NWR include northern diamondback terrapin, eastern box turtle, spotted turtle, and Fowler's toad.

The predominant public uses of the refuge are hunting, fishing, wildlife observation and photography. There are two walking trails and one boating trail to facilitate those uses. Portions of the refuge are open to deer hunting and waterfowl hunting per State regulations. There is an historic lighthouse on the refuge, the Finns Point Rear Range Light, which draws a number of visitors.

Dated: September 18, 2007.

Thomas J. Healy,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. E7–18740 Filed 9–21–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Record of Decision for the Final Comprehensive Conservation Plan, Wilderness Stewardship Plan for Cabeza Prieta National Wildlife Refuge in Pima and Yuma Counties, AZ

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of record of decision.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce our decision and availability of the Record of Decision (ROD) for the Final Comprehensive Conservation Plan (CCP), Wilderness Stewardship Plan (WSP) and Environmental Impact Statement (EIS) for Cabeza Prieta National Wildlife Refuge (NWR) in accordance with the National Environmental Policy Act (NEPA) requirements.

ADDRESSES: The ROD and Final CCP/WSP/EIS may be viewed at Cabeza Prieta National Wildlife Refuge Headquarters at 1611 North Second Street, Ajo, Arizona 85321. You may obtain a copy of the ROD at the Planning Division Web site at *http://www.fws.gov/southwest/refuges/Plan/completeplans.html* or by writing to the following address: U.S. Fish and Wildlife Service, National Wildlife Refuge System, Southwest Region, Planning Division, P.O. Box 1306, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: John Slown at (505) 248–7458 or e-mail: *john_slown@fws.gov.*

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, announce our decision and availability of the Record of Decision (ROD) for the Final Comprehensive Conservation Plan (CCP), Wilderness Stewardship Plan (WSP) and Environmental Impact Statement (EIS) for Cabeza Prieta National Wildlife Refuge (NWR) in accordance with 40 CFR 1506.6(b). We completed a thorough analysis of the environmental, social, and economic considerations, which we included in the Final CCP/WSP/EIS. We released the Final CCP/WSP/EIS to the public and published a Notice of Availability in the **Federal Register** (72 FR, 20132–20133, April 23, 2007). The ROD documents the selection of Alternative D, the Preferred Alternative in the Final CCP/WSP/EIS. The ROD was signed by the Regional Director, U.S. Fish and Wildlife Service, Southwest Region, on July 19, 2007. The CCP/WSP/EIS for the Cabeza Prieta National Wildlife Refuge will provide management guidance for conservation of Refuge resources and public use activities during the next 15 years. Five alternatives and their consequences were described in detail in the Draft and Final Environmental Impact Statements. Under all alternatives the recovery plan for the Sonoran pronghorn would be implemented, wilderness resources would be protected and the Refuge would work cooperatively with the Department of Homeland Security, Customs and Border Patrol, to protect Sonoran Desert resources while securing the Nation's border.

Alternative 1—No Action. No change from present management practices. The No Action alternative is a status quo scenario in which current conditions and trends would continue. This

alternative served as the baseline to compare and contrast with the other alternatives. Under existing conditions the Refuge would continue to offer a limited desert bighorn sheep hunt each year in cooperation with the Arizona Game and Fish Department. Refuge staff would continue to maintain and supply supplemental water to existing developed waters in desert bighorn sheep habitat.

Alternative 2—Minimum Intervention. Under this alternative the primary focus of Refuge management is avoidance or limitation of management interventions within Refuge wilderness. Under this alternative, developed wildlife waters in sheep habitat within the Refuge wilderness would not be maintained or supplied with supplemental water. Sonoran pronghorn recovery activities would continue to be implemented, but any new developed waters, forage enhancements or radio collaring capture operations would be restricted to the refuge non-wilderness.

The desert bighorn sheep hunt would also be discontinued. The use of horses by Refuge visitors would be prohibited, visitor party size would be limited to eight individuals and the maximum length of stay would be limited to seven (7) consecutive days. Collecting firewood on the Refuge would be prohibited. Only one vehicle-accessible developed campsite would be retained.

Alternative 3—Restrained Intervention. The theme of this alternative is increased levels of active habitat and wildlife management above that of Alternative 2, with management activities focused on the non-wilderness portion of the Refuge. Under this alternative, the Refuge would supply supplemental water to developed waters in sheep habitat within Refuge wilderness only during periods of severe drought. Sonoran pronghorn recovery activities would continue to be implemented, but any new developed waters, forage enhancements or radio collaring capture operations would be restricted to the Refuge non-wilderness.

The desert bighorn sheep hunt would be continued, but no hunting would be allowed during years of severe drought. The use of horses by Refuge visitors would be allowed subject to special use permit. Visitor party size would be limited to eight individuals and the maximum length of stay would be seven (7) consecutive days. Collecting firewood on the Refuge would be prohibited. Only one vehicle-accesible developed campsite would be retained.

Alternative 4—Active Management (the Service's Preferred Alternative). The theme of this alternative is active intervention, as justifiable, throughout the Refuge to recover the Sonoran pronghorn and maintain a target population level for the Refuge's desert bighorn sheep.

Under this alternative, maintenance and water supply to existing developed waters in sheep habitat within Refuge wilderness would continue and projects to increase the water collection efficiency of such waters would be implemented. Sonoran pronghorn recovery activities and developments would occur wherever determined best suited for species recovery, subject to minimum requirements analysis in wilderness.

The Refuge desert bighorn sheep hunt program would continue unchanged under this alternative. The use of horses by Refuge visitors would be allowed subject to special use permit. Visitor party size would be limited to eight individuals or four vehicles and the maximum length of stay would be fourteen (14) consecutive days. Collecting dead and down firewood would be allowed for visitors traveling in the Refuge backcountry (hiking away from the access roads). Three existing vehicle-accessible developed campsites would be retained.

Alternative 5—Maximum Effort. This alternative focuses on maximizing both the provision of visitor services and Refuge population levels of desert bighorn sheep. Under this alternative all existing developed waters in Refuge wilderness would be maintained and supplied with water, and new developed waters would be created. In addition to developed waters, the Refuge would develop forage enhancements in suitable areas of desert bighorn sheep habitat to provide forage for a larger desert bighorn sheep population.

The desert bighorn sheep hunt program would continue unchanged under this alternative. Horses would be allowed on the Refuge for visitors, restrictions of collection of firewood would be eliminated and two additional developed campsites would be developed along the non-wilderness access roads. No visitor party size limitations would be imposed, and the maximum length of stay would be fourteen (14) consecutive days.

We have selected Alternative 4, the Preferred Alternative, for implementation at the Refuge. Alternative 4 addresses the key issues identified during the planning process and will best achieve the purposes and goals of the Refuge as well as the mission of the National Wildlife Refuge System. This decision includes adoption of Comprehensive Conservation Plan Chapters (Appendix M of the Final CCP/WSP/EIS). Implementation of the CCP will occur over the next 15 years and will depend on future staffing levels and funding.

The Service's Basis for the Decision: Based on a review of the environmental consequences of each alternative, we judged Alternative 4 to be the environmentally preferable alternative. Alternative 4 is also expected to lead to more overall public support and a more appropriate level of public use opportunities than the other alternatives. Alternative 1 was not considered for selection as it describes current management and was presented primarily as a baseline against which to compare the proposed alternatives. Alternatives 2 and 3 were not selected primarily because their spatial restrictions of management activity would likely lead to inefficient and sub-optimal sampling and recovery implementation for the Sonoran pronghorn. Alternative 5 was not selected because its level of management intervention within wilderness to manage a larger population of desert bighorn sheep on the Refuge would create excessive impacts to wilderness character. The increased levels of public use anticipated under Alternative 5 and the absence of any restrictions on firewood collection, visitor horse use and visitor party size would likely create localized adverse impacts to habitat and wildlife populations.

The rationale for choosing the selected alternative as the best alternative for the CCP/WSP/EIS is based on the impact of this alternative on the issues and concerns that surfaced during the planning process. Because all practicable means to avoid or minimize environmental harm have been incorporated into the preferred alternative, no mitigation measures have been identified.

Public Comments on Final CCP/WSP/EIS: During the 30-day waiting period, we received three written comments. The comments did not raise any issues not addressed in the Final CCP/WSP/EIS, and the comments did not result in changes to the analysis of environmental consequences or affect our response to similar comments in the Final EIS. All written comments received during the 30-day waiting period are available for review at the Refuge headquarters in Ajo, Arizona (see **ADDRESSES**).

Dated: July 19, 2007.

Benjamin N. Tuggle,

Regional Director, U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

[FR Doc. 07–4715 Filed 9–21–07; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–090–06–1220–PM]

Revision of Recreation Use Restrictions for Indian Creek Canyon Corridor: Off-Highway Vehicle Use Restrictions

AGENCY: Department of Interior, Bureau of Land Management.

ACTION: Notice of OHV use restrictions.

SUMMARY: Notice is hereby given that, effective immediately, the Bureau of Land Management (BLM), Monticello Field Office, is restricting off-highway vehicle (OHV) travel to existing roads and trails on approximately 100,000 acres of public lands in the Indian Creek Canyon area near Monticello, UT. The public lands affected by this restriction are located in portions of T. 29 S., R. 19–21 E; T. 30 S., R. 19–22 E.; T. 31 S., R. 20–22 E; T. 32 S., R. 20–22 E. The Indian Creek Management boundary is depicted on the attached map. The purpose of this restriction is to protect riparian, soils, riparian, vegetation, visual and cultural resources that have been adversely impacted, or are at risk of being adversely impacted by cross-country OHV travel.

The restriction will remain in effect until the Monticello Resource Management Plan Revision is completed.

FOR FURTHER INFORMATION CONTACT: Nick Sandberg, Acting Field Office Manager, Monticello Field Office, Bureau of Land Management, P.O. Box 7, Monticello, Utah, 84535; (435) 587–1500.

SUPPLEMENTARY INFORMATION: BLM is implementing this action on approximately 100,000 acres of public land in the Indian Creek Corridor area in San Juan County, which is located in southeast Utah. BLM's Monticello Field Office has observed and documented considerable adverse effects from cross-country OHV use in this area to soils, riparian, vegetation, visual and cultural resources. Based on this information, BLM's authorized officer has determined that cross-country OHV use in this area is causing, or will cause, considerable adverse effects upon soils, riparian, vegetation, visual and cultural resources. Consequently, OHV travel in this area is being limited to existing roads and trails. A map showing the restriction area is available for public inspection at the BLM's Monticello Field Office, at the above address. OHV use on the remainder of the public lands in San Juan County, Utah administered by BLM will be managed according to existing **Federal Register** orders and the 1991 San Juan Resource Area Resource Management Plan.

This restriction order does not apply to:

(1) Any federal, state or local government law enforcement officer engaged in enforcing this closure order or member of an organized rescue or fire fighting force while in the performance of an official duty.

(2) Any Bureau of Land Management employee, agent, contractor, or cooperator while in the performance of an official duty.

This order shall not be construed as a limitation on BLM's future planning efforts and/or management of OHV use on the public lands. BLM will periodically monitor resource conditions and rends in the restriction area and may modify this order or implement additional limitations or closures as necessary.

The authority for this order is 43 CFR 8342.1.

Dated: September 14, 2007.

Sherwin N. Sandberg,

Field Office Manager.

[FR Doc. E7–18621 Filed 9–21–07; 8:45 am]

BILLING CODE 4310–DQ–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 (1010–0082).

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 281, Leasing for Minerals Other than Oil, Gas and Sulphur in the Outer Continental Shelf.

DATES: Submit written comments by November 23, 2007.

ADDRESSES: You may submit comments by any of the following methods listed below. Please use the Information Collection Number 1010–0082 as an identifier in your message.

- E-mail MMS at *rules.comments@mms.gov*. Identify with Information Collection Number 1010–0082 in the subject line.
- *Fax:* 703–787–1093. Identify with Information Collection Number 1010–0082.
- *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 1010–0082'' 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 that require the subject collection of information.

SUPPLEMENTARY INFORMATION: *Title:* 30 CFR Part 281, Leasing for Minerals Other than Oil, Gas, and Sulphur in the Outer Continental Shelf.

OMB Control Number: 1010–0082.

Abstract: Section 8(k) of the Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1337), authorizes the Secretary of the Interior (Secretary) to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur. This applies to any area of the Outer Continental Shelf 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. The Secretary is to administer the leasing provisions of the Act and prescribe the rule and regulations necessary to carry out those provisions.

Regulations at 30 CFR Part 281 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 Part 281 to determine if statutory requirements are met prior to the issuance of a lease. Specifically, MMS uses the information to:

- Evaluate the area and minerals requested by the lessee to assess the viability of offering leases for sale.

• Allows the State(s) to initiate the establishment of a joint group.

• Ensure excessive overriding royalty interests are not created that would put economic constraints on all parties involved.

• Document that a leasehold or geographical subdivision has been surrendered by the record title holder.

We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR Part 2), and 30 CFR Parts 280 and 282. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: 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 1,248 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 281	Reporting and/or recordkeeping requirement	Hour burden Fee(s)
	Subpart A—General	
6	Appeal decisions.	Exempt under 5 CFR 1320.4(a)(2), (c).
	Subpart B—Leasing Procedures	
11(a), (c)	Request approval for mineral lease with relevant information	60
All sections	Submit response to Call for Information and Interest on areas for leasing of minerals (other than oil, gas, sulphur) in accordance with approved lease program, including information from States/local governments.	120
13	States or local governments submit comments/ recommendations on planning, coordination, consultation, and other issues that may contribute to the leasing process.	200
All sections	Submit suggestions and relevant information in response to request for comments on proposed lease including information form States/local governments.	160
18(a), (b), (c); 20(e), (f); 26(a)	Submit bids (oral or sealed) and required information	250
18(c); 20(e), (f)	Tie bids—submit oral bids for highest bidder	20
20(a), (b), (c); 41(a)	Establish a Company File for qualification; submit updated information, submit qualifications for lessee/bidder.	58
21(a); 47(c)	Request for reconsideration of bid rejection/cancellation	Exempt as defined 5 CFR 1320.3(h)(9).
	Subpart C—Financial Considerations	
26; 21(b), (e); 40(b); 41(b)	Execute lease (includes submission of evidence of authorized agent and request for dating of leases).	100
31(b); 41	File application and required information for assignment or transfer for approval	160 $50 application fee
32(b), (c)	File application for waiver, suspension, or reduction and supporting documentation.	80
33; 41(c)	Submit surety or personal bond	Burden covered under 1010–0081.
	Subpart E—Termination of Leases	
46(a)	File written request for relinquishment.	40

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified one ''non-hour cost'' burden for this collection, a $50 application fee under § 281.41. It should be noted that this fee was never previously included since the non-hour cost burdens were not subject to reporting under the 1980 Paperwork Reduction Act. Furthermore, this fee has never been collected since we have not had any leases for minerals other than oil, gas, and sulphur.

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 6, 2007.

E.P. Danenberger,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. E7–18643 Filed 9–21–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before September 8, 2007. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax: 202–371–6447. Written or faxed comments should be submitted by October 9, 2007.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

ARIZONA

Maricopa County

Glendale Townsite—Catlin Court Historic District (Boundary Increase), Generally bounded by 55th Ave., 59th Ave., Palmaire Ave. and Orangewood Ave., Glendale, 07001088

OHIO

Greene County

Jamestown Opera House, 19 N. Limestone St., Jamestown, 07001093

Hamilton County

American Can Company Building, 4101 Spring Grove Ave., Cincinnati, 07001092

Montgomery County

Engineers Club of Dayton, 110 E. Monument Ave., Dayton, 07001091

Summit County

Cole Avenue Housing Project Historic District, 744 Colette Dr., Akron, 07001090

Hartong, Levi J., House and Farm, 6521 Mt. Pleasant Rd., Green, 07001089

TEXAS

Harris County

San Jacinto Street Bridge over Buffalo, Bayou San Jacinto St. at Buffalo, Bayou Houston, 07001098

Wilson County

Mueller Bridge, (Historic Bridges of Texas MPS) CR 337 over Cibolo Cr., La Vernia, 07001094

VERMONT

Franklin County

Billado Block, 371 Main St., Enosburg, 07001095

WISCONSIN

Dane County

First National Bank, 113 N. Main St., Oregon, 07001096

Oregon Water Tower and Pump House, 134 Janesville St., Oregon, 07001097

[FR Doc. E7–18724 Filed 9–21–07; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Walker River Basin Acquisitions Program, Mineral, Lyon, and Douglas Counties, NV

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) and notice of public scoping meetings.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the Bureau of Reclamation (Reclamation) proposes to prepare an EIS for the Walker River Basin Acquisitions Program. The primary purpose of the program is to comply with the requirements of Public Law 107–171 (Desert Terminal Lakes Program), which appropriates funds to provide water to at-risk natural desert terminal lakes, and with Public Law 109–103, which allocates funds to the University of Nevada for two specific purposes. The first purpose is to implement a program for environmental restoration to acquire from willing sellers land, water appurtenant to the land, and related interests in the Walker River Basin, Nevada. Acquired water rights would be transferred to provide water to Walker Lake. The second purpose of the University's funding is to establish and operate an agricultural and natural resources center. The actions to be analyzed in this EIS will be the purchase of water rights and related interests from willing sellers in the Walker River Basin, Nevada.

DATES: A series of public scoping meetings will be held to solicit public input on the alternatives, concerns, and issues to be addressed in the EIS. The meetings dates are:

- Monday, October 22, 2007, 6 to 8 p.m., Reno, NV
- Tuesday, October 23, 2007, 6 to 8 p.m., Yerington, NV
- Wednesday, October 24, 2007, 6 to 8 p.m., Hawthorne, NV
- Thursday, October 25, 2007, 6 to 8 p.m., Bridgeport, CA

Written comments on the scope of the EIS should be sent by November 26, 2007.

ADDRESSES: The public scoping meetings locations are:

- Reno at Rancho San Rafael Park, Main Ranch House, 1595 N. Sierra Street
- Yerington at Yerington High School, gymnasium, 114 Pearl Street
- Hawthorne at Mineral County Public Library, meeting room, 110 1st Street
- Bridgeport at Bridgeport Memorial Hall, 73 N. School Street

Send comments on the scope of the EIS to Mrs. Caryn Huntt DeCarlo, Bureau of Reclamation, 705 N. Plaza Street, Room 320, Carson City, NV 89701, via e-mail to *chunttdecarlo@mp.usbr.gov*, or faxed to 775–884–8376.

FOR FURTHER INFORMATION CONTACT: Mrs. Huntt DeCarlo, 775–884–8352.

SUPPLEMENTARY INFORMATION: The project area is in the Walker River Basin within Nevada, and includes both the East and West Walker Rivers. The goal of the program is to acquire water rights sufficient to increase the long-term average annual inflow to Walker Lake by up to 50,000 acre-feet. To increase Walker Lake inflows by up to 50,000 acre-feet annually may require acquiring more than 50,000 acre-feet of water rights due to annual hydrologic variability.

Special Assistance for Public Scoping Meeting

If special assistance is required at the scoping meetings, please contact Caryn Huntt DeCarlo at 775–884–8352, TDD 775–882–3436, or via e-mail at *chunttdecarlo@mp.usbr.gov*. Please notify Mrs. Huntt DeCarlo as far in advance of the meetings as possible to enable Reclamation to secure the needed services. If a request cannot be honored, the requestor will be notified. A telephone device for the hearing impaired (TDD) is available at 775–882–3436.

Public Disclosure

Before including your name, address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 21, 2007.

Susan M. Fry,

Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. E7–18738 Filed 9–21–07; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Adoption of Amended Navajo Power Marketing Plan

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of adoption.

SUMMARY: On September 18, 2007, the Commissioner of Reclamation adopted the Amended Navajo Power Marketing Plan (Amended Plan) on behalf of the Secretary of the Interior (Secretary), pursuant to section 107 of the Hoover Power Plant Act of 1984 (98 Stat. 1333). The Amended Plan is to provide for the future marketing of the United States' entitlement to generation from the Navajo Generating Station (Navajo) which is in excess of the pumping requirements of the Central Arizona Project (CAP) and certain needs for desalting and protective pumping facilities. The Amended Plan was developed in consultation with representatives of the Bureau of Reclamation (Reclamation), Western Area Power Administration (Western), the Governor of Arizona, and the Central Arizona Water Conservation District (CAWCD) as required by the Hoover Power Plant Act of 1984 (Act).

At the request of Reclamation, Western published a notice in the **Federal Register** on August 14, 2006, to initiate and obtain public comments on the proposed Amended Plan. Western held public information forums on September 19, 2006, in Phoenix, Arizona, and on September 22, 2006, in Ontario, California. Western accepted oral and written comments on the proposed Amended Plan at public comment forums on October 10, 2006, in Phoenix, Arizona, and on October 11, 2006 in Ontario, California, and thereafter until November 13, 2006, the end of the public comment period. Additional public information forums will be held in advance of the time of the actual marketing of Navajo Surplus under the Amended Plan to address the procedures to be used in the actual marketing process.

Public comments were received both with respect to the terms of the proposed Amended Plan and with respect to Western's presentations at the public forums relating to the implementation of the plan. Written comments were received from Aha Macav Power Service, Arizona Power Authority, Arizona Tribal Energy Association, Colorado River Indian Tribes, Ralph E. Hitchcock and Associates, Moyes Storey Law Offices, Santa Cruz Water & Power Districts Association, and Salt River Project Agricultural Improvement and Power District. Oral comments were received from the Central Arizona Water Conservation District, Ralph E. Hitchcock and Associates, and the Colorado River Indian Tribes. Comments and responses, paraphrased for brevity, are presented below.

Reclamation considered all comments prior to the adoption of the Amended Plan. Reclamation determined that no modifications to the proposed Amended Plan were necessary as a result of the comments and in light of the proposed Amended Plan's flexible framework. Nevertheless, Reclamation has made edits to the proposed Amended Plan for clarification purposes.

DATES: As provided in Part X of the Amended Plan, the Amended Plan will become effective thirty days after its date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Smith, Bureau of Reclamation, P.O. Box 61470, Boulder City, Nevada 89006, telephone (702) 293–8231, e-mail *AmendedPlan@lc.usbr.gov.*

SUPPLEMENTARY INFORMATION: The United States acquired an entitlement to 24.3 percent of generation available at Navajo for use by CAP pursuant to the Colorado River Basin Project Act (43 U.S.C. 1501, *et seq.*). The CAP is a Reclamation multi-purpose water resource development and management project in Arizona.

Section 107(a) of the Act provides that the capacity and energy associated with the United States interest in Navajo which is in excess of the pumping requirements of the CAP and any needs for desalting and protective pumping facilities (Navajo Surplus) shall be marketed and exchanged by the Secretary of Energy. Furthermore, Section 107(c) of the Act provides that in the marketing and exchanging of Navajo Surplus, the Secretary of the Department of the Interior shall adopt the plan deemed most acceptable, after consultation with the Secretary of Energy, the Governor of Arizona, and CAWCD (or its successor in interest to the repayment obligation for the CAP).

On December 1, 1987, Reclamation, on behalf of the Secretary, adopted the Original Plan which provided for long-term contracts through September 30, 2011.

This adopted Amended Plan contains the framework for the sale and exchange of Navajo Surplus, including an annual process to determine the power to be marketed, eligibility criteria, contract provisions, rate-setting provisions, and revenue collection and distribution criteria. The rate-setting provisions in the adopted Amended Plan were developed to accomplish the requirements of the Act to market and exchange Navajo Surplus ''for the purposes of optimizing the availability of Navajo surplus and providing

financial assistance in the timely construction and repayment of construction costs of authorized features of the Central Arizona project.'' These provisions also provide that ''rates shall not exceed levels that allow for an appropriate saving for the contractor.''

The adopted Amended Plan implements provisions of the Revised Stipulation entered in the Central Arizona Project repayment litigation, *Central Arizona Water Conservation District* v. *United States, et al.*, No. CIV 95–625–TUC–WDB (EHC), No. CIV 95–1720–PHX–EHC (Consolidated Action). The Revised Stipulation requires, as a condition to the effectiveness of the Revised Stipulation, that the Original Plan be amended to provide for the establishment of rates for the sale or exchange of Navajo Surplus after September 30, 2011 ''which optimize the availability and use of revenues'' for the Lower Colorado River Basin Development Fund in a manner consistent with the Act. The Arizona Water Settlements Act of 2004, Public Law 108–451 amends statutory provisions relating to the use of Navajo Surplus revenues set forth in 43 U.S.C. 1543(f).

The Original Plan also contains a provision to collect an additional rate component that allows CAWCD to recover an advance of funds made to Reclamation for the construction of authorized features of the CAP. This obligation will be fulfilled under the contract provisions of the Original Plan. The Original Plan also contains specified quantities of capacity and energy to be marketed under long-term contracts. This adopted Amended Plan provides for an annual determination of capacity and energy resources available for marketing as Navajo Surplus based upon the availability of water for CAP pumping, in conjunction with an annual determination of rates and the various capacity and energy products to be marketed. Navajo Surplus under this adopted Amended Plan will be placed under contract for various time periods, which may be short-term, annual, or multi-year.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA), Council on Environmental Quality regulations, and the Department of the Interior regulations for compliance with NEPA, Reclamation and Western determined that the adopted Amended Plan met the requirements of a categorical exclusion. Copies of the categorical exclusions prepared by Reclamation and Western will be made available to interested persons upon request.

Public Comments and Responses

Comments relating to the term of Navajo Surplus contracts: Material presented at the public information forums on the proposed Amended Plan indicates Navajo Surplus will be marketed on an annual or shorter term basis. This will expose the Development Fund to market volatility and discourage purchasers who require the certainty of longer term contracts. Navajo Surplus should be made available for multi-year terms of at least three years. A five-year contract provides greater stability than a one-year contract. At least a portion of the Navajo Surplus should be sold in long term contracts.

Response: The Amended Plan is designed to be flexible. The Amended Plan permits both shorter and longer term contracts for the sale or exchange of Navajo Surplus. Article IV.A. of the Amended Plan states that Reclamation will on an annual or more frequent basis determine the quantity of Navajo Surplus available to be marketed and the period for which it is available. The annual determination process will allow Reclamation to take into account the varying power demand of the CAP and will reduce the need for the CAP to purchase power to supply its demand. Although the determination of available Navajo Surplus will be made at least annually, the period for which the power is sold or exchanged may vary. Reclamation anticipates that some blocks of power may be marketed in multi-year contracts and others marketed for shorter terms.

Comments relating to the pricing of Navajo Surplus: Navajo Surplus should be sold at cost. Western does not have legal authority to market Navajo Surplus at market-based prices. Federal power sold to preference customers should be sold at cost-based prices. Western is proposing to depart from established cost-based principles governing pricing of federal power. This poses a threat to Western's preference customers. The plan to optimize revenue from the sale of Navajo Surplus should be balanced against the statutory requirement of an appropriate savings for the contractor to result in a below market price. The power should be sold at a price based on the market but reduced to eliminate costs incurred by the private sector but not by the federal government such as taxes. After the CAP is paid off, Navajo Surplus should be sold at cost.

Response: Navajo Surplus has never been marketed at cost-based pricing. The Hoover Power Plant Act of 1984 and the Arizona Water Settlements Act of 2004 provide that the Lower Colorado River Basin Development Fund (Development Fund) is to be used to repay CAP construction costs and to fund specified purposes including Indian water projects and settlements. Congress has directed that revenues from the sale of Navajo Surplus be deposited into the Development Fund and be available for these purposes. Cost-based pricing of this resource would not result in revenue which could be dedicated to CAP construction costs or Indian water projects. This would run counter to intent of these Acts of Congress. The Hoover Power Plant Act of 1984 states that the rates for Navajo Surplus should not exceed levels that allow for an appropriate saving for the contractor but does not further define what is intended by ''appropriate savings.'' The marketing process for Navajo Surplus will permit the contractors to determine the price which represents to them an appropriate savings when, for example, placing a bid or submitting a request for proposal to Western. The provisions of the Hoover Power Plant Act of 1984 and the Arizona Water Settlements Act of 2004 which relate to the CAP, the sale of Navajo Surplus, and the purposes for which the Development Fund may be used have no bearing upon the marketing of power from other federal projects.

Comments relating to the possible auction of Navajo Surplus: Western and Reclamation should support the use of an auction process to sell Navajo Surplus, using standard electricity products and standard market contract arrangements to promote efficiency. Such a process could accommodate those seeking smaller quantities of power.

Response: The Amended Plan is designed for flexibility. It would allow Navajo Surplus to be auctioned as standard electricity products using standard contracts in a manner which promotes efficiency and which accommodates those seeking smaller quantities of power.

Comments relating to the exchange of Navajo Surplus: The proposed Amended Plan, unlike the original Navajo Power Marketing Plan, does not specify the amount of power to be exchanged.

Response: The Amended Plan is designed for flexibility. Whether and to what extent power is available for exchange will be determined by Reclamation in an annual process which takes into account the varying power needs of the CAP.

Comments relating to the resale of Navajo Surplus: Western should not apply Western's General Power Contract Provisions (GPCP), Article 17, to sales of Navajo Surplus because this would not allow a contractor to resell Navajo Surplus. If a contractor acquires Navajo Surplus and is not permitted to resell unused portions, the risk for the contractor increases. With higher risk, the contractor is likely to offer a lower price for Navajo Surplus and this would defeat the purposes of the Hoover Power Plant Act of 1984 and the Arizona Water Settlements Act of 2004.

Response: Article 17 of the GPCP was included in contracts for the sale of Navajo Surplus under the original Navajo Power Marketing Plan. At the time of actual contracting under the Amended Plan, Western will determine which GPCPs will be included in contracts marketing Navajo Surplus.

Comments relating to the first opportunity provisions of the original Navajo Power Marketing Plan: The original Navajo Power Marketing Plan and the contracts entered into under that plan provide a first opportunity to existing contractors to enter into new contracts for Navajo Surplus when the existing contracts expire. New contracts should be entered into under the first opportunity provisions of the original plan. Exercise of the first opportunity provisions for new contracts may impact the extent to which Navajo Surplus is available to be marketed to others.

Response: Reclamation is engaging in ongoing negotiations relating to the first opportunity provisions of the original Navajo Power Marketing Plan. These negotiations may result in new contracts for the sale of Navajo Surplus. The extent to which any such new contracts may affect the amounts of Navajo Surplus which is available to be marketed to others will not be known until the conclusion of those negotiations.

Comments relating to marketing Navajo Surplus to Indian tribes: Many tribes in the Colorado River Basin are new participants in the electric energy business. It is unlikely that Indian tribes have the staff capabilities to successfully participate in an auction process. The federal government and Indian tribes have a long-standing trust relationship. Western should consider benefits to Arizona Indian tribes when marketing Navajo Surplus. Western should set aside the amount of Navajo Surplus necessary to meet the needs of Indian reservations. Tribes in Arizona should be included in the first priority group for eligibility to contract with Western for the sale or exchange of Navajo Surplus. Navajo Surplus should be sold to Indian tribes at cost or at the same cost as it is sold to larger utilities with sufficient staff to evaluate its value. Many tribes cannot take advantage of the sale of Navajo Surplus in large blocks of power or for single year periods.

Response: The Amended Plan is designed to optimize the revenues from the sale of Navajo Surplus to fulfill Congressional purposes relating to the repayment of construction costs of the CAP and relating to funding specified purposes including Indian water projects and settlements. In order to optimize revenues, Reclamation anticipates that Western will market the power, through an auction or by a request for proposals. Indian tribes are welcome to participate in these processes. An auction is only one of several methods that Western may use to market Navajo Surplus under the Amended Plan. The Amended Plan provides that first priority will be given to Arizona preference entities. Western currently recognizes several Indian Tribes as qualifying as preference entities in Arizona. The Amended Plan provides for flexibility in designing the products for sale and exchange. The Amended Plan does not require the products be structured in any particular manner. Reclamation anticipates that both large and small blocks of power may be available to be marketed as Navajo Surplus and further anticipates that some blocks may be available in multi-year increments. Both Reclamation and Western recognize the trust relationship between the United States and Federally-recognized Indian Tribes.

Comments relating to the possible sale of Navajo Surplus as a firm product: If Navajo Surplus is sold as a firm product, the proposed Amended Plan is unclear as to whether Western will be responsible for ensuring the firm product is delivered. Western should not firm Navajo Surplus at the expense of other Western customers.

Response: The Amended Plan is designed to be flexible. The Amended Plan permits Western to market Navajo Surplus as a firm product and as a unit contingent product. Costs related to the marketing of Navajo Surplus will not be passed along to non-CAP Western customers, nor will generation resources from other federal projects be use to firm Navajo Surplus.

Comments relating to the integrated operation of the CAP water and power systems: The CAP design assumes an integrated operation of the CAP water and power systems to optimize the efficiency of both. The proposed Amended Plan should place more emphasis on the integrated operation of the CAP water and power systems.

Response: The Amended Plan addresses the integrated operation of the CAP water and power systems in Article V. The integrated operation will optimize revenues from the marketing of Navajo Surplus. The Amended Plan recognizes in Article VII(C) that CAWCD may be a party to contracts for the sale or exchange of Navajo Surplus for the purpose of affirming any obligations of CAWCD under the contract. Such contracts may further address CAP operations to enhance the availability and value of this resource.

Comments relating to participation of CAWCD in energy marketing: The proposed Amended Plan does not ensure the availability of power to run CAP pumps in the event of an outage of the entire Navajo power plant. It is unclear whether the expectation is that CAWCD will actively participate in energy marketing or simply bear the financial responsibility for a replacement supply.

Response: The Amended Plan solely addresses the marketing of Navajo Surplus. It does not address the availability of alternate supplies to run CAP pumps in the event of a complete outage of the Navajo Generating Station. Should such an outage occur, CAWCD, as the operating agent for the CAP, will make the decision whether to actively participate in energy marketing or to utilize another entity for this purpose. CAWCD currently participates in energy marketing.

Comments related to transmission of Navajo Surplus: A section should be added requiring Western to consult with the Arizona Power Authority prior to entering into any contracts relating to the transmission of Navajo Surplus in order to avoid compromising transmission rights and paths for the delivery of Arizona's federal entitlement to power from Hoover Dam.

Response: The Amended Plan addresses the marketing of Navajo Surplus. To the extent Western in its contracts for the sale or exchange of Navajo Surplus addresses transmission, Western will take into account transmission rights held by others. Western will not compromise the transmission rights and paths for the delivery of Arizona's federal entitlement to power from Hoover Dam.

Comments relating to credit requirements for purchasers of Navajo Surplus: The proposed Amended Plan is silent as to the credit requirements for purchasers of Navajo Surplus. Western should not bear the credit risk and then

pass it along to other Western customers.

Response: Reclamation expects that Western will follow its standard procedures with respect to credit requirements to be applied to purchasers of Navajo Surplus. Western will not pass along to other Western customers any credit risk relating to purchasers of Navajo Surplus.

Comments relating to editing the proposed Amended Plan: The proposed Amended Plan alternates between the use of the phrase ''sold and exchanged'' and ''sold or exchanged'' and should be consistent in its terminology. The definition of ''Development Fund'' should include the phrase ''as amended or supplemented'' because the statutory section establishing the fund has been amended. Article VI.D. (Eligibility) appears to paraphrase Section 107(c) of the 1984 Hoover Power Plant Act but should be modified to clearly and simply state the intent of Congress.

Response: Reclamation believes the Amended Plan appropriately uses ''and'' and ''or'' in different contexts when describing actions related to the marketing of Navajo Surplus. Reclamation has accepted this change to the Development Fund definition. The Amended Plan carries the Eligibility language forward from the original Navajo Marketing Plan. Reclamation believes it accurately reflects the intent of Congress.

Dated September 18, 2007.

Robert W. Johnson,

Commissioner, Bureau of Reclamation.

Amended Plan

The text of the adopted Amended Plan is as follows:

Amended Navajo Power Marketing Plan

I. Purpose and Scope

Section 107 of the Hoover Power Plant Act of 1984, Pub. L. 98–381, requires that a power marketing plan be developed to provide for marketing and Exchanging of Navajo Surplus for the purposes of optimizing the availability of Navajo Surplus and providing financial assistance in the timely construction and repayment of construction costs of authorized features of the Central Arizona Project. The Secretary of the Department of the Interior adopted the original Navajo Power Marketing Plan on December 1, 1987 (Original Plan). The Revised Stipulation entered in the Central Arizona Project repayment litigation, *Central Arizona Water Conservation District* v. *United States, et al.,* No. CIV 95–625–TUC–WDB (EHC), No. CIV 95–1720–PHX–EHC (Consolidated Action) requires, as a condition to the effectiveness of the Revised Stipulation, that the Original Plan be amended. The Revised Stipulation requires the amended Navajo Power Marketing Plan provide for the establishment and collection of rates for the sale or Exchange of Navajo Surplus that optimize the availability and use of revenues for the Lower Colorado River Basin Development Fund while allowing for an appropriate saving for the contractor. Satisfying the requirements of the Revised Stipulation is one of the elements necessary for final judgment to be entered in the above-referenced litigation. The entry of final judgment in that litigation permits the Secretary of the Department of the Interior to make a required finding under the terms of the Arizona Water Settlements Act of 2004, Pub. L. 108–451.

A. This Amended Navajo Power Marketing Plan hereinafter called ''Plan'' shall be applicable to all new or amended contracts for Navajo Surplus entered into after this Plan is adopted. The Original Plan shall remain in effect for all Navajo Surplus contracts entered into before the adoption of this Plan and shall continue until such contracts terminate or are amended in accordance with this Plan.

B. This Plan recognizes the obligation of the United States to use its entitlement to electrical capacity and energy from Navajo to provide necessary power for the pumping requirements of the Central Arizona Project and any such needs for desalting and protective pumping facilities as may be required under section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act of 1974, Pub. L. 93–320, as amended.

C. This Plan provides that Western, working closely with Reclamation and CAWCD, will be the marketing entity responsible for the sale and Exchange of Navajo Surplus in accordance with applicable Federal law, regulations and the Revised Stipulation. Western shall market Navajo Surplus directly to, with or through the Arizona Power Authority and/or other entities having the status of preference entities under the Reclamation Project Act of 1939. Western may utilize Exchange, banking, purchase or sales agreements, or integration with other resources to fulfill any purpose of this Plan.

D. This Plan sets parameters for the establishment of Rates, not to exceed levels that allow for an appropriate saving for the contractor, that will optimize the availability and use of revenues from the sale and Exchange of Navajo Surplus to provide financial assistance for payment of the operation and maintenance expenses associated with Navajo Surplus and for the purposes set forth in 43 U.S.C. 1543(f), as amended by the Arizona Water Settlements Act of 2004, Pub. L. 108–451.

E. This Plan satisfies the obligation of the United States in accordance with the Revised Stipulation, to amend the Original Plan ''to provide for the establishment and collection of rates for the sale or exchange of Navajo Surplus Power after September 30, 2011.''

F. This Plan specifies that for so long as Navajo operates and there is Navajo Surplus, Western shall continue to market Navajo Surplus under this Plan with such amendments or revisions as may be adopted by the Secretary of the Department of the Interior, after consultation with the Secretary of Energy, CAWCD, and the Governor of Arizona and as provided by law, including the authorities set forth in section II.

II. Authorities

The authorities under which this Plan is developed are:

A. Federal Reclamation laws (43 U.S.C. 372 *et seq.*, and all Acts amendatory thereof or supplementary thereto); in particular, the Colorado River Basin Project Act of 1968, Pub. L. 90–537, as amended, the Colorado River Basin Salinity Control Act of 1974, Pub. L. 93–320, as amended, the Hoover Power Plant Act of 1984, Pub. L. 98–381, and the Arizona Water Settlements Act of 2004, Pub. L. 108–451.

B. Rules, regulations, and agency agreements of Western and Reclamation issued or made pursuant to applicable law.

III. Definitions

The following terms wherever used herein shall have the following meanings:

A. ''Boulder City Marketing Area'' shall mean the marketing area defined in the 1984 Conformed Criteria published in the **Federal Register** (49 FR 50585) on December 28, 1984.

B. ''Central Arizona Project'' or ''CAP'' shall mean the Reclamation multipurpose water resource development and management project in Arizona authorized by the Colorado River Basin Project Act of 1968, Pub. L. 90–537, as amended (43 U.S.C. 1501 *et. seq.*).

C. ''CAWCD'' shall mean the Central Arizona Water Conservation District.

D. ''Conformed Criteria'' shall mean the Conformed General Consolidated Power Marketing Criteria or Regulations

for Boulder City Area Projects published in the **Federal Register** (49 FR 50582) on December 28, 1984.

E. ''Development Fund'' shall mean the Lower Colorado River Basin Development Fund established under section 403 of the Colorado River Basin Project Act of 1968, Pub. L. 90–537, as amended.

F. ''Exchange'' shall mean any arrangements providing for delivery of capacity and energy to Western and return of capacity and energy by Western from Navajo within a one year period.

G. ''Navajo'' shall mean the Navajo Generating Station, the thermal generating power plant located near Page, Arizona, and associated transmission facilities.

H. ''Navajo Entitlement'' shall mean the United States entitlement of 24.3 percent of the generation from Navajo.

I. ''Navajo Surplus'' shall mean capacity and energy associated with the Navajo Entitlement which is in excess of the pumping requirements of the Central Arizona Project and any such needs for desalting and protective pumping facilities as may be required under section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act of 1974, Pub. L. 93–320, as amended.

J. ''New Waddell Dam'' or ''New Waddell Reservoir'' shall mean the regulatory storage facilities constructed on the Agua Fria River as a feature of the CAP.

K. ''Original Plan'' shall mean the original Navajo Power Marketing Plan adopted on December 1, 1987.

L. ''Plan'' shall mean this Amended Navajo Power Marketing Plan.

M. ''Rate(s)'' shall mean the price(s) established by a marketing process for various Navajo Surplus capacity or energy products marketed under this Plan to optimize the availability and use of revenues for the Development Fund.

N. ''Reclamation'' shall mean the Bureau of Reclamation, United States Department of the Interior.

O. ''Revised Stipulation'' shall mean the Revised Stipulation Regarding a Stay of Litigation, Resolution of Issues During the Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed with the United States District Court for the District of Arizona in *Central Arizona Water Conservation District* v. *United States, et al.,* No. CIV 95–625–TUC–WDB (EHC), No. CIV 95–1720–PHX–EHC (Consolidated Action), and that court's order dated April 28, 2003, and any amendments or revisions thereto.

P. ''Western'' shall mean the Western Area Power Administration, United States Department of Energy.

IV. Power To Be Marketed

A. Reclamation, in consultation with CAWCD, shall annually or more frequently, as appropriate, determine the Navajo Surplus available for sale and Exchange by Western, and the period for which it will be available for sale and Exchange, taking into consideration among other factors, the following:

1. Existing contractual commitments to deliver Navajo Surplus, including new contracts entered into under the first opportunity provisions of section IV.G. of the Original Plan.

2. CAP estimated pumping energy requirements in excess of capacity and energy supplied to CAWCD from Hoover Dam or New Waddell Dam, based on projected CAP water deliveries for that year and successive years.

3. Estimated capacity and energy needs of the United States for desalting and protective pumping facilities, as may be required under section 101(b)(2)(B) of the Colorado River Basin Salinity Control Act of 1974, Pub. L. 93–320, as amended.

4. Projected Navajo generation.

B. Any Navajo Surplus not sold or Exchanged in accordance with paragraph A of this section may, as determined by Western, in cooperation with CAWCD and Reclamation, be sold under appropriate long-term or short-term arrangements.

V. Optimization

A. To optimize the availability of Navajo Surplus, CAWCD shall utilize, for CAP pumping requirements, Hoover capacity and energy scheduled from Hoover Dam in accordance with the terms and conditions of CAWCD's contract with the Arizona Power Authority to permit additional Navajo capacity and energy to be sold or Exchanged by Western as Navajo Surplus.

B. To optimize the availability and use of revenues from the sale and Exchange of Navajo Surplus:

1. CAWCD will use seasonal and daily power management. Specifically, CAWCD will divert maximum amounts of water from the Colorado River in the winter season for storage in the New Waddell Reservoir, and then serve CAP water demands in the summer season from water previously placed in storage. On a daily basis, CAWCD to the extent possible will pump off-peak to optimize the on-peak availability of Navajo Surplus.

2. Western, in consultation with Reclamation and CAWCD, shall develop capacity and energy products from the Navajo Surplus determined to be available under section IV.A for sale or Exchange, taking into account market prices for standard capacity and energy products.

VI. Eligibility

A. Western shall offer Navajo Surplus for sale in the following order of priority, in accordance with part IV, section A of the Conformed Criteria:

1. Preference entities within Arizona.

2. Preference entities within the Boulder City Marketing Area.

3. Preference entities in adjacent Federal marketing areas.

4. Non-preference entities in the Boulder City Marketing Area.

B. In the event a bidding or request for proposal process is utilized, after the bids or proposals are received the bidding entities will be given first opportunity, in order of priority, to purchase at a price which is based on the highest offer.

C. In the event that a potential contractor fails to place Navajo Surplus capacity and energy under contract within a reasonable period, as specified by Western and in accordance with the terms and conditions offered by Western, the amounts of capacity and energy not placed under contract will be reoffered in accordance with the order of priority specified in paragraph A of this section.

D. Arizona entities, regardless of preference status, shall have first opportunity for electrical capacity and energy Exchange rights as necessary to implement this Plan. Western, in consultation with CAWCD and Reclamation, may determine that any capacity and energy not subscribed to by Arizona entities for Exchange may be offered for sale in the order of priority stated in paragraph A of this section or may be offered to non-Arizona entities for Exchange.

VII. Contract Provisions

A. Western, after consultation with Reclamation and CAWCD, shall enter into all power sales and Exchange contracts necessary to carry out the provisions of this Plan in selling and exchanging Navajo Surplus. Navajo Surplus shall be marketed, and Exchange rights granted, by Western on behalf of the Secretary of the Department of the Interior, under contracts consistent with this Plan and the Conformed Criteria.

B. Contracts for the sale or Exchange of Navajo Surplus shall specify a delivery point on the Navajo or CAP

transmission systems as may be available. If the contractor cannot take delivery of Navajo Surplus into its own system at these delivery points, transmission service arrangements to other delivery points will be the obligation of the contractor.

C. CAWCD may be a party to contracts for the sale or Exchange of Navajo Surplus for the limited purposes of (i) concurring that the contracts optimize the financial assistance available for the purposes set forth in 43 U.S.C. 1543(f), as amended by the Arizona Water Settlements Act of 2004, Pub. L. 108–451, and (ii) affirming any rights and obligations of CAWCD under the contracts.

D. Western and the contractor shall agree upon written metering and scheduling instructions prior to any deliveries under this Plan. The metering and scheduling instructions shall provide the operating and accounting procedures for such deliveries. Metering and scheduling instructions are intended to implement terms of the contract, not to modify or amend it, and therefore are subordinate to the contract. Western and the contractor may modify these instructions, as necessary, to reflect changing power system conditions. In the event the contractor fails or refuses to execute the initial metering and scheduling instructions or any revised instructions Western determines to be necessary, Western shall develop and implement temporary instructions until acceptable instructions have been developed and executed by Western and the contractor.

VIII. Rate-Setting

A. Rates for Navajo Surplus developed pursuant to section IV.A shall be established annually by Reclamation and Western, in consultation with CAWCD, through a competitive process that optimizes the availability and use of revenues for the Development Fund with priority to entities in accordance with section VI.A. and that allows for an appropriate saving for the contractor, taking into consideration, among other factors, prices for comparable capacity and energy products.

B. Rates for Navajo Surplus developed under section IV.B or marketed under the first opportunity provision of the Original Plan shall be established in the contracts for sale of such Navajo Surplus, taking into consideration, among other factors, prices for comparable capacity and energy products, and allowing for an appropriate saving for the contractor.

C. Rates developed annually pursuant to this Plan shall not be applicable to pre-existing contracts unless provided for in such contracts.

D. Because of the Hoover Power Plant Act of 1984's, Pub. L. 98–381, requirements for noncost-based rates, the Rates established pursuant to this Plan are not suitable to the required review of Western's rates by the Federal Energy Regulatory Commission. All Rates promulgated by the Administrator of Western under this Plan shall be a final act of the Secretary of Energy and shall be subject to review pursuant to the judicial review provided by the Administrative Procedure Act (5 U.S.C. 553, *et seq.*).

IX. Revenue Collection and Distribution

Western shall deposit all revenue collected from the marketing of Navajo Surplus under this Plan into the Development Fund, where it will be used:

A. First, to pay all costs of operation and maintenance determined to be associated with the sale and Exchange of Navajo Surplus, including actual costs for services performed by Reclamation and Western under this Plan including appropriate administrative expenses of Reclamation and Western.

B. Second, for the purposes set forth in 43 U.S.C. 1543(f), as amended by the Arizona Water Settlements Act of 2004, Pub. L. 108–451, including crediting funds against the annual CAWCD repayment obligation and funding specific Indian water-related activities.

X. Effective Date

This Plan will become effective 30 days after publication in the **Federal Register** following adoption by the Secretary of the Department of the Interior.

XI. Consultation

This Plan is deemed most acceptable in accordance with section 107(c) of the Hoover Power Plant Act of 1984, Pub. L. 98–381, after consultation with Western (Secretary of Energy), the Governor of Arizona, and CAWCD.

Adopted:

Dated: September 18, 2007.

Robert W. Johnson,

Commissioner, Bureau of Reclamation.

[FR Doc. E7–18744 Filed 9–21–07; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–615]

In the Matter of Certain Ground Fault Circuit Interrupters and Products Containing the Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 16, 2007, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Pass & Seymour, Inc. of Syracuse, New York. Letters supplementing the complaint were filed on September 4, 5, and 6, 2007. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ground fault circuit interrupters and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 5,594,398, RE38,293, 7,154,718, 7,164,564, 7,212,386, and 7,256,973. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Bryan F. Moore, Esq., Office of Unfair

Import Investigations, U.S. International Trade Commission, telephone (202) 205–2767.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

Scope of Investigation: Having considered the amended complaint, the U.S. International Trade Commission, on September 17, 2007, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain ground fault circuit interrupters and products containing the same by reason of infringement of one or more of claims 1–36 of U.S. Patent No. 5,594,398; claims 12, 14, 19, 25, and 26 of U.S. Patent No. RE38,293; claims 52, 59, and 60 of U.S. Patent No. 7,154,718; claims 1–3, 13, 15, and 22 of U.S. Patent No. 7,164,564; claims 1, 9, and 15–17 of U.S. Patent No. 7,212,386; and claims 1–6, 8, 12, 21, 22, and 24–34 of U.S. Patent No. 7,256,973, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Pass & Seymour, Inc., 50 Boyd Avenue, Syracuse, New York 13209.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

General Protecht Group, Inc., 555 Daxing Rd West, Liushi Yueqing, Zhejiang 325600, China.

General Protecht Group U.S., Inc., 3353 Peachtree Road NE., Suite 1040, Atlanta, Georgia 30326.

Shanghai ELE Manufacturing Corporation, Sec 2 Xingcheng Industrial Zone, Qingpu 201703, Shanghai, China.

Shanghai Meihao Electric, Inc., 58 Shane Rd., Jiangqiao Town Jiading Borough 201803, Shanghai, China.

Wenzhou Trimone Company, Zhiguang Industrial Zone, Liushi Town Yueqing, Zhejiang 325604, China.

Cheetah USA Corp., 9091 Sandy Parkway, Sandy, Utah 84070.

GX Electric, 2001 NW 25th Avenue, Pompano Beach, Florida 33069.

Nicor Inc., 2200 Midtown Place NE., Suite A, Albuquerque, New Mexico 87107.

Orbit Industries, Inc., 2100 S. Figueroa Street, Los Angeles, California 90007.

The Designer's Edge, 11730 NE 12th Street, Bellevue, Washington 98005.

Universal Security Instruments, Inc., 7–A Gwynns Mills Court, Owings Mills, Maryland 21117.

Colacino Electric Supply, Inc., 319 West Union Street, Newark, New York 14513.

Ingram Products, Inc., 8725 Youngerman Court, Suite 206, Jacksonville, Florida 32244.

Lunar Industrial & Electrical, Inc., 15975 SW 117th Avenue, Miami, Florida 33177.

Quality Distributing, LLC., 2056 NW Aloclek Drive, Suite 325, Hillsboro, Oregon 97124.

(c) The Commission investigative attorney, party to this investigation, is Bryan F. Moore, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Carl C. Charneski is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or cease and desist order or both directed against a respondent.

Issued: September 18, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–18753 Filed 9–21–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–NEW]

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day notice of information collection under review: COPS Non Hiring Progress Report.

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The revision of a currently approved information collection is published to obtain comments from the public and affected agencies.

The purpose of this notice is to allow for 60 days for public comment until November 26, 2007. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Rebekah Dorr, Department of Justice Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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.

Overview of This Information Collection

(1) *Type of Information Collection:* Proposed collection; comments requested.

(2) *Title of the Form/Collection:* COPS Non-Hiring Progress Report.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Law enforcement and public safety agencies, institutions of higher learning and non-profit organizations that are recipients of COPS Non-Hiring grants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:*

It is estimated that approximately 2,975 annual, quarterly, and final report respondents can complete the report in an average of one hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,200 total burden hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: September 18, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E7–18780 Filed 9–21–07; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Andrew Desonia, M.D.; Revocation of Registration

On September 16, 2005, the Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Andrew Desonia, M.D. (Respondent), of Knox, Indiana. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BD4985531, as a practitioner, on the ground that Respondent's ''continued registration is inconsistent with the public interest.'' Show Cause Order at 1 (citing 21 U.S.C. 823(f) & 824(a)(4)). The Show Cause Order also proposed to deny any pending applications for renewal or modification of Respondent's registration.

More specifically, the Show Cause Order alleged that Respondent was a participant in a scheme run by Mr. Johar Saran, the owner of Carrington Health System/Infiniti Services Group (CHS/ISG) of Arlington, Texas. *Id.* at 5. According to the allegations, CHS/ISG operated several DEA-registered pharmacies, which obtained their registrations through sham-nominees and which were used to order large amounts of highly abused controlled substances from licensed distributors. *Id.* The Show Cause Order alleged that the controlled substances were then diverted to CHS/ISG, where they were used to fill approximately 3,000 to 4,000 orders per day which had been placed by persons through various Web sites. *Id.*

The Show Cause Order further alleged that Respondent ''participated in [this] scheme by authorizing drug orders under the guise of practicing medicine.'' *Id.* The Show Cause Order alleged that Respondent ''did not see the customers, had no prior doctor-patient relationships with the Internet customers, did not conduct physical exams,'' and did not ''create or maintain patient records.'' *Id.* at 5–6. The Show Cause Order alleged that between October 13, 2004, and January 28, 2005, Respondent issued twenty-three prescriptions for controlled substances ''to [i]nternet customers in at least 13 different states,'' and that ''in a single day,'' Respondent ''issued ten drug orders to [i]nternet customers in ten different states.'' *Id.* at 6.

The Show Cause Order also alleged that a DEA Diversion Investigator (DI) had gone to a Web site and ordered Bontril (phendimetrazine) by completing a questionnaire. *Id.* Subsequently, the DI received the filled prescription, which had been issued by Respondent and filled by Tri-Phasic Pharmacy of Arlington, Texas. *Id.* The Show Cause Order alleged that Respondent issued the prescription without ''contact[ing] the [DI]'' and never ''verif[ied] the information supplied'' by the DI. *Id.*

Finally, the Show Cause Order alleged that Respondent ''did not establish legitimate physician-patient relationships with the [i]nternet customers to whom [he] prescribed controlled substances.'' *Id.* The Show Cause order thus alleged that Respondent had violated 21 CFR 1306.04.

On or about September 21, 2005, the Show Cause Order was personally served on Respondent. On October 20, 2005, Respondent, through his counsel, requested a hearing. The matter was assigned to Administrative Law Judge (ALJ) Gail Randall, who proceeded to conduct pre-hearing procedures. The matter was subsequently stayed while Respondent's counsel attempted to locate a witness.

On December 19, 2006, Respondent's counsel moved to withdraw. As grounds for the motion, Respondent's counsel established that he had sent two letters to Respondent by certified mail, which requested that Respondent contact him to discuss the case. Respondent's counsel further showed that Respondent had made no attempt to contact him. Respondent's counsel thus asserted that Respondent had ''cut off all communication with [him] thus breaching the attorney-client relationship'' and violating the retainer agreement between them. Motion to Withdraw at 2. In addition to seeking leave to withdraw, Respondent's counsel asked the ALJ to grant Respondent thirty days to find replacement counsel.

Upon receipt of the motion, the ALJ ordered the Government to respond. On December 28, 2006, the Government filed its response stating that it did not object to the motion.

On December 29, 2006, the ALJ granted the motion. In her order, the ALJ also directed Respondent to notify the hearing clerk by January 29, 2007, whether he intended ''to proceed with a hearing.'' Order Granting Resp. Counsel's Mot. to Withdraw at 3. The ALJ further informed Respondent that if he failed to file notice of his intention to proceed, he may be ''deemed to have waived his right to the hearing,'' and that the hearing, which was already scheduled, could be cancelled. *Id.* (citing 21 CFR 1301.43(e)). The Order was served on Respondent by certified mail sent to his last known address.[1]

[1] Government counsel had earlier served Respondent with a copy of a December 19, 2006 Status Report, at the address of 1547 Ohio Avenue, Anderson, Indiana. In this filing, the Government's counsel noted that Respondent's counsel had informed her that he intended to withdraw. The Government also noted its ''position that all settlement negotiations have failed,'' and that it ''intended to seek the revocation of Respondent's * * * Registration as proposed in the September 16, 2005, Order to Show Cause.''

Thereafter, on December 27, 2006, the Government's counsel received an undated letter

Continued

Respondent did not comply with Order. Accordingly, on February 12, 2007, the Government filed a motion which sought a finding that Respondent had waived his right to a hearing. The Government also requested that the ALJ cancel the hearing.

On February 13, 2007, the ALJ granted the Government's motion. Noting that Respondent had failed to respond to her order, the ALJ found that ''Respondent has effectively waived his right to a hearing in this matter.'' Order Granting Gov. Mot. to Cancel Hearing at 1. The ALJ thus canceled the hearing and ordered that the matter be returned to the Government for further action.

Thereafter, the investigative file was forwarded to me for final agency action. Based on his failure to notify the ALJ of his intent to proceed with the hearing, I conclude that Respondent has waived his right to a hearing. *See* 21 CFR 1301.43(d). I therefore enter this Final Order without a hearing based on relevant material contained in the investigative file, *see id.* 1301.43(e), and make the following findings.

Findings

Respondent is the holder of DEA Certificate of Registration, BD4985531, which authorizes him to handle schedule II through V controlled substances as a practitioner at the registered location of 10530 East Division Road, Knox, Indiana. Respondent's registration does not expire until June 30, 2008.

Respondent came to the attention of DEA during an investigation of Johar Saran, the owner of a majority stake in Carrington Healthcare Systems/Infiniti Services Group (CHS/ISG) of Arlington, Texas. According to the investigative file, CHS/ISG used several Internet facilitation centers (IFCs) to solicit orders for controlled substances, which it then dispensed through numerous DEA registered pharmacies which CHS/ISG controlled. Under the scheme, a person seeking a controlled substance would go to a Web site, complete a questionnaire, and request a particular drug. The information would be forwarded to an IFC, which then sent the information on to a physician who would review the customer's information and authorize a prescription.

Thereafter, an employee of CHS/ISG would access the Web site and download the prescriptions. The prescriptions were then typically filled by CHS/ISG at its Arlington, Texas facility, and sent to the purchaser using either FedEx or UPS.

According to the investigative file, the IFCs that serviced CHS/ISG used at least 59 physicians including Respondent to write controlled substance prescriptions. According to the file, between October 13, 2004, and January 28, 2005, Respondent wrote twenty-three controlled substance prescriptions for persons located in thirteen different states including Alabama, Arizona, California, Georgia, Kansas, Louisiana, New Jersey, Oklahoma, Pennsylvania, South Carolina, and Texas. The prescriptions were for phentermine (12 Rxs), Adipex (5 Rxs), Didrex (4 Rxs), Bontril SR (1 Rx) and phendimetrazine (1 Rx). Most of the prescriptions were filled by Tri-Phasic Pharmacy of Arlington, Texas, an entity which was controlled by Saran.

Moreover, on January 19, 2005, Respondent wrote controlled substance prescriptions for persons located in ten different states including Kansas, Louisiana, Kentucky, Ohio, Arkansas, Georgia, California, Pennsylvania, and Alabama. The drugs prescribed were phentermine (37.5 mg), Adipex (37.5 mg), and Didrex (50 mg). Each of the prescriptions was filled by the Tri-Phasic Pharmacy.

The investigative file further revealed that on November 15, 2004, two DEA Diversion Investigators (DIs) visited the Web site, GiantRx.com, and using a fictitious name, made an undercover buy of 90 phendimetrazine (105 mg.) tablets. After the DIs provided a name and billing/shipping information, they were required to complete a ''Medical History Form.'' This form required the customer to indicate her height, weight, date of birth, sex, and whether she smoked. The form also asked the customer whether she had a physical exam within the last year, whether any diseases ran in her family, whether she was taking any other drugs, whether she was allergic to any medications, and to list any medical conditions she was being treated for and to provide her surgical history.

The form also asked several ''Phendimetrazine Specific Questions.'' These included whether the customer agreed not to take any over-the-counter medicine while taking the drug, to certify that she had a Body Mass Index of at least 25, and to monitor her blood pressure every 14 days and discontinue use of the drug if it exceeded 140/90.

Upon completion of the form and submission of payment information, the DIs received an e-mail from GiantRx.com indicating that the order had ''been submitted to a physician for approval'' and that an e-mail would be sent ''as soon as the doctor has reviewed [your] order.'' The e-mail further stated that ''[t]he doctor may contact you if he/she has any further questions.''

On November 29, 2004, the DIs received a package which contained 90 tablets of phendimetrazine (105 mg). The label indicated that Respondent was the prescribing physician and that Tri-Phasic Pharmacy of Arlington, Texas, was the dispensing pharmacy. Respondent did not perform a physical examination on the ''patient'' before issuing the prescription and there was no contact of any sort between Respondent and the DIs.

On September 21, 2005, two DIs and a Special Agent interviewed Respondent at his registered location. During the interview, Respondent admitted that he reviewed questionnaires submitted to Internet sites by persons requesting controlled substances used for weight control purposes. Respondent stated that he would issue a prescription provided the questionnaire was complete, the person had indicated that he/she was between the ages of 27 and 45, and the person had a suitable Body Mass Index. Respondent further maintained that he rejected approximately twenty percent of the requests because the questionnaires were not complete.

Respondent admitted to the investigators that he had been involved in Internet prescribing through two different Internet sites for approximately 13 months at the time of the interview. Respondent further admitted that during his involvement with Internet prescribing, he had approved thousands of prescriptions. Respondent stated that he received on average fifty questionnaires a day and had received as few as four per day and as many as one hundred a day to review. Respondent further told the investigators that while initially he had also prescribed opiates, he eventually decided to stop doing so and would approve only prescriptions for weight loss drugs and Viagra (a non-controlled drug).

---

from Respondent which appears to have been written in response to the Status Report.

The Government also served both Respondent's counsel and Respondent with a copy of its response to the motion to withdraw. In that filing, the Government made clear that it objected to any further delays. Moreover, the Government sent its response to Respondent at two separate addresses, including the one used by Respondent in his letter which Government counsel had received the day before.

The ALJ's December 29, 2006 Order, which granted the motion to withdraw and ordered Respondent to notify the hearing clerk if he still intended to proceed with a hearing, was served on Respondent at the 1547 Ohio Ave., Anderson, Indiana. This was the same address which Government counsel had used to serve the Status Report and which had elicited a response from Respondent.

Respondent admitted that he really did not know if the persons requesting the controlled substances were providing truthful information on their questionnaires. Respondent asserted, however, that the situation was not much different than in-person encounters because patients often lie. Respondent further admitted that he had not established a doctor-patient relationship with the persons who had requested controlled substances through the Internet sites.

Discussion

Section 304(a) of the Controlled Substances Act provides that a registration to ''dispense a controlled substance * * * may be suspended or revoked by the Attorney General upon a finding that the registrant * * * has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a)(4). In making the public interest determination, the Act requires the consideration of the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

''[T]hese factors are * * * considered in the disjunctive.'' *Robert A. Leslie, M.D.*, 68 FR 15227, 15230 (2003). I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked.'' *Id.* Moreover, I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA*, 419 F.3d 477, 482 (6th Cir. 2005); *see also Morall* v. *DEA*, 412 F.3d 165, 173–74 (D.C. Cir. 2005).

In this case, I conclude that Factors Two and Four establish that allowing Respondent to continue to dispense controlled substances would be inconsistent with the public interest. Accordingly, I will order that Respondent's registration be revoked and that any pending renewal application be denied.

Factors Two and Four—Respondent's Experience in Dispensing Controlled Substances and Record of Compliance With Applicable Laws

The central issue in this case is whether the prescriptions Respondent issued through Web sites associated with CHS/ISG complied with Federal law. As explained below, the evidence conclusively demonstrates that Respondent repeatedly violated Federal law by issuing numerous prescriptions for controlled substances without establishing a valid doctor-patient relationship with the customers and which lacked a legitimate medical purpose.

Under DEA regulations, a prescription for a controlled substance is not ''effective'' unless it is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). This regulation further provides that ''an order purporting to be a prescription issued not in the usual course of professional treatment * * * is not a prescription within the meaning and intent of [21 U.S.C. 829] and * * * the person issuing it, shall be subject to the penalties provided for violations of the provisions of law related to controlled substances.'' *Id.* As the Supreme Court recently explained, ''the prescription requirement * * * ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon*, 126 S.Ct. 904, 925 (2006) (citing *United States* v. *Moore*, 423 U.S. 122, 135 (1975)).

It is fundamental that a practitioner must establish a bonafide doctor-patient relationship in order to be acting ''in the usual course of * * * professional practice'' and to issue a prescription for a ''legitimate medical purpose.'' 21 CFR 1306.04(a); *see also Moore*, 423 U.S. 141–43. Under existing professional standards, to establish a bonafide doctor-patient relationship, a ''physician shall'':

> i. Obtain a reliable medical history and perform a physical examination of the patient, adequate to establish the diagnosis for which the drug is being prescribed and to identify underlying conditions and/or contraindications to the treatment recommended/provided; ii. have sufficient dialogue with the patient regarding treatment options and the risks and benefits of treatment(s); iii. as appropriate, follow up with the patient to assess the therapeutic outcome; iv. maintain a contemporaneous medical record that is readily available to the patient and * * * to his * * * other health care professionals; and v. include the electronic prescription information as part of the patient medical record.

American Medical Association, Guidance for Physicians on Internet Prescribing; see also William R. Lockridge, 71 FR 77791, 77798 (2006).

To similar effect are the guidelines issued by the Federation of State Medical Boards of the United States, Inc. *See Model Guidelines for the Appropriate Use of the Internet in Medical Practice.* According to the Guidelines, ''[t]reatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (face-to-face) settings. *Treatment, including issuing a prescription, based solely on an online questionnaire or consultation does not constitute an acceptable standard of care.'' Id.* at 4 (emphasis added). *Cf.* DEA, *Dispensing and Purchasing Controlled Substances over the Internet*, 66 FR 21181, 21183 (2001) (guidance document) (''Completing a questionnaire that is then reviewed by a doctor hired by the Internet pharmacy could not be considered the basis for a doctor/patient relationship.'').

Consistent with these standards, the State of Indiana has promulgated an administrative rule which provides that ''[t]reatment, including issuing a prescription, based solely on an on-line questionnaire or consultation is prohibited.'' 844 IAC 5–3–3. Indiana has promulgated an additional rule entitled: ''Prescribing to Persons Not Seen by the Physician.'' This rule provides:

> Except in institutional settings, on-call situations, cross-coverage situations, and situations involving advanced practical nurses with prescription authority practicing in accordance with standard care arrangements * * * a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never physically examined and diagnosed. 844 IAC 5–4–1.

As found above, the evidence establishes that Respondent issued numerous prescriptions to persons he never physically examined and diagnosed. Rather, Respondent issued the prescriptions based solely on the questionnaires the customers had submitted. In issuing the prescriptions, Respondent violated not only existing professional standards, but also, Indiana law.

Moreover, because Respondent failed to establish a valid doctor-patient relationship with the persons he issued

controlled substance prescriptions for, he was not acting ''in the usual course of * * * professional practice,'' and the prescriptions were not ''issued for a legitimate medical purpose.'' 21 CFR 1306.04(a). Respondent thus also repeatedly violated Federal law. *See Moore*, 423 U.S. at 141–43.

As recognized in *Lockridge* and other agency orders, '' '[le]gally there is absolutely no difference between the sale of an illicit drug on the street and the illicit dispensing of a licit drug by means of a physician's prescription.' '' 71 FR at 77800 (quoting *Mario Avello, M.D.*, 70 FR 11695, 11697 (2005)). *See also Floyd A. Santner, M.D.*, 55 FR 37581 (1990). In short, Respondent's involvement in this scheme did not constitute the legitimate practice of medicine, but rather, drug dealing.

Accordingly, Respondent's experience in dispensing controlled substances and his record of compliance with applicable laws makes plain that his continued registration would ''be inconsistent with the public interest.'' 21 U.S.C. 824(a)(4). Moreover, because Respondent's prescribing practices create an extraordinary threat to public health and safety, *see*, e.g., *Lockridge*, 71 FR at 77798–99 [2]; and it is unclear whether he has ceased engaging in them, I further conclude that this Order shall be effective immediately.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate Registration, BD4985531, issued to Andrew Desonia, M.D., be, and it hereby is, revoked. I further order that any pending application of Respondent for renewal of his registration be, and it hereby is, denied. This order is effective immediately.

Dated: September 14, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–18775 Filed 9–21–07; 8:45 am]

BILLING CODE 4410–09–P

[2] See also National Center on Addiction and Substance Abuse, ''You've Got Drugs!'' Prescription Drug Pushers on the Internet 6 (Feb. 2004) (diversion of controlled substances through the Internet ''threatens the health and safety of millions of Americans—including our children''); National Institute on Drug Abuse, Community Drug Alert Bulletin, Prescription Drugs (Aug. 2005).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Brenton D. Glisson, M.D.; Revocation of Registration

On May 9, 2006, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Brenton D. Glisson, M.D. (Respondent), of Seneca, South Carolina. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BG4535641, as a practitioner, on the ground that in August 2005, the South Carolina Bureau of Drug Control suspended his State controlled substances registration and that he was without authority to handle controlled substances in the State in which he practiced medicine. Show Cause Order at 1 (citing 21 U.S.C. 824(a)(2)). The Show Cause Order also advised Respondent of his right to a hearing and the procedures for requesting a hearing and/or submitting a written statement. Show Cause Order at 1–2.

On June 1, 2006, the Show Cause Order was served on Respondent by certified mail, return receipt requested. On June 21, 2006, Respondent submitted a letter in which he admitted that his South Carolina medical license had been revoked based on ''false allegations of sexual misconduct with a patient.'' Respondent further stated that he was ''in the process of appealing [the] decision,'' and that the ''case [was] going before an Administrative Judge.'' Respondent also stated that he would contact the Agency upon the ''renewal'' of his license and requested that the DEA proceeding be held ''off till then.''

Upon receipt of the letter, the matter was assigned to Administrative Law Judge (ALJ) Gail Randall. On July 11, 2006, the ALJ wrote to Respondent stating that she could not tell from his letter whether he was requesting a hearing. The ALJ thus instructed Respondent that if he was ''seeking a hearing, you must clearly tell me so in a letter filed with my office.'' The ALJ also advised Respondent that if his initial letter was intended to request a hearing, his ''request may already be untimely.'' Finally, the ALJ informed Respondent that if he failed to reply by July 25, 2006, he would be deemed to have waived his right to a hearing. Respondent did not comply.

On July 11, 2006, the Government moved for summary disposition on the ground that Respondent was no longer authorized under South Carolina law to handle controlled substances. Motion for Summary Disp. at 1–2. As support for its motion, the Government attached a copy of the South Carolina State Board of Medical Examiners' July 16, 2005, Order of Temporary Suspension of Respondent's medical license. The Government also attached a copy of the South Carolina Bureau of Drug Control's Notice of Indefinite Suspension of Controlled Substances Registration.

The ALJ did not, however, rule on the Government's motion. Instead, on August 7, 2006, the ALJ issued an order *sua sponte* terminating the proceeding on the ground that Respondent had waived his right to a hearing.

On June 7, 2007, the case file was forwarded to my office for final agency action. Based on (1) Respondent's failure to expressly request a hearing in his June 2006 letter, and (2) his failure to respond to the ALJ's July 11, 2006 letter, I conclude that he has waived his right to a hearing. 21 CFR 1301.43(a) & (d). I therefore enter this Final Order without a hearing based on relevant material in the investigative file. *Id.* 1301.43(e). I make the following findings.

Findings

Respondent is the holder of DEA Certificate of Registration, BG4535641, which authorizes him to handle controlled substances as a practitioner at the registered location of 1765 Blue Ridge Blvd., Seneca, South Carolina. Respondent's registration does not expire until September 30, 2007.

On July 16, 2005, the South Carolina State Board of Medical Examiners ordered that Respondent's medical license be temporarily suspended. Thereafter, on August 19, 2005, the Bureau of Drug Control, South Carolina Department of Health and Environmental Control, suspended Respondent's South Carolina Controlled Substances Registration.[1]

On June 7, 2006, following a hearing, the South Carolina Board found that Respondent had violated various State laws and regulations and issued a final order revoking his State medical license. There is no evidence in the investigative file indicating that the Board's final order has been stayed or set aside.

Discussion

Under the Controlled Substances Act (CSA), a practitioner must be currently authorized to handle controlled

[1] According to the notice of suspension, Respondent's South Carolina Controlled Substances Registration is ''conditioned upon [his] license to practice the profession of Medicine with this State.'' Notice of Indefinite Suspension of Controlled Substances Registration at 1.

substances in ''the jurisdiction in which he practices'' in order to maintain a DEA registration. *See* 21 U.S.C. 802(21) (''[t]he term 'practitioner' means a physician * * * licensed, registered, or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice''). *See also id.* 823(f) (''The Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.''). DEA has held repeatedly that the CSA requires the revocation of a registration issued to a practitioner whose state license has been suspended or revoked. *See Sheran Arden Yeates*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988). *See also* 21 U.S.C. 824(a)(3) (authorizing the revocation of a registration ''upon a finding that the registrant * * * has had his State license or registration suspended [or] revoked * * * and is no longer authorized by State law to engage in the * * * distribution [or] dispensing of controlled substances'').

As found above, on June 7, 2006, the South Carolina Board of Medical Examiners issued a final order revoking Respondent's medical license and the South Carolina Bureau of Drug Control has suspended his State controlled substances registration. Respondent has submitted no evidence to this Agency establishing that the State orders have been stayed or set aside. Therefore, it is clear that Respondent lacks authority to handle controlled substances in South Carolina, the State in which he is registered with DEA. Respondent is therefore not entitled to maintain his Federal registration.[2]

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate of Registration, BG4535641, issued to Brenton D. Glisson, M.D., be, and it hereby is, revoked. I further order that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective October 24, 2007.

Dated: September 14, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–18776 Filed 9–21–07; 8:45 am]

BILLING CODE 4410–09–P

[2] In his letter responding to the Show Cause Order, Respondent asserted that the revocation of his state medical license was based on ''false allegations of sexual misconduct with a patient.'' DEA precedents hold, however, ''that a registrant can not collaterally attack the results of a state criminal or administrative proceeding in a proceeding under section 304 of the CSA.'' *Sunil Bhasin, M.D.*, 72 FR 5082, 5083 (2007); *see also Shahid Musud Siddiqui*, 61 FR 14818, 14818–19 (1996); *Robert A. Leslie*, 60 FR 14004, 14005 (1995). Accordingly, I do not consider Respondent's defense.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

David W. Wang, M.D.; Revocation of Registration

On August 7, 2006, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to David W. Wang, M.D. (Respondent), of Orlando, Florida. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, AW2834528, as a practitioner, and the denial of his pending application to renew the registration, on two grounds.

First, the Show Cause Order alleged that Respondent had committed acts which render his continued registration inconsistent with the public interest. *See* 21 U.S.C. 824(a)(4). More specifically, the Show Cause Order alleged that Respondent had issued prescriptions for controlled substances to undercover operatives for no legitimate medical purpose and outside of the usual course of professional practice. *Id.* at 1–2.

Second, the Show Cause Order alleged that on August 16, 2005, the Florida Department of Health ordered the emergency suspension of Respondent's state medical license and that the suspension remains in effect. *Id.* at 2. The Show Cause Order thus alleged that Respondent lacks ''state authorization to handle controlled substances,'' which is ''a necessary prerequisite for DEA registration.'' *Id.* (citing 21 U.S.C. 802(21), 823(f), & 824(a)(3)).

On August 17, 2006, the Show Cause Order was served on Respondent by certified mail, return receipt requested. Thereafter, on September 5, 2006, Respondent submitted a letter in which he ''den[ied] all of the allegations in the suspension of [his] Florida license,'' and stated that he was pursuing various state law remedies to obtain reinstatement of his medical license. Letter from Resp. to Hearing Clerk (Sep. 5, 2006).

Respondent further requested that the DEA proceeding be continued until the state administrative proceeding was completed. Respondent stated that he was ''requesting to withdraw[] my renewal request and that [DEA] hold all proceedings against [his] DEA registration pending the outcome of the proceedings involving'' his medical license. *Id.* Respondent added that ''if there is no possible way to stop [the DEA] proceedings then I hereby request a formal hearing.'' *Id.* Respondent added, however, that he would need to have the DEA hearing ''postponed until I finish the'' Florida medical license proceedings.

The case was assigned to Administrative Law Judge (ALJ) Mary Ellen Bittner. On September 25, 2006, the ALJ issued a Memorandum to the Parties regarding the issues Respondent raised in his letter. In the Memorandum, the ALJ denied Respondent's request ''to hold this proceeding in abeyance pending the resolution of the Florida licensure proceedings.'' Memorandum to Parties at 2. The ALJ further advised Respondent of the procedures that must be followed under DEA regulations to withdraw his renewal application. *Id.* The ALJ thus directed Respondent to advise her by October 16, 2006, whether he intended to withdraw his renewal application, or whether he intended to proceed with his request for a hearing. *Id.* at 3.

Respondent did neither. Accordingly, on December 15, 2006, the Government moved to terminate the proceeding on the ground that Respondent had waived his right to a hearing. Motion to Terminate at 2.

On December 18, 2006, the ALJ found that Respondent had ''waived his right to a hearing.'' Order Terminating Proceedings. The ALJ thus granted the Government's motion and ordered that the proceeding be terminated. *Id.*

Thereafter, on June 11, 2007, the investigative file was forwarded to me for final agency action. Based on Respondent's failure to respond to the ALJ's Memorandum, I find that he has waived his right to a hearing. 21 CFR 1301.43(d). I therefore enter this Final Order without a hearing based on relevant material contained in the investigative file. *Id.* § 1301.43(e). I make the following findings.

Findings

Respondent is the holder of DEA Certificate of Registration, AW2834528, which authorizes him to handle controlled substances as a practitioner at the registered location of 3827 Landlubber Street, Orlando, Florida. Respondent's registration expired on May 31, 2006. Respondent, however, applied for a renewal of his registration on May 24, 2006. Respondent's

registration has therefore remained in effect pending the issuance of this Final Order. *See* 5 U.S.C. 558(c).

On August 19, 2005, the Secretary of the Florida Department of Health issued to Respondent an ''Amended Order of Emergency Suspension of License'' (hereinafter, State Order). The State Order alleged that Respondent had prescribed drugs including controlled substances ''other than in the course of the physician's professional practice.'' State Order at 23. The State Order further alleged that Respondent had ''inappropriately and excessively prescribed controlled substances * * * to six undercover agents without performing adequate physical examinations of them; by repeatedly prescribing controlled substances to these patients without ascertaining the etiology of their pain; and by prescribing controlled substances to the patients without medical justification.'' *Id.* at 20.

The State Order further alleged that ''[o]n or about August 16, 2005, the Circuit Court for Brevard County, Florida issued an arrest warrant for [Respondent] based on charges of trafficking in hydrocodone over 28 grams in violation of [Fla. Stat. § 893.135], and unlawful distribution of controlled substances in violation of'' Fla. Stat. § 893.13. *Id.* Relatedly, the State Order alleged that on August 17, 2005, Respondent was arrested by officers of the Melbourne, Florida Police Department. *Id.*

The Order thus concluded that Respondent's ''continued practice as a physician constitutes an immediate serious danger to the health, safety, and welfare of the public,'' and ''immediately suspended'' his Florida medical license. *Id.* at 23–34. According to the online records of the Florida Department of Health, the emergency suspension order remains in effect.

Moreover, according to the online records of the Brevard County Clerk of Courts, on July 17, 2006, Respondent was charged with two counts of trafficking in illegal drugs, a violation of Fla. Stat. § 893.135.1(c).1.C, and a first degree felony under Florida law. The criminal case remains pending.

Discussion

Under the Controlled Substances Act (CSA), a practitioner must be currently authorized to handle controlled substances in ''the jurisdiction in which he practices'' in order to maintain a DEA registration. *See* 21 U.S.C. 802(21) (''[t]he term 'practitioner' means a physician * * * licensed, registered, or otherwise permitted, by * * * the jurisdiction in which he practices * * * to distribute, dispense, [or] administer * * * a controlled substance in the course of professional practice''). *See also id.* § 823(f) (''The Attorney General shall register practitioners * * * if the applicant is authorized to dispense * * * controlled substances under the laws of the State in which he practices.''). DEA has held repeatedly that the CSA requires the revocation of a registration issued to a practitioner whose state license has been suspended or revoked.[1] *See Sheran Arden Yeates,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988). *See also* 21 U.S.C. 824(a)(3) (authorizing the revocation of a registration ''upon a finding that the registrant * * * has had his State license or registration suspended [or] revoked * * * and is no longer authorized by State law to engage in the * * * distribution [or] dispensing of controlled substances'').

As found above, on August 19, 2005, the Secretary of the Florida Department of Health immediately suspended Respondent's state medical license and that suspension remains in effect. Respondent is therefore without authority to handle controlled substances in the State in which he is registered and is not entitled to maintain his DEA registration.

Order

Accordingly, pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate of Registration, AW2834528, issued to David W. Wang, M.D., be, and it hereby is, revoked. I further order that any pending applications for renewal or modification of such registration be, and they hereby are, denied. This order is effective October 24, 2007.

Dated: September 14, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–18778 Filed 9–21–07; 8:45 am]

BILLING CODE 4410–09–P

[1] DEA regulations allow a registrant to submit ''a written statement regarding such person's position on the matters of fact and law,'' along with a waiver of the opportunity for a hearing. 21 CFR 1301.44(c). Even if I was to hold that Respondent's letter denying the allegations of the state suspension complied with this regulation, his statement is immaterial to the ground I rely on in revoking his registration.

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non–Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: Hamley Land Company, LLC; Hamley Steakhouse, LLC; and, Hamley's, LLC/Pendleton, Oregon.

Principal Product: The loan, guarantee, or grant application is for a mixed business project that plans to construct, through a real estate holding company, two new business ventures: A steakhouse, and a coffee, wine and gift shop while additionally expanding an existing retail facility. The NAICS industry codes for this enterprise are: 531120 Lessors of Nonresidential Buildings (except Miniwarehouses); 722110 Full–Service Restaurants; 722211 Limited-Service Restaurants; and, 448140 Family Clothing Stores.

DATES: All interested parties may submit comments in writing no later than October 9, 2007. Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210; or e-mail *Dais.Anthony@dol.gov*; or transmit via fax 202–693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR Part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture

that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed: at Washington, DC 18th of September, 2007.

Gay M. Gilbert,

Administrator, Office of Workforce Investment

Employment and Training Administration.

[FR Doc. E7–18708 Filed 9–21–07; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

TIME AND DATE: 10 a.m. Thursday, September 27, 2007.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request from Consolidated Federal Credit Union to Convert to a Community Charter.
2. Request from Connects Federal Credit Union to Convert to a Community Charter.
3. *Final Rule:* Section 701.3 of NCUA's Rules and Regulations, Member Inspection of Credit Union Books, Records, and Minutes.

RECESS: 11 a.m.

TIME AND DATE: 11:15 a.m., Thursday, September 27, 2007.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Two (2) Merger applications under Parts 704 and 708b of NCUA's Rules and Regulations. Closed pursuant to Exemption (8).
2. Appeal under section 701.14 and Part 747, Subpart J of NCUA's Rules and Regulations. Closed pursuant to Exemption (6).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Secretary of the Board.

[FR Doc. 07–4724 Filed 9–20–07; 3:07 pm]

BILLING CODE 7535–01–M

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of Humanities Panels will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Heather C. Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* October 2, 2007.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for American Studies in Preservation and Access Humanities Collections and Resources, submitted to the Division of Preservation and Access, at the July 17, 2007 deadline.

2. *Date:* October 11, 2007.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for World Studies in Preservation and Access Humanities Collections and Resources, submitted to the Division of Preservation and Access, at the July 17, 2007 deadline.

3. *Date:* October 17, 2007.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Literature in Preservation and Access Humanities Collections and Resources, submitted to the Division of Preservation and Access, at the July 17, 2007 deadline.

4. *Date:* October 23, 2007.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for U.S. History and Culture in Preservation and Access Humanities Collections and Resources, submitted to the Division of Preservation and Access, at the July 17, 2007 deadline.

5. *Date:* October 25, 2007.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for U.S. History and Culture in Preservation and Access Humanities Collections and Resources, submitted to the Division of Preservation and Access, at the July 17, 2007 deadline.

6. *Date:* October 25, 2007.
Time: 8:30 a.m. to 5:30 p.m.
Room: 421.
Program: This meeting will review applications for America's Historical and Cultural Organizations Planning Grants, submitted to the Division of Public Programs, at the September 5, 2007 deadline.

7. *Date:* October 29, 2007.
Time: 8:30 a.m. to 5:30 p.m.
Room: 421.
Program: This meeting will review applications for America's Historical and Cultural Organizations Planning Grants, submitted to the Division of Public Programs, at the September 5, 2007 deadline.

Heather C. Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. E7–18786 Filed 9–21–07; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 72 FR 29001, and no substantial comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725–17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

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

SUPPLEMENTARY INFORMATION:

Title of Collection: Medical Clearance Process for Deployment to Antarctica.

OMB Number: 3145–0177.

Type of Request: Intent to seek approval to renew an information collection for three years.

Abstract

A. Proposed Project

All individuals who anticipate deploying to Antarctica and to certain regions of the Arctic under the auspices of the United States Antarctic Program are required to take and pass a rigorous physical examination prior to deploying. The physical examination includes a medical history, medical examination, a dental examination and for those persons planning to winter over in Antarctica a psychological examination is also required. The requirement for this determination of physical status is found in 42 U.S.C. 1870 (Authority) and 62 FR 31522, June 10, 1997 (Source), unless otherwise noted. This part sets forth the procedures for medical screening to determine whether candidates for participation in the United States Antarctic [[Page 216]] Program (USAP) are physically qualified and psychologically adapted for assignment or travel to Antarctica. Medical screening examinations are necessary to determine the presence of any physical or psychological conditions that would threaten the health or safety of the candidate or other USAP participants or that could not be effectively treated by the limited medical care capabilities in Antarctica.

(b) Presidential Memorandum No. 6646 (February 5, 1982) (available from the National Science Foundation, Office of Polar Programs, Room 755, 4201 Wilson Blvd., Arlington, VA 22230) sets forth the National Science Foundation's overall management responsibilities for the entire United States national program in Antarctica.

B. Use of the Information

1. *Forms NSF–1422/1462/1452,* National Science Foundation—Polar Physical Examination (Antarctica/Arctic/Official Visitors) Medical History, will be used by the individual to record the individual's family and personal medical histories. It is a five-page form that includes the individual's and the individual's emergency point-of-contact's name, address, and telephone numbers. It contains the individual's email address, employment affiliation and dates and locations of current and previous polar deployments. It also includes a signed certification of the accuracy of the information and understandings of refusal to provide the information or providing false information. The agency's contractors' reviewing physicians and medical staff complete the sections of the form that indicated when the documents were received and whether or not the person qualified for polar deployment, in which season the person is qualified to deploy and where disqualified the reasons.

2. *Forms NSF–1423/1463/1453,* Polar Physical Examination—Antarctica/Arctic/Official Visitors, will be used by the individual's physician to document specific medical examination results and the overall status of the individual's health. It is a two-page form which also provides for the signatures of both the patient and the examining physician, as well as contact information about the examining physician. Finally, it contains the name, address and telephone number of the agency's contractor that collects and retains the information.

3. *Forms NSF–1426/1466/1456*, National Science Foundation Polar Physical Examination (Antarctica/Arctic/Official Visitors) Medical History Interval Screening, will only be used by individuals who are under the age of 40 and who successfully took and passed a polar examination the previous season or not more than 24 months prior to current deployment date. It allows the otherwise healthy individual to update his or her medical data without having to take a physical examination every year as opposed to those over 40 years of age who must be examined annually.

4. *Forms NSF–1465/1425/1455*, Polar Dental Examination—Antarctica/Arctic/Official Visitors, will be used by the examining dentist to document the status of the individual's teeth and to document when the individual was examined. It will also be used by the contractor's reviewing dentist to document whether or not the individual is dentally cleared to deploy to the polar regions.

5. *Forms NSF–1428/1468 Medical Waivers—Antarctic/Arctic*: Any individual who is determined to be not physically qualified for polar deployment may request an administrative waiver of the medical screening criteria. This information includes signing a Request for Waiver that is notarized or otherwise legally acceptable in accordance with penalty of perjury statutes, and obtaining an Employer Statement of Support. Individuals on a case-by-case basis may also be required to submit additional medical documentation and a letter from the individual's physician(s)

regarding the individual's medical suitability for Antarctic deployment.

6. *Other information requested*: In addition to the numbered forms and other information mentioned above, the USAP medical screening package includes the following:

—the Medical Risks for NSF-Sponsored Personnel Traveling to Antarctica.
—the NSF Privacy Notice.
—the Medical Screening for Blood-borne Pathogens/Consent for HIV Testing.
—the NSF Authorization for Treatment of Field-Team Member/Participant Under the Age of 18 Years. This should only be sent to the individuals who are under 18 years of age.
—the Dear Doctor and Dear Dentist letters, which provide specific laboratory and x-ray requirements, as well as other instructions.

7. *There are two other, non-medical forms included in the mailing:*

—the Personal Information Form—NSF Form Number 1458 includes a Privacy Act Notice. This form is used to collect information on current address and contact numbers, date and place of birth, nationality, citizenship, emergency point of contact information, travel dates, clothing sizes so that we may properly outfit those individuals who deploy, work-site information and prior deployment history.
—the Participant Notification—Important Notice for Participants—NSF Form 1457 in the United States Antarctic Program. This form provides information on the laws of the nations through which program participants must transit in route to Antarctica, regarding the transport, possession and use of illegal substances and the possibility of criminal prosecution if caught, tried and convicted.

Estimate of Burden: Public reporting burden for this collection of information varies according to the overall health of the individual, the amount of time it takes to access the forms online and print them, the amount of research required to complete the forms, the time it takes to make an appointment, take the examination and schedule and complete any follow-up medical, dental or psychological requirements and the completeness of the forms submitted. The estimated time is up to six weeks from the time the individual receives the forms until he or she is notified by the contractor of their final clearance status. An additional period of up to eight weeks may be required for the individual who was disqualified to be notified of the disqualification, to request and receive the waiver packet, to obtain employer support and complete the waiver request, to do any follow-up testing, to return the waiver request to the contractor plus any follow-up information, for the contractor to get the completed packet to the National Science Foundation, and for the NSF to make and promulgate a decision.

Respondents: All individuals deploying to the Antarctic under the auspices of the United States Antarctic Program and certain Arctic areas must complete these forms. There are approximately 3,600 submissions per year, with a small percentage (c.3%) under the age of 40 who provide annual submissions but with less information.

Estimated Number of Responses per Form: Responses ranges from 2 to approximately 238 responses.

Estimated Total Annual Burden on Respondents: 40,536 hours.

Frequency of Responses: Individuals must complete the forms annually to be current within 12 months of their anticipated deployment dates. Depending on individual medical status some persons may require additional laboratory results to be current within two to six-weeks of anticipated deployment.

Dated: September 19, 2007.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 07–4712 Filed 9–21–07; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

FirstEnergy Nuclear Operating Company; Notice of Receipt and Availability of Application for Renewal of Beaver Valley Power Station, Units 1 and 2 Facility Operating License Nos. DPR–66 and NPF–73 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or Commission) has received an application, dated August 27, 2007, from FirstEnergy Nuclear Operating Company, filed pursuant to Section 104b for Unit 1 and Section 103 for Unit 2, of the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* Part 54 (10 CFR Part 54), to renew the operating licenses for the Beaver Valley Power Station (BVPS), Units 1 and 2. Renewal of the licenses would authorize the applicant to operate each facility for an additional 20-year period beyond the period specified in the respective current operating licenses. The current operating license for BVPS, Unit 1 (DPR–66), expires on January 29, 2016. BVPS, Unit 1, is a pressurized-water reactor designed by Westinghouse. The current operating license for BVPS, Unit 2 (NPF–73), expires on May 27, 2027. BVPS, Unit 2, is a pressurized-water reactor designed by Westinghouse. Both units are located near Shippingport, Pennsylvania. The acceptability of the tendered application for docketing, and other matters including an opportunity to request a hearing, will be the subject of subsequent **Federal Register** notices.

Copies of the application are available to the public at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 or through the internet from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room under Accession Number ML072430913. The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html*. In addition, the application is available at *http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html*. Persons who do not have access to the Internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff at 1–800–397–4209, extension 4737, or by e-mail to *pdr@nrc.gov*.

A copy of the license renewal application for the BVPS, Units 1 and 2, is also available to local residents near the site at the Beaver Area Memorial Library, 100 College Avenue, Beaver, Pennsylvania 15009.

Dated at Rockville, Maryland, this 18th day of September, 2007.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Director, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. E7–18742 Filed 9–21–07; 8:45 am]

BILLING CODE 7590–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Privacy Act of 1974; New and Revised Systems of Records

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of addition and revision to Systems of Records.

SUMMARY: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, as amended, the Occupational Safety and

Health Review Commission (OSHRC) is proposing in this notice (1) the addition of a new system of records and (2) revisions to its preexisting systems of records last published in full text on April 14, 2006 at 71 FR 19556.

DATES: Comments must be received by OSHRC on or before October 24, 2007. The new and revised systems of records will become effective on November 23, 2007 without any further notice in the **Federal Register**, unless comments or government approval procedures necessitate otherwise.

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

- *E-mail: regsdocket@oshrc.gov.* Include ''PRIVACY ACT SYSTEM OF RECORDS'' in the subject line of the message.
- *Fax:* (202) 606–5417.
- *Mail:* One Lafayette Centre, 1120 20th Street, NW., Ninth Floor, Washington, DC 20036–3457.
- *Hand Delivery/Courier:* same as mailing address.

Instructions: All submissions must include your name, return address and e-mail address, if applicable. Please clearly label submissions as ''PRIVACY ACT SYSTEM OF RECORDS.'' If you submit comments by e-mail, you will receive an automatic confirmation e-mail from the system indicating that we have received your submission. If, in response to your comment submitted via e-mail, you do not receive a confirmation e-mail within five working days, contact us directly at (202) 606–5410.

FOR FURTHER INFORMATION CONTACT: Ron Bailey, Attorney-Advisor, Office of the General Counsel, via telephone at (202) 606–5410, or via e-mail at *rbailey@oshrc.gov.*

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, 5 U.S.C. 552a(e)(4), requires federal agencies such as OSHRC to propose additions and revisions to its systems of records in a **Federal Register** publication. As detailed below, OSHRC is proposing the addition of one new system of records, as well as revisions to all its preexisting systems of records.

New System of Records. OSHRC conducted an annual review of the systems of records that it presently maintains. OSHRC's review uncovered one possible system-of-records—the database of Commission cases on OSHRC's Web site—that is not included in OSHRC's current system-of-records notice. 71 FR 19556, Apr. 14, 2006. The capability exists for agency employees to search for records in this database by entering names or other individual identifiers into the search engine on the homepage of the Web site. Although OSHRC has not found that employees in fact search for decisions using individual identifiers, OSHRC prefers to exercise caution by recognizing this as a system of records for purposes of the Privacy Act. OSHRC would designate this system as OSHRC–10. Notice of OSHRC's proposed new system of records (OSHRC–10) is published below.

Revisions to Preexisting Systems of Records. OSHRC recently revised its regulations implementing the Privacy Act. 71 FR 57416, Sept. 29, 2006. One revised provision, 29 CFR 2200.3(a), states that ''[t]he Chairman shall designate an OSHRC employee as the Privacy Officer, and shall delegate to the Privacy Officer the authority to ensure agency-wide compliance with'' OSHRC's Privacy Act regulations. In light of this revision to OSHRC's Privacy Act regulations, individuals interested in inquiring about, gaining access to, or contesting the accuracy of their records should now notify the Privacy Officer rather than the Executive Director. Also, the provision that sets forth the procedures for requesting amendment of records, which was previously at 29 CFR 2400.7(a) and (b), is now at 29 CFR 2400.8. Finally, the procedures for appealing the denial of a request to inspect, copy, or amend a record, which was previously at 29 CFR 2400.7(c), is now at 29 CFR 2400.9.

In the notice of OSHRC's proposed new system of records (OSHRC–10) published below, the information included in the three sections pertaining to ''Record Access Procedures,'' ''Notification Procedures,'' and ''Contesting Record Procedures,'' which have changed as a result of revisions made to OSHRC's Privacy Act regulations, are also applicable to OSHRC's preexisting system of records—OSHRC–1 through OSHRC–9.

OSHRC–10

SYSTEM NAME:

Database of Commission and ALJ Decisions on OSHRC Web site.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located on a Web server at the Government Printing Office (GPO), 732 North Capitol Street, NW., Washington, DC 20401.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records covers all individuals referenced and described in Commission and ALJ decisions, including sole proprietors who were cited by OSHA, employees and other witnesses, attorney and non-attorney representatives of each party, and the Commissioners and ALJs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records includes final decisions issued by the Commission since 1979, and final decisions issued by the ALJs since 1993. The decisions may contain the following information: (1) The names and locations (city and state) of the individuals representing each party; (2) the names of sole proprietors cited by OSHA, as well as employees and other witnesses, and information describing those individuals, including job title and duties, medical history, and other descriptive information that is relevant to the disposition of a case; and (3) the names and job titles of the Commissioners and ALJs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, 110 Stat. 3048 (codified as amended in 5 U.S.C. 552); 29 U.S.C. 661(g).

PURPOSE(S):

This system of records is maintained in order to make Commission and ALJ decisions more accessible to the public and agency employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the Blanket Routine uses discussed in 71 FR 19556–19557, Apr. 14, 2006, records included in OSHRC adjudicative decisions may be disclosed to the public, via OSHRC's Web site, pursuant to section 12(g) of the OSH Act, 29 U.S.C. 661(g), which states that ''[e]very official act of the Commission shall be entered of record, and its hearings and records shall be open to the public.'' Only personal information that is relevant and necessary to the disposition of OSHRC cases will be included in these decisions.

Also, records are disclosed to GPO to make certain that decisions published on OSHRC's Web site are current.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on a Web server located at the GPO.

RETRIEVABILITY:

Records can be retrieved by using the search engine on the homepage of OSHRC's Web site to conduct a simplified Boolean search.

RETENTION AND DISPOSAL:

Records are retained indefinitely on the GPO Web server.

SAFEGUARDS:

OSHRC sends updates for its Web site via e-mail to GPO, which is located in a secured federal complex. GPO secures information on the Web server in accordance with federal standards.

SYSTEM MANAGER(S) AND ADDRESS:

Information Technology Specialist, OSHRC, 1120 20th Street, NW., Ninth Floor, Washington, DC 20036–3457.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should notify: Privacy Officer, OSHRC, 1120 20th Street, NW., Ninth Floor, Washington, DC 20036–3457. For an explanation on how such requests should be drafted, refer to 29 CFR 2400.6 (Procedures for requesting records).

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify: Privacy Officer, OSHRC, 1120 20th Street, NW., Ninth Floor, Washington, DC 20036–3457. For an explanation on how such requests should be drafted, refer to 29 CFR 2400.5 (Notification), and 29 CFR 2400.6 (Procedures for requesting records).

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest their records should notify: Privacy Officer, OSHRC, 1120 20th Street, NW., Ninth Floor, Washington, DC 20036–3457. For an explanation on the specific procedures for contesting the contents of a record, refer to 29 CFR 2400.8 (Procedures for requesting amendment), and 29 CFR 2400.9 (Procedures for appealing).

RECORD SOURCE CATEGORIES:

Information in this system of records is derived from case records that are developed during litigation before the Commission and/or the ALJs and, thus, the information may come from individuals who are the subjects of the records or from other sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: September 18, 2007.

Horace A. Thompson III,

Chairman.

[FR Doc. E7–18746 Filed 9–21–07; 8:45 am]

BILLING CODE 7600–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56446; File No. SR–Amex–2007–85]

Self-Regulatory Organizations; American Stock Exchange, LLC; Order Approving a Proposed Rule Change To Establish a New Class of Off-Floor Market Makers in ETFs and Equities Called Designated Amex Remote Traders

September 17, 2007.

I. Introduction

On August 8, 2007, the American Stock Exchange, LLC. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to create a new class of off-floor market makers, called ''Designated Amex Remote Traders'' or ''DARTs,'' in all ETF and equity-traded securities that trade on the Exchange. The proposed rule change was published for comment in the **Federal Register** on August 16, 2007.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description

The Exchange proposes to adopt changes to its rules to create a new class of off-floor market makers in all ETF and equity-traded securities that trade on the Exchange, including the implementation of related changes to the Exchange's AEMI trading platform. These market makers, to be called ''Designated Amex Remote Traders'' or ''DARTs,'' will be members or member organizations physically located off-floor that will electronically enter competitive quotations into AEMI on a regular basis in all securities to which they are assigned in the DART program. DARTs will also have to meet certain business requirements, which will include minimum performance standards. The proposed DART program is similar to the Supplemental Registered Options Traders (''SROT'') program implemented by the Amex for options,[4] with its own unique caveats. Under the DART proposal, an Amex specialist firm may also be a DART, although it may not be registered as such in securities in which it is also the specialist. In ETFs, DARTs will trade in an identical way as Registered Traders in the same securities on the Exchange when auto-ex is on, with similar obligations under Exchange rules such as those relating to a course of dealings that contributes to the maintenance of a fair and orderly market. DARTs in equity-traded securities will be subject to the same obligations as DARTs in ETFs and will not be subject to the stabilization rules that are applicable to equity specialists. A DART will not participate in any post-trade allocation in connection with an auction trade; instead, a DART's participation in an auction pair-off on the Exchange will be limited to the size of its quotation on the AEMI Book at the time of the pair-off.

Amex will establish minimum requirements for a DART to remain in the program, which may be modified by the Exchange from time to time. Business requirements will include minimum performance standards, including that a DART's quotations must be on one side of the NBBO for a required percentage of the time in all assigned securities. Other performance standards will include average displayed size, average quoted spread, and the ability of the DART to transact in underlying markets in the case of a derivative security. A DART that fails to comply with one or more of the performance standards, as determined by the Chief Executive Officer of the Exchange or his/her designee, may be subject to loss of the benefits to which it would otherwise be entitled under Amex rules by virtue of its status as a DART (*e.g.*, rebates for providing liquidity), including suspension or termination of DART status. A DART may be either a regular member of the Exchange or an associate member of the Exchange that meets the requirements for electronic access to the Exchange's automated systems.

DARTs will receive benefits for participating in and meeting the requirements of the DART program.

While the Exchange anticipates starting the program with a limited group of DARTs, no specific upper limit on the number of DARTs is anticipated. In addition to the requirements cited above, DARTs will be required to meet eligibility criteria similar to those

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 56236 (August 9, 2007), 72 FR 46113.

[4] *See* Amex Rule 993–ANTE (Supplemental Registered Options Traders).

specified in the SROT program, which include:

(i) Adequacy of resources including capital, technology, and personnel;

(ii) History of stability, superior electronic capacity, and superior operational capacity;

(iii) Level of market-making and/or specialist experience in a broad array of securities;

(iv) Ability to interact with order flow in all types of markets;

(v) Existence of order flow commitments;

(vi) Willingness and ability to make competitive markets on the Exchange and otherwise promote the Exchange in a manner that is likely to enhance the ability of the Exchange to compete successfully for order flow in the equity and ETF securities it trades; and

(vii) The number of member organizations requesting approval to act as a DART.

The regulatory requirements applicable to DARTs will be surveilled for by the FINRA Market Regulation Amex Division (''FINRA'') consistent with current surveillance procedures for Registered Traders on the Exchange. FINRA staff will work with Amex technical staff on planning the necessary changes to AEMI to capture required surveillance data and in surveilling the increased number of market makers that the program is expected to attract. Adjustments to current technology and surveillance procedures will likely also be necessitated by the fact that the DARTs will not be physically located on the floor of the Exchange.

III. Discussion

After careful review, 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.[5] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that a national securities exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Under the proposal, DARTs would be permitted to quote electronically in equities and ETFs from off the Exchange's physical trading floor. Introducing a new class of market participant able to enter quotes from off the physical trading floor should attract new market makers to the Exchange, which should increase the liquidity available in those classes to which DARTs are assigned.

The Commission notes that DARTs will be required to meet certain eligibility requirements. The existence of order flow commitments between a DART applicant and order flow providers is one such factor. The Exchange represents, and the Commission emphasizes, that a future change to, or termination of, any such commitments would not be used by the Exchange at any point in the future to terminate or take remedial action against a DART and that the Committee would not take remedial action solely because orders subject to any such commitments were not subsequently routed to the Exchange. Similarly, the Exchange has included the ''willingness to promote the Exchange'' as a factor that the Committee may consider when making its application decisions. The Exchange represents, and the Commission emphasizes, that the Committee would not apply this factor to in any way restrict, either directly or indirectly, a DART's activities as a market maker or specialist on other exchanges, or to restrict how a DART handles orders it holds in a fiduciary capacity to which it owes a duty of best execution.

The Commission also notes that should the Committee decide not to approve a DART applicant, or should an DART's appointment be suspended or terminated in one or more classes, a DART applicant or DART, respectively, would be entitled to a hearing under Article IV, Section 1(g) of the Amex Constitution and Amex Rule 40.

Proposed Amex Rule 110A(b)—AEMI sets forth the obligations that a DART would be required to fulfill. Specifically, a DART would be required to generate continuous, two-sided quotations in all assigned securities that are on at least one side of the NBBO for a specified percentage of the time. A DART's affirmative obligations appear to be sufficient to justify the benefits it would receive as a market maker.

The proposal also requires information barriers to be in place to prevent the misuse of material, non-public information with any affiliates that may conduct a brokerage business in securities assigned to a DART, or that may act as a specialist or market maker in any security underlying a derivative security assigned to a DART. DARTs would also be required to comply with Amex Rule 193 regarding the misuse of material non-public information.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Amex–2007–85) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18727 Filed 9–21–07; 8:45am]

BILLING CODE 8010–01–P

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56448; File No. SR–CBOE–2007–111]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Retire Two Existing Pilot Programs that Permit the Exchange To list Options on the Vanguard Emerging Markets Exchange Traded Fund and the iShares MSCI Emerging Markets Index Fund

September 17, 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 September 11, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a stated policy, practice or interpretation with respect to the meaning, administration or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b-4(f)(1) thereunder,[4] which renders the proposal effective upon filing of this proposal with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 1 15 U.S.C. 78s(b)(1).

[2] 2 17 CFR 240.19b-4.

[3] 3 15 U.S.C. 78s(b)(3)(A)(i).

[4] 4 17 CFR 240.19b-4(f)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange submits this rule filing to retire two existing pilot programs that permit the Exchange to list options on the Vanguard Emerging Markets Exchange Traded Fund (''VWO Fund'') and on the iShares MSCI Emerging Markets Index Fund (''EEM Fund'').[5] The Exchange is proposing to retire the two pilot programs because both the VWO Fund and the EEM Fund now meet all of the Exchange's generic initial and maintenance listings standards, which permit the Exchange to list options on the VWO Fund and the EEM Fund without having to file for Commission approval. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal)*, at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule filing is to retire two existing pilot programs that permit the Exchange to list options on the VWO Fund and the EEM Fund.[6] The Exchange is proposing to retire the two pilot programs because both the VWO Fund and the EEM Fund now meet all of the Exchange's generic initial and maintenance standards. Specifically, the Exchange has in place initial and maintenance listing standards set forth in Rules 5.3.06 and 5.4.08, respectively (''Listing Standards''), that are designed to allow the Exchange to list funds structured as open-end investment companies, such as the VWO Fund and the EEM Fund, without having to file for Commission approval to list for trading options on these types of funds.[7]

When the Exchange first sought to list options on the VWO Fund and EEM Fund, the Exchange had determined that the VWO Fund and the EEM Fund both met substantially all of the Exchange's Listing Standards requirements, but did not meet the Listing Standards requirement that no more than 50% of the weight of the securities in the VWO Fund and the EEM Fund be comprised of securities that are not subject to a comprehensive surveillance sharing agreement (''CSSA'').[8] As to the VWO Fund, the Exchange had in place CSSAs with foreign exchanges that covered 48.10% of the securities in the VWO Fund. As to the EEM Fund, the Exchange had in place CSSAs with foreign exchanges that covered 49.76% of the securities in the EEM Fund. In order to meet the 50% threshold, the Exchange requested the Commission's approval to rely upon a memorandum of understanding that the Commission had entered into with the Mexican Bolsa (''MOU'') because the securities traded on that exchange represented 6.6% of the weight of the securities in the VWO Fund and 7.54% of the weight of the securities in the EEM Fund.[9]

Since the Commission approved the VWO Fund pilot program in March 2007 and since the last renewal of the EEM Fund pilot program in May 2007, the VWO Fund and the EEM Fund have both become compliant with Rule 5.3.06(A) and more than 50% of the weight of the securities in the VWO Fund and the EEM Fund are now subject to a CSSA. Specifically, the Exchange represents that the Korean Exchange (''KRX'') recently became a member of the Intermarket Surveillance Group; therefore, securities and other products trading on its markets are now subject to a CSSA.[10] As a result, the percentage of the weight of the VWO Fund and the EEM Fund represented by South Korean securities now renders both the VWO Fund and the EEM Fund compliant with the Exchange's Listing Standards requirements.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) Act[12] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[5] The VWO Fund pilot program commenced on March 19, 2007 and is scheduled to expire on September 19, 2007. *See* Securities Exchange Act Release No. 55491 (March 19, 2006), 72 FR 14145 (March 26, 2007) (order granting accelerated approval of SR–CBOE–2006–95). The EEM Fund pilot program commenced on April 10, 2006 and has been renewed four times. The EEM Fund pilot program is scheduled to expire on December 7, 2007. *See* Securities Exchange Act Release No. 53621 (April 10, 2006), 71 FR 19568 (April 14, 2006) (approval of SR–CBOE–2006–32, which established EEM Fund pilot program to expire on June 9, 2006); Securities Exchange Act Release No. 53930 (June 1, 2006), 71 FR 33322 (June 8, 2006) (granting immediate effectiveness to SR–CBOE–2006–56, which renewed EEM Fund pilot through September 7, 2006); Securities Exchange Act Release No. 54347 (August 22, 2006), 71 FR 51242 (August 29, 2006) (granting immediate effectiveness to SR–CBOE–2006–72, which renewed EEM Fund pilot program through December 7, 2006); Securities Exchange Act Release No. 54876 (December 5, 2006), 71 FR 74968 (December 13, 2006) (granting immediate effectiveness to SR–CBOE–2006–103, which renewed EEM Fund pilot program through June 7, 2007); Securities Exchange Act Release No. 55758 (May 14, 2007), 72 FR 28090 (May 18, 2007) (granting immediate effectiveness to SR-CBOE–2007–43, which renewed EEM Fund pilot program through December 7, 2007).

[6] The VWO Fund is an open-end investment company that is designed to hold a portfolio of securities that tracks the Morgan Stanley Capital International, Inc. (''MSCI'') Emerging Markets Select Index, which consists of stocks that can be purchased free of restrictions in 18 emerging markets in Europe, Asia, Africa and Latin America. The EEM Fund is an open-end investment company that is designed to hold a portfolio of securities that tracks the MSCI Emerging Markets Free Index, which is designed to measure equity market performance in the global emerging markets.

[7] Rules 5.3.06 and 5.4.08 set forth the initial listing and maintenance standards for registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trust or other similar entities traded on a national securities exchange or through the facilities of a national securities exchange. *See* Exchange Act Release, No. 40166 (July 2, 1998), 63 FR 37430 (July 10, 1998) (approval order for SR-CBOE–97–045, predating the Commission's adoption of Rule 19b-4(e) of the Act; *see also* Exchange Act Release No. 34–40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

[8] *See* Rule 5.3.06(A).

[9] *See* supra note 5. The Commission permitted the Exchange to rely on the MOU, and the Exchange agreed to use its best efforts to obtain a CSSA with the Bolsa during the respective pilot periods, which to date has not been obtained.

[10] The KRX was created on January 27, 2005 through the consolidation of three domestic Korean exchanges: Korea Stock Exchange (KSE), KOSDAQ Market and Korea Futures Market (KOFEX). *See http://eng.krx.co.kr/index.html.*

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and subparagraph (f)(1) of Rule 19b–4 thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2007–111 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–111. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–111 and should be submitted on or before October 15, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18728 Filed 9–21–07; 8:45 am]

BILLING CODE 8010–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(1).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56449; File No. SR–CBOE–2007–52]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to $1 Strikes for VXD and VXN Options and $1 Strikes for RVX, VIX, VXD and VXN LEAPs

September 17, 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 11, 2007, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On August 20, 2007, CBOE filed Amendment No. 1 to the proposed rule change. 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

CBOE proposes rules that would permit the Exchange to: (i) List and trade CBOE Dow Jones Industrial Average Volatility Index (''VXD'') options and Nasdaq–100 Volatility Index (''VXN'') options in $1 strike price intervals; and (ii) list and trade CBOE Russell 2000 Volatility Index (''RVX''), VXD, VXN and CBOE Volatility Index (''VIX'') LEAPs in $1 strike price intervals. The text of the rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to permit the Exchange to list and trade options on the CBOE Dow Jones Industrial Average Volatility Index (''VXD'') and the Nasdaq–100 Volatility Index (''VXN'') in $1 strike price intervals within certain parameters described below.[3] Additionally, the rule change proposes to permit the Exchange to list and trade CBOE Russell Volatility Index (''RVX''), CBOE Volatility Index (''VIX''), VXD, and VXN LEAPs in $1 strike price intervals within certain parameters also described below.

$1 Strikes for VXD and VXN Options

Similar to other volatility indexes, VXD and VXN are calculated using real-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The SEC previously approved the listing and trading of VXD and VXN options, which the Exchange anticipates trading shortly. *See* Securities Exchange Act Release No. 49563 (April 14, 2004), 69 FR 21589 (April 21, 2004) (approving SR–CBOE–2003–40).

time quotes of out-of-the-money and at-the-money and second nearly index puts and calls on the Dow Jones Industrial Index (''DJIA'') and the Nasdaq–100 Index (''NDX'') respectively. VXD and VXN are quoted in absolute numbers that represent the volatility of the DJIA and the NDX respectively in percentage points per annum. For example, a VXD level of 11.63 (the closing value of the VXD on April 26, 2007) represents an annualized volatility of 11.637% in the DJIA Index and a VXN level of 15.97 (the closing value of the VXN on April 26, 2007) represents an annualized volatility of 15.77% in the NDX.

As with other proprietary CBOE volatility indexes, VXD and VXN levels fluctuate quite differently than individual equity securities or indexes of individual equity securities. Specifically, indexes such as VXD and VXN that track volatility are ''mean-reverting,'' a statistical term used to describe a strong tendency for the volatility index to move toward its long-term historical average level. In other words, at historically low volatility index levels, there is a higher probability that the next big move will be up rather than down. Conversely, at historically high volatility index levels, the next big move is more likely to be down rather than up.

Thus, as exemplified by VXD and VXN, volatility indexes tend to move within set ranges, and even when a level moves outside that range, the tendency towards mean-reversion often results in the volatility index returning to a level within the range. In the case of VXD, the historical average index value since January 2, 2002 is 16.92. Since January 2002, VXD has fluctuated in a range between 9.28 and 41.85. Furthermore, VXD closed under 25 for 85% of the days on which the level was calculated since 2002 (1,171 days out of a total of 1,372 days) and has closed under 30 for 91% of the days on which the level was calculated since 2002 (1,245 days out of a total of 1,372 days). VXD has closed between 10 and 25 for 82% of the days on which the level was calculated since 2002 (1,130 days out of a total of 1,372 days).

In the case of VXN, the historical average index value since January 2, 2002 is 26.14. Since January 2002, VXN has fluctuated in a range between 12.61 and 60.66. Furthermore, VXN closed under 25 for 61% of the days on which the level was calculated since 2002 (822 days out of a total of 1,355 days) and has closed under 30 for 73% of the days on which the level was calculated since 2002 (987 days out of a total of 1,355 days). VXN has closed between 15 and 30 for 66% of the days on which the level was calculated since 2002 (895 days out of a total of 1,355 days).

Because of the generally limited range in which VXD and VXN have fluctuated, the Exchange believes that investors will be better served if the Exchange is able to list $1 strike price intervals in VXD and VXN option series. To address this, the Exchange is proposing to list series at $1 or greater strike price intervals for each expiration on up to 5 VXD and VXN option series above and 5 VXD and VXN option series below the current index level.[4] Additional series at $1.00 or greater strike price internals could be listed for each expiration as the current index levels of VXD and VXD, respectively, move from the exercise price of the VXD and VXN options series that already have been opened for trading on the Exchange in order to maintain at least 5 VXD and VXD option series above and 5 VXD and VXN option series below the current index levels respectively. As the current index level of RVX, VIX, VXD and VXN moves from the exercise price of those RVX, VIX, VXD and VXN options and LEAPs series that already have been opened for trading on the Exchange, the Exchange may open for trading additional series at $1.00 or greater strike price intervals for each expiration on up to 5 RVX, VIX, VXD and VXN option and LEAPs series above and 5 RVX, VIX, VXD and VXN option and LEAPs series below the current index level.

For purposes of adding strike prices at $1.00 or greater strike price intervals, as well as at $2.50 or greater strike price intervals, the ''current index level'' would be defined as the ''implied forward level'' of VXN and VXD for each expiration.[5] The Exchange believes that the $1 strike price intervals will more closely bracket the levels of VXN and VXD when it remains locked within a static range, as currently exists, and will enable investors to assume more dynamic volatility index option positions that reflect greater possibilities of settling in-the-month.

The Exchange intends to determine implied forward levels of VXN and VXD through the use of VXN and VXD futures prices respectively. Its reasons for using this approach are explained below.

By way of background, option prices reflect the market's expectation of the price of the underlying at expiration, which is referred to as the ''forward'' level. For stock indexes such as the DJIA and the NDX, the best estimate of the forward level is the current, or ''spot,'' price adjusted for the ''carry,'' which is the financing cost of owning the component stocks in the index less the dividends paid by those stocks. For volatility indexes such as VXD and VXN, a better estimate than the standard ''cash and carry'' model for calculating the forward levels of VXN and VXD at each expiration is reflected in the prices of the options that will be used to calculate VXN and VXD on that expiration day. For example, December 2007 DJIA options will be used to calculate VXD on the November 2007 VXD expiration date. Likewise, February 2008 VXN options are tied to the implied volatility of March 2008 NDX options, and so on.

One important property of implied volatility is that it exhibits a ''term structure.'' In other words, the implied volatility of options expiring on different dates can trade at different levels and can move independently. Another property related to the term structure is that implied volatility tends to trend toward the market's expectation of a long-term ''average'' value. As a result, a large spike in one-month implied volatility might not affect implied volatility of longer-dated options very much at all.

The Exchange states that the VXD futures contract and the VXN futures contract were first listed for trading on CBOE Futures Exchange, LLC (''CFE'') on March 26, 2004 and July 6, 2007, respectively.[6] The Exchange believes that traders will likely use VXD and VXN futures prices as a proxy for forward VXD and VXN levels. CBOE believes that using these prices is an accurate and transparent method for determining the ''current index level'' used to center the limited range in which $1 or greater strikes in VXD and

[4] The Commission previously approved the listing of VIX and RVX options at $1 strike intervals. *See* Securities Exchange Act Release No. 54192 (July 21, 2006), 71 FR 43251 (July 31, 2006) (approving SR–CBOE–2006–27); *see also* Securities Exchange Act Release No. 55425 (March 8, 2007), 72 FR 12238 (March 15, 2007) (approving SR–CBOE–2006–73).

[5] With respect to $2.50 or greater strikes, the $2.50 or greater strike price intervals will be reasonably related to the current index value of VXN and VXD at or about the time such series are first opened for trading. The term ''reasonably related to the current index value of the underlying index'' means that the exercise price is within 30% of the current index value. The Exchange may also open additional $2.50 or greater strike price series that are more than 30% away from the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. See Interpretations and Policies .01(d) and .04 of Rule 24.9.

[6] The VIX futures contract was first listed for trading on CFE on March 26, 2004 and the RVX futures contract was first listed for trading on CFE on July 6, 2007.

VXN options will be listed and the broader range in which $2.50 or greater strikes in VXD and VXN options will be listed.

Additionally, the Exchange is proposing that it would not list series with $1 intervals within $0.50 of an existing $2.50 strike price with the same expiration month (*e.g.*, if there is an existing 12.50 strike, the Exchange would not list a 12 or 13 strike).

$1 Strike LEAPs for RVX, VIX, VXN and VXD.

Similar to the rationale advanced for $1 strikes for options, the Exchange is proposing rules to permit $1 strike intervals for RVX, VIX, VXD and VXN LEAPs. Typically, LEAPs strike prices moves in increments of $2.50 and $5.00 and such incremental pricing is suited for long-term contracts on traditional equity and stock index products. However, as discussed above, the levels of volatility indexes fluctuate quite differently than equities and stock indexes. As a ''mean-reverting'' product, volatility indexes gravitate towards their historical average levels; thus, limiting the range of movement.

As with volatility index options, the Exchange is proposing to list series at $1 or greater strike price intervals for each expiration on up to 5 RVX, VIX, VXD and VXN LEAPs series above and 5 RVX, VIX, VXD and VXN LEAPs series below the current index level. As the current index level of RVX, VIX, VXD and VXN moves from the exercise price of those RVX, VIX, VXD and VXN options and LEAPs series that already have been opened for trading on the Exchange, the Exchange may open for trading additional series at $1.00 or greater strike price intervals for each expiration on up to 5 RVX, VIX, VXD and VXN option and LEAPs series above and 5 RVX, VIX, VXD and VXN option and LEAPs series below the current index level. For purposes of adding strike prices at $1.00 or greater strike price intervals, as well as at $2.50 or greater strike price intervals, the ''current index level'' would be defined as the ''implied forward level'' of RVX, VIX, VXN and VXD for each expiration.

Capacity

CBOE has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of the $1 strikes for VXD and VXN option and of the $1 strikes for RVX, VIX, VXD and VXN LEAPs.

2. Statutory Basis

The Exchange believes this rule proposal is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act [8] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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–CBOE–2007–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–52. 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 am and 3 pm. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–CBOE–2007–52 and should be submitted on or before October 15, 2007..

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18729 Filed 9–21–07; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56458; File No. SR–CBOE–2007–107]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Continuation of Temporary Membership Status From and After Commission Approval of a Pending Rule Interpretation Concerning Exercise Right Eligibility

September 18, 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 September 10, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the CBOE. The Exchange has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act [3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to adopt new Interpretation and Policy .02 of CBOE Rule 3.19 that continues the temporary membership status provided to certain persons under existing Interpretation and Policy .01 of CBOE Rule 3.19 from and after any approval of SR–CBOE–2006–106.[5] The text of proposed Interpretation and Policy .02 of CBOE Rule 3.19 is set forth below (since Interpretation and Policy .02 of CBOE Rule 3.19 is completely new, its text is *italicized*).

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 3.19. No change.

* * * *Interpretations and Policies:*

.01 No change.

.02 *A person (''Temporary Member'') who has been granted temporary membership (''Temporary Membership'') status at the Exchange pursuant to Interpretation and Policy .01 of this Rule 3.19 shall continue in that Temporary Membership status after the Commission's approval of SR–CBOE–2006–106, if and only if such person (i) has not previously terminated that Temporary Membership status and remains in good standing as of the close of business on the trading day immediately before the date of that approval, (ii) thereafter remains in good standing and continues to pay all applicable fees, dues, assessments and other like charges that are assessed against CBOE members, and (iii) pays to the Exchange a monthly access fee set by the Exchange, which shall be due and payable in accordance with the provisions of the Exchange Fee Schedule. Such access fee shall be paid directly to the Exchange and shall not be escrowed.*

The Temporary Membership status granted to a Temporary Member pursuant to this Interpretation and Policy .02 shall terminate upon the earlier of (i) the voluntary termination of that Temporary Membership status by the Temporary Member, (ii) the approval by the Commission of a further proposed rule change that provides for the termination of that status and the granting of trading permits or another form of trading access to Temporary Members, or (iii) the consummation of a transaction pursuant to which either CBOE is converted into a stock corporation or memberships in CBOE are converted into stock. Temporary Members shall be subject to the regulatory jurisdiction of CBOE under the Act, the Constitution and the Rules, including CBOE's disciplinary jurisdiction under Chapter XVII.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange filed this proposed rule change with the Commission to continue the temporary membership (''Temporary Membership'') status, including trading access, of persons (''Temporary Members'') who currently enjoy that status pursuant to Interpretation and Policy .01 of CBOE Rule 3.19 from and after the time their current Temporary Membership status would otherwise terminate if the Commission were to approve SR–CBOE–2006–106. The underlying purpose of this proposed rule change is to ensure fair and orderly markets at the Exchange when as many as 229 former exerciser members cease to be eligible to remain members of the Exchange under Interpretation and Policy .01 of CBOE Rule 3.19, upon an approval of SR–CBOE–2006–106 by the Commission.[6]

Continuation of Temporary Membership Status

In SR–CBOE–2006–106, CBOE proposed an interpretation of paragraph (b) of Article Fifth of the CBOE Certificate of Incorporation (''Article Fifth(b)'') to address the impact of the then-proposed acquisition of The Board of Trade of the City of Chicago, Inc. (''CBOT'') by Chicago Mercantile Exchange Holdings Inc. (''CME Holdings'') on the eligibility of persons who were members of CBOE (''exerciser members'') pursuant to Article Fifth(b) (the right provided under this provision is sometimes referred to as the ''exercise right'').[7] Under that interpretation, the consummation of the CME/CBOT Transaction resulted in no person any longer qualifying as a member of the CBOT within the meaning of Article Fifth(b) and therefore resulted in the elimination of any person's eligibility to qualify thereafter to become or remain an exerciser member of the Exchange.

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] *See* Securities Exchange Act Release No. 55190 (January 29, 2007), 72 FR 5472 (February 6, 2007). The Exchange filed SR–CBOE–2006–106 on December 12, 2006. On January 17, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. Numerous comments were received, and the Exchange responded to those comments on June 15, 2007. On June 29, 2007, the Exchange filed a partial amendment, Amendment No. 2, to the proposed rule change.

[6] According to the Exchange, there currently are 229 former exerciser members that qualify for temporary membership status under Interpretation and Policy .01 of CBOE Rule 3.19.

[7] CME Holdings proposed to acquire CBOT by merging CME Holdings with CBOT Holdings, Inc. (''CBOT Holdings''), of which CBOT was a wholly-owned subsidiary (the ''CME/CBOT Transaction''). The CME/CBOT Transaction was consummated on July 12, 2007.

Thus, if the Commission were to approve SR–CBOE–2006–106, and in the absence of any provision for continuing the membership status of such persons on a temporary basis after that approval, former exerciser members would cease to be entitled, among other things, to trade on the Exchange.

In SR–CBOE–2006–106, the Exchange stated that it was prepared to maintain the status quo for some period of time after the exercise right was terminated, in order to control the risk that the loss of exerciser members upon the termination of the exercise right might adversely affect liquidity in CBOE's market. The Exchange also stated that this result would be accomplished by staying, for an interim period of time, the impact of the termination of the exercise right on the trading access of those individuals who were exerciser members of CBOE on a designated cut-off date, and that this action would permit those individuals to continue to trade on CBOE in the capacity of CBOE members during that interim period. The Exchange indicated that this decision to stay the effectiveness of what otherwise would result in a termination of trading access was analogous to the right of the Exchange under CBOE Rule 3.19. The Exchange also indicated that this interim period would continue for so long as necessary to avoid any disruption to the market as a result of the loss of exerciser members, which could involve the Exchange adopting a plan to provide some form of trading access to such persons in the absence of the exercise right. In other words, the Exchange envisioned that this interim period would start upon the approval of SR–CBOE–2006–106, with the Exchange initially maintaining the status quo for former exerciser members, and could eventually involve the adoption of a plan to provide some form of trading access to former exerciser members through trading permits or some other form of substitute trading access rights, at which point the interim period would terminate and trading access would be provided under such substitute trading access rights. SR–CBOE–2006–106 contemplated that any such substitute trading access rights would require the approval of CBOE members under Section 2.1 of the Exchange's Constitution, and would be subject to the approval of the Commission under Section 19(b) of the Act.[8]

While SR–CBOE–2006–106 was pending before the Commission, the Exchange was faced with a situation that was not addressed in that filing, when the CME/CBOT Transaction was consummated before the Commission had acted on SR–CBOE–2006–106. In response to that impending situation, the Exchange adopted Interpretation and Policy .01 of CBOE Rule 3.19 to provide temporary trading access to certain former exerciser members. Under that interpretation, these Temporary Members have been granted continued membership status on a temporary basis—including the right to trade—following the consummation of the CME/CBOT Transaction on July 12, 2007. However, under the express terms of that interpretation, that Temporary Membership status will terminate upon any approval of SR–CBOE–2006–106.[9] The Exchange also indicated in the rule filing adopting Interpretation and Policy .01 that, as contemplated in SR–CBOE–2006–106, there would be a different temporary access plan to address transitional issues that would arise from the approval of SR–CBOE–2006–106.[10]

The Exchange is filing this proposed rule change to implement its original intention, as reflected in SR–CBOE–2006–106, to maintain the status quo for former exerciser members by providing them with an interim period of trading access after the approval of that filing. The Exchange believes that this rule change is appropriate to prevent any disruption that might occur in the Exchange's markets if former exerciser members suddenly lost all rights to trade on the Exchange if the Commission were to approve SR–CBOE–2006–106. To avoid the possibility of such a disruption, the Exchange proposes to provide interim trading access by adopting Interpretation and Policy .02 of CBOE Rule 3.19. This interpretation will extend the Temporary Membership status provided to Temporary Members under Interpretation and Policy .01 of CBOE Rule 3.19.[11] Under Interpretation and Policy .02, this Temporary Membership status will be conditioned on the Temporary Member: (i) Not having previously terminated that Temporary Membership status and thereafter remaining in good standing, (ii) continuing to pay all applicable fees, dues, assessments and other like charges that are assessed against CBOE members, and (iii) paying to the Exchange a monthly access fee.[12]

The interim trading access plan contained in Interpretation and Policy .02 of CBOE Rule 3.19 addresses the extenuating circumstances that would be faced by the Exchange if SR–CBOE–2006–106 were approved and, by virtue of that approval, Interpretation and Policy .01 of Rule 3.19 ceases to apply. Although the Exchange in SR–CBOE–2006–106 indicated that its decision to stay the effectiveness of the termination of trading access upon the approval of that filing was ''analogous'' to the right of the Exchange under CBOE Rule 3.19, the Exchange subsequently has determined that it is appropriate to rely on CBOE Rule 3.19 itself to provide trading access to Temporary Members. Rule 3.19 allows the Exchange, if the Exchange finds extenuating circumstances, to permit a member to retain the member's membership status for such period of time as the Exchange deems reasonably necessary to enable that person to obtain a membership under those extenuating circumstances.

Because the Exchange's goal in providing interim trading access under Interpretation and Policy .02 of CBOE Rule 3.19 is to avoid any disruption to the Exchange's markets as a result of the sudden loss of Temporary Members, the Exchange proposes to continue the Temporary Membership status of Temporary Members without requiring any action by them and without requiring that they hold any particular interests in CBOT. Rather, the Exchange will determine who is an eligible Temporary Member under the provisions of this interpretation and will take appropriate action to ensure that those persons retain their Temporary Membership status. Of

[8] 15 U.S.C. 78s(b).

[9] Interpretation and Policy .01 allows a Temporary Member to maintain Temporary Membership status at the Exchange if and only if such person (i) remains in good standing and continues to pay all applicable fees, dues, assessments and other like charges that are assessed against CBOE members, and (ii) pays to the Exchange a monthly access fee. A person who has voluntarily terminated a Temporary Membership is no longer a member in good standing, and consequently would cease to be eligible for the Temporary Membership status provided under that interpretation. If that person seeks to access the Exchange as a member of the Exchange after such a termination, that person will need to lease or purchase a transferable Exchange membership.

[10] *See* Securities Exchange Act Release No. 56016 (July 5, 2007), 72 FR 38106 (July 12, 2007) (SR–CBOE–2007–77).

[11] As long as they remain Temporary Members, these persons will continue to possess all of the rights, and be subject to all of the obligations, of exerciser members prior to the CME/CBOT Transaction.

[12] Interpretation and Policy .01 of CBOE Rule 3.19 requires, among other things, persons to have been exerciser members of the Exchange as of July 1, 2007 to qualify for the Temporary Membership status provided under that interpretation. This cut-off date was chosen to ensure that only those persons who had a *bona fide* interest in trading on CBOE qualified for the Temporary Membership status in Interpretation and Policy .01. For this reason, as well as the reasons given for adopting Interpretation and Policy .01, the Exchange believes that this cut-off date also is appropriate for Interpretation and Policy .02.

course, Temporary Members will be subject to the regulatory jurisdiction of CBOE under the Act, the Constitution and the Rules, including CBOE's disciplinary jurisdiction under Chapter XVII.

The Exchange states that Interpretation and Policy .02 of CBOE Rule 3.19 does not trigger the membership vote provision found in Section 2.1 of the Exchange's Constitution. That provision applies only when the Exchange issues ''new'' memberships. In contrast, Interpretation and Policy .02 temporarily preserves the membership rights of existing Temporary Members if and as of the time that the Commission approves SR–CBOE–2006–106. Because the interpretation would not create any new memberships or trading rights, no membership approval is required under Section 2.1 of the Exchange's Constitution or otherwise.

Duration of Temporary Membership Status

CBOE Rule 3.19 provides CBOE with the authority to allow members to retain their membership status for such time as is reasonably necessary for such persons to obtain a membership under the extenuating circumstances that necessitated application of CBOE Rule 3.19. There are several extenuating circumstances that would continue to exist if the Commission were to approve SR–CBOE–2006–106. Most importantly, but for Interpretation and Policy .02 of CBOE Rule 3.19, any approval of SR–CBOE–2006–106 would cause the sudden loss of as many as 229 Temporary Members who then would be providing liquidity to the Exchange's markets.[13] In addition, there is a strong likelihood that there will be an insufficient number of transferable Exchange memberships available for purchase or lease by Temporary Members upon that approval. In accordance with its original plan, as reflected in SR–CBOE–2006–106, the Exchange intends to offer trading permits or some other form of substitute trading access rights to Temporary Members after the approval of SR–CBOE–2006–106. However, given the current legal controversy surrounding the effect of that approval on the rights claimed by former exerciser members and by persons who assert the right to become exerciser members,[14] the Exchange does not believe it is possible at this time to formulate prudently such a trading rights plan and to submit it for Exchange membership approval, as required under Section 2.1 of the Exchange's Constitution. Instead, the Exchange intends to design that trading access rights plan after Commission approval of SR–CBOE–2006–106 should such approval be given, and possibly other developments, provide the Exchange with appropriate guidance about the legal backdrop that may affect the structure of that trading access rights plan. In light of these extenuating circumstances, the Exchange believes that it is reasonably necessary for Temporary Memberships to continue in place until such a well-defined trading access rights plan could be developed and put in place if the Commission were to approve SR–CBOE–2006–106. Accordingly, under Interpretation and Policy .02 of CBOE Rule 3.19, the Temporary Membership status granted to a Temporary Member would continue, absent voluntary termination of that Temporary Membership status by the Temporary Member, until the earlier of (i) the approval by the Commission of a further proposed rule change that provides for the termination of that status and for the granting of trading permits or other form of substitute trading access rights to Temporary Members or (ii) the consummation of a transaction pursuant to which either CBOE is converted into a stock corporation or memberships in CBOE are converted into stock (collectively, a ''Demutualization Transaction''). Each of these events would grant trading permits or other form of substitute trading access rights to Temporary Members, and each would be subject to the approval of CBOE members under Section 2.1 of the Exchange's Constitution and to the approval of the Commission under Section 19(b) of the Act.[15]

Trading Access Fees

Currently, pursuant to Interpretation and Policy .01 of CBOE Rule 3.19 and the Exchange Fee Schedule, Temporary Members are required to pay a monthly access fee of $4700 per month.[16] The amount of this fee was based on the then-current monthly lease fees being paid to lessors of the interest that CBOT denominates as a full CBOT membership, as reflected in published lease fee information. Because the Commission has not yet determined whether to approve SR–CBOE–2006–106, those fees are being held in an interest-bearing escrow account maintained by the Exchange, and will be distributed in a manner consistent with any Commission action on SR–CBOE–2006–106.[17]

If the Commission approves SR–CBOE–2006–106, former exerciser members no longer would have any right of trading access in the capacity of an exerciser member. However, pursuant to Interpretation and Policy .02, they would continue to have trading access to the Exchange as Temporary Members. Accordingly, it is appropriate that these persons pay the Exchange a fee for the temporary continued trading access that they will be granted, and an escrow no longer will be appropriate because the Commission will have approved SR–CBOE–2006–106. The Exchange therefore proposes that these monthly access fees be paid directly to the Exchange and that they not be escrowed.

The Exchange will modify the amount of the monthly access fee if SR–CBOE–2006–106 is approved. In this regard, absent Interpretation and Policy .02 of CBOE Rule 3.19, Temporary Members would need to lease (or purchase) transferable Exchange memberships to continue to have trading access to the Exchange after the approval of SR–CBOE–2006–106. The Exchange therefore believes that the appropriate amount of the monthly access fee after such approval should be an amount reasonably related to the current lease market rate for transferable Exchange memberships. The Exchange will file a rule change relating to that amount in a separate proposed rule change that will be filed with the Commission under Section 19(b)(3)(A) of the Act.[18]

Filing Pursuant to Section 19(b)(3)(A) of the Act[19]

The Exchange is filing Interpretation and Policy .02 of CBOE Rule 3.19 pursuant to Section 19(b)(3)(A) of the Act.[20] As was the case in respect of Interpretation and Policy .01, Interpretation and Policy +.02

[13] According to the Exchange, as of September 6, 2007, approximately 17 of these Temporary Members were registered to trade on behalf of Designated Primary Market-Makers (''DPMs''), while 154 of them were registered to trade as Market-Makers, and 46 were registered to trade as either Remote Market-Makers or on behalf of Electronic DPMs.

[14] In current litigation, purported representatives of such persons have claimed that their rights survive the CME/CBOT Transaction and would not be affected by approval of SR–CBOE–2006–106.

[15] 15 U.S.C. 78s(b).

[16] *See* Securities Exchange Act Release No. 56197 (August 3, 2007), 72 FR 44897 (August 9, 2007) (SR–CBOE–2007–91).

[17] Under its proposed rule change, the Exchange would retain the access fees if the Commission approves SR–CBOE–2006–106, and the fees would be returned to the payor with interest if the Commission disapproves SR–CBOE–2006–106. *See* Securities Exchange Act Release No. 56016 (July 5, 2007), 72 FR 38106 (July 12, 2007) (SR–CBOE–2007–77).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 15 U.S.C. 78s(b)(3)(A).

constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule and therefore qualifies for filing under Section 19(b)(3)(A).[21] According to Commission Rule 19b–4(b)(2)(ii),[22] a ''stated policy, practice or interpretation'' means, among other things, ''[a]ny statement made generally available to the membership of * * * or to persons having or seeking access * * * to the facilities of [the Exchange] * * * with respect to * * * the meaning * * * of an existing rule.'' Interpretation and Policy .02 of CBOE Rule 3.19 is such a statement made to the entire membership of CBOE, and to those who are ''seeking access'' to CBOE, ''with respect to the meaning of an existing rule''—namely, CBOE Rule 3.19. CBOE Rule 3.19 provides in general for the temporary continuation of a person's membership status when that membership status is lost under ''extenuating circumstances'' and provides that the membership status may be continued for a period of time that the Exchange determines to be ''reasonably necessary'' to allow a substitute membership to be obtained. Interpretation and Policy .02 applies those general standards to the present situation. In particular, as more fully set forth above, the interpretation identifies several circumstances that would exist if the Commission were to approve SR–CBOE–2006–106 as qualifying as ''extenuating circumstances'' that make it appropriate to allow Temporary Members to continue in that membership status after that approval. In addition, the interpretation construes the duration of that continued Temporary Membership status that is ''reasonably necessary'' in light of those extenuating circumstances. The interpretation of those elements of CBOE Rule 3.19 is an interpretation of the ''meaning of an existing rule'' and therefore is appropriately submitted under Section 19(b)(3)(A).[23]

Although the proposed rule change will be effective upon filing, it will not become operative, in accordance with its terms, unless the Commission were to approve SR–CBOE–2006–106. Accordingly, the actual implementation of Interpretation and Policy .02 of CBOE Rule 3.19 is dependent on Commission action on SR–CBOE–2006–106.

General Reasons Supporting the Proposed Rule Change

The Exchange believes that the proposed rule change preserves fair and orderly markets at CBOE by avoiding the sudden loss of as many as 229 Temporary Members who presently are contributing liquidity to CBOE's markets. Moreover, the proposed rule change treats these Temporary Members fairly by avoiding the immediate termination of their trading access on the Exchange upon the approval of SR–CBOE–2006–106.

2. Statutory Basis

For the reasons discussed above, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[24] in general, and furthers the particular objectives of Section 6(b)(5) of the Act.[25] In particular, the proposed rule change 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, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [26] and paragraph (f) of Rule 19b–4 thereunder.[27] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2007–107 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–107. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 am and 3 pm. Copies of the filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–107 and should be submitted on or before October 15, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18730 Filed 9–21–07; 8:45 am]

BILLING CODE 8010–01–P

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(b)(2)(ii).

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56456; File No. SR–NYSE–2007–79]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Tto Amend the Fee Charged to Member Organizations for Maintenance of Exchange-Issued Cellular Phones

September 18, 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 August 30, 2007, the New York Stock Exchange LLC (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reduce, effective September 1, 2007, the annual ongoing maintenance fee paid by Member Organizations using Exchange-issued cellular phones on the NYSE trading floor from $2,400 to $240 per unit. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reduce, effective September 1, 2007, the annual ongoing maintenance fee paid by Member Organizations using Exchange-issued cellular phones on the NYSE trading floor from $2,400 to $240 per unit. This reduction results from the implementation of the latest generation of technology and network upgrades. All current capabilities, such as 4-digit, broker to booth dialing, and restrictions remain the same. Individual calling plans remain the choice and responsibility of the Member Organization.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[5] in general, and Section 6(b)(4) of the Act[6] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among exchange members and issuers and other persons using exchange facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(f)(2)[8] thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml)*; or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2007–79 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–79. 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

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] 15 U.S.C. 78s(b)(3)(A)(ii)
[4] 17 CFR 240.19b–4(f)(2).
[5] 15 U.S.C. 78f(b).
[6] 15 U.S.C. 78f(b)(4).
[7] 15 U.S.C. 78s(b)(3)(A)(ii).
[8] 17 CFR 240.19b–4(f)(2).

submissions should refer to File Number SR–NYSE–2007–79 and should be submitted on or before October 15, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–18766 Filed 9–21–07; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

Export Express Pilot Program

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice of Pilot Program extension.

SUMMARY: This notice announces the one-year extension of SBA's Export Express Pilot Program until September 30, 2008. This extension will allow time for the Agency to conclude its evaluation of this low-performing loan program for exporters.

DATES: The Export Express Pilot Program is extended under this notice until September 30, 2008.

FOR FURTHER INFORMATION CONTACT: Richard Ginsburg, Office of International Trade, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416; Telephone (202) 205–7429; *richard.ginsburg@sba.gov.*

SUPPLEMENTARY INFORMATION: The Export Express Pilot Program was established in 1998 to assist current and prospective small exporters, particularly those needing revolving lines of credit. Export Express generally conforms to the streamlined procedures of SBAExpress, although it carries SBA's full 75–85 percent guaranty. The maximum loan amount under this Program is limited to $250,000.

This notice announces the one-year extension of SBA's Export Express Pilot Program until September 30, 2008. Currently lenders have processed just 660 Export Express loans for the five-year period FY 2002–2006. Exports attributed to small businesses have grown from $300 billion in 2002 to $375 billion in 2006. During this time period, the number of small business exporters grew from 215,000 to 230,000, representing 97% of all U.S. exporters. In order for the Export Express loan product to reach maximum potential and serve the special capital needs of U.S. small business exporters, SBA is refocusing its efforts on Export Express and developing a strategic marketing plan to the U.S. small business community and to the Agency's lending partners.

The further extension of this pilot program through September 30, 2008 will enable the Agency to determine whether Export Express should be retained or whether SBA's other programs, including SBAExpress and the Export Working Capital Program, can successfully serve the needs of small business exporters.

(Authority: 13 CFR 120.3)

James W. Hammersley,

Acting Deputy Director, Office of Financial Assistance.

[FR Doc. E7–18759 Filed 9–21–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Audit and Financial Management Advisory Committee

Pursuant to the Federal Advisory Committee Act, Appendix 2 of Title 5, United States Code, Public Law 92–463, notice is hereby given that the U.S. Small Business Administration, Audit and Financial Management Advisory Committee (AFMAC) will host a public meeting on Wednesday, October 3, 2007 at 9 a.m. The meeting will take place at the U.S. Small Business Administration, 409 3rd Street, SW., Office of the Chief Financial Officer Conference Room, 6th Floor, Washington, DC 20416.

The purpose of this meeting is to discuss the SBA's FY 2007 Financial Reporting, FY 2007 Audit Findings, FY 2007 Financial Report Production and AFMAC Member Reviews, Information System Security, FY 2007 Credit Subsidy Modeling, A–123 Internal Control Program, Performance Management Framework, FY 2007 Financial and Information Systems Audits, and Performance Management.

The AFMAC was established by the Administrator of the SBA to provide recommendation and advice regarding the Agency's financial management, including the financial reporting process, systems of internal controls, audit process and process for monitoring compliance with relevant laws and regulations.

Anyone wishing to attend must contact Jennifer Main in writing or by fax. Jennifer Main, Chief Financial Officer, 409 3rd Street, SW., 6th Floor, Washington, DC 20416, phone: (202) 205–6449, fax: (202) 205–6969, e-mail: *Jennifer.main@sba.gov*.

Raul Cisneros,

Deputy Chief of Staff.

[FR Doc. E7–18760 Filed 9–24–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5940]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Arts of Kashmir''

ACTION: Notice, correction.

SUMMARY: On September 13, 2007, notice was published on page 52418 of the **Federal Register** (volume 72, number 177) of determinations made by the Department of State pertaining to the exhibit, ''The Arts of Kashmir.'' The referenced notice is corrected as to additional objects to be included in the exhibition. Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''The Arts of Kashmir'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Asia Society, New York, New York, from on or about October 1, 2007, until on or about January 6, 2008, and at the Cincinnati Art Museum, Cincinnati, Ohio, from on or about June 28, 2008 to on or about September 21, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

[9] 17 CFR 200.30–3(a)(12).

Dated: September 18, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–18765 Filed 9–21–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5939]

Culturally Significant Objects Imported for Exhibition Determinations: ''Lawrence Weiner: As Far as the Eye Can See''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the object to be included in the exhibition ''Lawrence Weiner: As Far as the Eye Can See,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Whitney Museum, New York, NY, from on or about November 15, 2007, until on or about February 10, 2008, and at the Museum of Contemporary Art, Los Angeles, CA, from on or about April 13, 2008, to on or about July 14, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8048). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: September 17, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–18770 Filed 9–21–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

DOT's Migration to the Federal Docket Management Systems (FDMS)

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice.

SUMMARY: This notice announces a service disruption to DOT's Docket Management System (DMS), which contains the public dockets for all DOT agencies (except for the Surface Transportation Board), the Transportation Security Administration (TSA), and the United States Coast Guard (USCG). (Subsequent references to ''DOT'' in this document also apply to TSA and USCG.) Effective September 30, 2007, DOT's DMS will be replaced by the Federal Docket Management System (FDMS), a government-wide, electronic docket management system. Please note that in preparation for migration, effective Thursday, September 27, 2007 at 5 p.m. DMS will no longer accept electronic comments/submissions. DMS will accept, as well as process, faxed and other paper documents up until 12 noon on Friday, September 28, 2007. If falling due during this transition, due dates for filings in rulemakings and adjudications will be delayed until October 1, 2007, unless otherwise advised by the originating office. On October 1, 2007 FDMS will begin accepting DOT-related electronic submission. At that time, it will display all open DOT dockets. Between October 1 and October 31, the remaining DOT dockets still will be accessible in DMS. By October 31, the full migration of all dockets currently in DMS is expected to be completed. The change in systems will not change any requirements in DOT regulations.

FOR FURTHER INFORMATION CONTACT: Renee V. Wright, Program Manager, Docket Operations, Office of Information Services, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone number: (202) 493–0402; fax number (202) 493–2251; e-mail address: *renee.wright@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDMS is a major component of the President's e-Rulemaking Initiative, which provides easy access to the public dockets maintained by Federal agencies, while streamlining and increasing the efficiency of the internal procedures for agencies that did not already have electronic internet-accessible systems. FDMS is designed so that the public has a single point of access to the public dockets across the Federal government. FDMS offers a standard, online procedure for Federal agencies to handle and process documents. The Initiative reduces costs by eliminating duplicative information systems and technical infrastructures.

A. What Is FDMS?

FDMS is a full-featured electronic docket management system that gives Federal personnel and docket managers the ability to better manage their rulemakings, adjudications, and other docketed program activities. With this system, more than thirty Federal departments and agencies can post documents, supporting materials, and public comments/submissions on the Internet and the public will have a one-stop site to search, view, and download documents, as well as to submit comments or other documents to the agency dockets. Although all Federal agencies are required to use FDMS for their rulemaking dockets, FDMS also will handle and process public docket materials for other purposes. DOT will use it for all of the material currently docketed in DMS, such as adjudications, peer review, and data quality. We will shortly add a docket subcategory for significant guidance documents.

B. How Can I Access and Use FDMS?

You may access FDMS on the Internet at *http://www.regulations.gov*. You may use FDMS to access available public docket materials online, as well as submit electronic comments or other documents to a particular docket available in FDMS.

C. How Can I Search FDMS?

You may also search for an available public docket or for particular docket material. FDMS provides two basic methods of searching to retrieve dockets and docket materials that are available in the system: (1) ''Quick Search'' to search using a full-text search engine, or (2) ''Advanced Search,'' which displays various indexed fields such as the docket name, docket identification number, phase of the action, initiating office, date of issuance, document title, document identification number, type of document, **Federal Register** reference, CFR citation, etc. Each data field in the advanced search may be searched independently or in combination with other fields, as desired. Each search yields a simultaneous display of all available information found in FDMS that is relevant to the requested subject or topic.

D. How Can I Make Submissions to FDMS?

1. *Online.* You may submit your comments/submissions online to FDMS when a particular docket is open for public submissions. **Federal Register** notices and adjudicatory and other documents will usually identify whether a docket has been established in FDMS. FDMS also can be searched to determine if a docket has been established. Using *http://www.Regulations.gov* to submit comments or other documents is DOT's preferred method for receiving comments/submissions. Follow the online instructions for submitting comments/submissions.

2. *Mail*. Documents also may be submitted by mail to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

3. *Hand-delivery*. Documents may be submitted by hand delivery or courier to West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

4. *Fax*. Faxed submissions are accepeted at: 202–493–2251

E. How Will DOT Know Who Is Making a Submission?

As with DMS, FDMS is an ''anonymous access'' system, which means DOT will not know your identity, e-mail address, or other contact information unless it is provided in the body of your submission. DOT rules applicable to adjudicatory submissions still apply. We recommend that you include your name, mailing address, and an e-mail address or other contact information in the body of your document to ensure that you can be identified as the submitter. This also allows DOT to contact you in the event further information is needed or if there are questions. For example, if DOT cannot read your submission due to technical difficulties and you cannot be contacted, your submission may not be considered. Note that it is DOT's policy not to edit your submission; all documents received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Therefore, any identifying or contact information provided in the body of a submission will be included in the official public docket, and made available to the public.

F. What Effect Will Use of FDMS Have on My Privacy?

As with DMS, anyone is able to search the electronic form of all submissions entered into any of our dockets in FDMS by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov*, which will be available by October 1, 2007.

G. Will FDMS Offer List Serves Like DMS?

FDMS will offer a list serve. Anyone who had formerly signed up for the DMS list serve will have to sign up again in FDMS to receive e-mail notifications from FDMS. We apologize for any inconvenience this will cause. Note that FDMS's list serve will only allow users to sign up for specific dockets. Users will not be able to sign up for categories of dockets, such as all FMCSA rulemakings. Users also will not be able to sign up for the subject areas currently allowed in DMS. (e.g., federalism). Some features that were available in DMS will not work in FDMS. For example, the list serve in DMS can search our Rulemaking Management System (RMS) for data necessary to respond to a list serve request. FDMS cannot search RMS for data because it is not allowed to go behind the DOT firewall. In response to this change, to help identify matters of interest for which the public may wish to sign up in the FDMS list serve, DOT will provide some reports and other information on *http://DocketsInfo.dot.gov*.

II. Migration From DMS to FDMS

A. Phased Migration

Using a phased approach, all dockets currently contained in DMS will be moved to FDMS. All open DOT dockets (dockets to which DOT agencies or the public may still submit documents or comments) will be available in FDMS on October 1, 2007. Due to the tremendous amount of data to be transferred from DOT DMS to FDMS, the migration of the remaining dockets will occur over the month of October and is expected to be completed by October 31, 2007. During this time, DMS will remain online for searching, viewing, and downloading documents in these remaining DOT dockets.

Beginning October 1, 2007, any filing to an open docket must go to the FDMS at *http://www.Regulations.gov*. Until 12:00 noon on Friday, September 28, 2007, DMS will process all remaining September 27 electronic submissions in the pipeline, as well as any faxed or paper documents. DMS will accept, as well as process, faxed and paper documents up until 12:00 noon on Friday, September 28, 2007. Any faxed or paper submissions received after that time or not processed by 12:00 noon Friday, September 28, 2007, in DMS, will be processed on Monday, October 1 in FDMS.

B. Docket ID Numbers

When DOT migrates its DMS data to FDMS, docket (identification) numbers that were assigned in DMS (legacy numbers), will, for the most part, remain the same in FDMS. However, dockets that used to be designated ''OST'', ''RSPA'', ''BTS'', and ''OMCS'' in DMS will change to the following:

OST–2007–1486 will become DOT–OST–2007–1486. RSPA–2007–1486 will become PHMSA–RSPA–2007–1486. BTS–2007–1486 will become RITA–BTS–2007–1486. OMCS–2007–1486 will become FMCSA–OMCS–2007–1486.

FDMS will provide online public access to all existing, legacy dockets in DMS. Any Docket opened after September 27, 2007, will receive a docket ID in FDMS format.

C. DOT-wide Searches

If you want to search all DOT agencies, including OST, for a docket, you should do so by selecting ''Department of Transportation (ALL)''.

D. FDMS Submissions and Docket Numbers

Currently in DMS, the public may submit comments and other documents, such as applications, petitions, exemptions, waivers, and other documents without knowing the actual docket ID. In FDMS, you are not allowed to submit a document without a docket ID. To handle this, DOT will be implementing ''shell dockets''. A ''shell docket'' will be a ''catch all'' for submissions, such as applications, petitions, exemptions, and/or waivers, and data quality without a docket ID. DOT staff will review the documents in the ''shell docket'' and file them appropriately.

E. FDMS Docket Types

FDMS dockets are divided into two types, ''Rulemaking'' and ''Non-Rulemaking.'' To review dockets or make submissions, please use the ''Search the Docket'' tab. Select the department or agency and use the docket type ''non-rulemaking'' for all

dockets other than rulemaking; from there you can select the appropriate subtype, such as ''Peer Review''.

III. Additional Information

A. Information on Use of FDMS

Additional details about FDMS, as well as detailed instructions and assistance for using the system, are available at *http://www.regulations.gov* DOT will also have available online by October 1, 2007, a new site that will provide helpful information about the use of FDMS for DOT dockets. The site will also contain other helpful information, such as reports that were available on DMS but will not be available on FDMS. The site will be at *http://DocketsInfo.dot.gov.* In addition, if you are interested in attending informational sessions regarding FDMS that DOT will be offering on October 3, 2007, (2–4 pm for the public) and October 4, 2007, (9–11 am for the public) in the DOT Conference Center/Multi-Media Room, West Building, Room W11–130 at 1200 New Jersey Avenue, SE., Washington, DC. Sign up is available at *http://www.dms.dot.gov*.

B. Agencies Covered

This notice applies to: the Federal Aviation Administration (FAA), the National Highway Traffic Safety Administration (NHTSA), the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Research and Innovative Technology Administrative (RITA), the Federal Transit Administration (FTA), the Maritime Administration (MARAD), the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Saint Lawrence Seaway Development Corporation (SLSDC), and the Office of the Secretary (OST). Please note that the Transportation Security Administration (TSA) and the United States Coast Guard (USCG) also use DMS and their dockets will be transferring with the DOT dockets to FDMS.

Renee V. Wright,

Program Manager, Docket Operations.

Dated: September 19, 2007.

[FR Doc. 07–4709 Filed 9–19–07; 2:26 pm]

BILLING CODE 4910–9X–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadlines for Schedule Information for John F. Kennedy International Airport and Newark Liberty International Airport for the Summer 2008 Scheduling Season

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

ACTION: Notice of submission deadline.

SUMMARY: Under this notice, the FAA announces that New York's John F. Kennedy International Airport (JFK) and Newark Liberty International Airport (EWR) have been designated Level 2 Schedules Facilitated Airports for the summer 2008 scheduling season in accordance with the International Air Transport Association (IATA) Worldwide Scheduling Guidelines. Accordingly, the FAA announces an October 11, 2007, deadline for submitting schedule information for all planned flights at JFK and EWR between the hours of 6 a.m. and 11 p.m., local time or 1000 and 0300 UTC. The FAA deadline coincides with the submission deadline established by IATA for the Summer 2008 Schedules Conference.

The U.S. summer scheduling season is from March 9, 2008, through November 1, 2008, in recognition of the U.S. daylight saving time dates. The FAA understands the IATA summer 2008 season is March 30, 2008, through October 25, 2008. The FAA will accept schedules that coincide with the IATA scheduling season, rather than U.S. daylight saving dates, in order to ease the administrative burdens on carriers conducting international operations and in order to ensure that FAA has the most accurate schedule information.

The Level 2 designations for JFK and EWR are necessary because of increased levels of air traffic operations, congestion and delay at the airports and a tangible decrease in operational performance (performance data for each airport is provided below). The FAA is implementing a number of initiatives for JFK and EWR to improve air traffic control (ATC) efficiency and reduce delays at those and other airports. For instance, ATC has increased use of a second departure runway at JFK when conditions permit. Other measures for both airports will improve routing options during periods of adverse weather conditions. And, over the next several years, the FAA will redesign airspace in the New York/New Jersey/Philadelphia areas in order to improve efficiency and reduce delays. These near term measures, however, are not sufficient to meet the current peak hour operational demands at these airports.

John F. Kennedy Airport

Operations at JFK were previously limited by the FAA under the High Density Rule. This rule was eliminated at JFK after January 1, 2007, in accordance with 49 U.S.C. 41715(a)(2). The FAA advised IATA and carriers that this effectively changed the FAA determination for JFK under IATA guidelines to Level 1 as of January 1, 2007. However, the FAA now redesignates JFK as Level 2 for the summer 2008 season and requests carriers to provide schedule information in accordance with this notice.

JFK is experiencing increased congestion with a corresponding decrease in on-time performance. Comparing the period of October 2006 through July 2007 to the same period in the previous year, the average daily operations at JFK increased 23 percent; the average daily arrivals with delays greater than one hour increased 114 percent; and on-time gate arrivals within 15 minutes of scheduled time decreased from 69.7 percent to 61.2 percent. Average taxi-out delay increased 19 percent from 30 to almost 36 minutes on average. The metrics for the months of June and July 2007 show even further deterioration of performance. A number of carriers communicated their concerns to the FAA about the impact the delayed flights are having on operational reliability, flight connections and network planning.

The FAA intends to work with carriers to review operations, particularly during the morning hours of 7 a.m. to 10 a.m. and afternoon and evening hours from 2 p.m. to 10 p.m. local time. Capacity exists for new operations or retiming of existing flights at many periods of the day. The FAA is currently completing a capacity and demand assessment of JFK and considering steps to address the timing of flights on the airport's operation. This could result in operational limits during peak hours and a change of JFK's designation to Level 3.

Newark Liberty International Airport

EWR has been one of the most consistently delayed airports in the National Airspace System (NAS). For example, for the period of October 2006 through July 2007, EWR had an on-time arrival performance of 60.17 percent, the worst among the top 35 airports. Therefore, based on the airport's performance metrics and the imbalance between ATC capacity and demand that is expected to continue in the near term,

the FAA has decided to designate EWR as an IATA Level 2 Schedules Facilitated Airport for the summer 2008 scheduling season. The FAA understands EWR is currently Level 2 for certain international passenger terminal facilities, and this notice does not replace that schedule facilitation process done at the local airport level.

The FAA intends to work with carriers to review operations, particularly during the morning hours of 7 a.m. to 10 a.m. and afternoon and evening hours from 2 p.m. to 10 p.m. local time. The FAA is considering options to further address congestion and improve operational performance at EWR, including the timing of flights at the airport, and their impact on the airport's operation.

DATES: Schedules must be submitted no later than October 11, 2007.

ADDRESSES: Schedules may be submitted by mail to Slot Administration Office, AGC–240, Office of the Chief Counsel, 800 Independence Ave., SW., Washington, DC 20591; facsimile: 202–267–7277; ARINC: DCAYAXD; or by e-mail to: *7–AWA-slotadmin@faa.gov*.

FOR FURTHER INFORMATION CONTACT: Komal Jain, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number: 202–267–3073.

Issued in Washington, DC, on September 19th, 2007.

James W. Whitlow,

Deputy Chief Counsel.

[FR Doc. 07–4711 Filed 9–19–07; 2:26 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Proposed Dickson Southwest Bypass from US–70 to State Route 46 and/or Interstate 40, Dickson County, TN

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed transportation project in Dickson County, Tennessee.

FOR FURTHER INFORMATION CONTACT: Ms. Laurie S. Leffler, Assistant Division Administrator, Federal Highway Administration—Tennessee Division Office, 640 Grassmere Park Road, Suite 112, Nashville, TN 37211, or by phone at 615–781–5770.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Tennessee Department of Transportation will prepare an Environmental Impact Statement (EIS) on a proposal to construct a bypass around the southwest side of the City of Dickson, for a distance of approximately 10 miles.

Alternatives to be considered include: (1) No-build; (2) a Transportation System Management (TSM) alternative (3) one or more build alternatives that could include constructing a roadway on a new location, upgrading existing US–70 and State Route 46, or a combination of both, and (4) other alternatives that may arise from public input. Public scoping meetings will be held for the project corridor. As part of the scoping process, federal, state, and local agencies and officials; private organizations; citizens; and interest groups will have an opportunity to identify issues of concern and provide input on the purpose and need for the project, range of alternatives, methodology, and the development of the Environmental Impact Statement. A Coordination Plan will be developed to include the public in the project development process. This plan will utilize the following outreach efforts to provide information and solicit input: Newsletters, an internet website, e-mail and direct mail, informational meetings and briefings, public hearings, and other efforts as necessary and appropriate. A public hearing will be held upon completion of the Draft Environmental Impact Statement and public notice will be given of the time and place of the hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearings.

To ensure that the full range of issues related to this proposed action are identified and taken into account, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA contact person identified above at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed program).

Issued on: September 18, 2007.

Laurie S. Leffler,

Assistant Division Administrator, Nashville, TN.

[FR Doc. E7–18796 Filed 9–21–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of an Environmental Impact Statement for the Van Ness Avenue Bus Rapid Transit Project in San Francisco, CA

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of Intent (NOI) to prepare Environmental Impact Statement (EIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA), the Council of Environmental Quality Regulations (40 CFR part 1505.6), and the California Environmental Quality Act (CEQA) Section 151710, the Federal Transit Administration (FTA), in cooperation with the San Francisco County Transportation Authority (SFCTA), will prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Van Ness Avenue Bus Rapid Transit (BRT) Project, an approximately two-mile transit improvement along Van Ness Avenue through the City and County of San Francisco, California. The Project would create dedicated bus lanes from approximately South Van Ness Avenue and Mission Street (south end) to Van Ness Avenue and Lombard Street (north end). The project would also establish high capacity stations with passenger amenities and low-level boarding platforms; real time bus arrival information systems; proof-of-payment fare verification; transit signal priority; and modern, high-capacity, low-floor, multi-door buses.

The EIS/EIR will evaluate the following alternatives: (1) No-Project/Baseline Alternative; (2) Van Ness Avenue BRT Project, which will include design options for the configuration of the BRT transitway and stations; and (3) any additional reasonable alternatives that emerge from the study process. The EIS will be prepared in accordance with FTA regulations (23 CFR 771 *et seq.*) implementing the National Environmental Policy Act (NEPA) as well as provisions of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The EIR will be prepared in accordance with the

California Environmental Quality Act (California Code of Regulation, Title 14, Chapter 3). As part of the EIS/EIR process, an evaluation of potential transit improvement alternatives will be completed (''alternatives analysis'') in accordance with 23 CFR Part 450 and inform the development of project alternatives.

Previous studies and documents relevant to this action include the recently completed Van Ness Avenue BRT Feasibility Study (December 2006); 2005 Prop K Strategic Plan (March 2005); 2004 San Francisco Countywide Transportation Plan (adopted July 20, 2004), and the New Transportation Expenditure Plan for San Francisco (Proposition K, approved November 4, 2003). These documents describe the planning and funding for transportation improvements in San Francisco, including BRT in major bus corridors. These documents can be downloaded at the Web site *www.sfcta.org*, or requested from the Authority.

EIS/EIR preparation will be initiated through a formal NEPA scoping process, which solicits input on issues and potential project impacts to consider in the environmental studies. Scoping will be accomplished through meetings and correspondence with interested persons, organizations, the general public, and Federal, State, and local agencies. Letters describing the proposed action and soliciting comments have been sent to the appropriate Federal, State, and local agencies, and to private organizations and individuals. Comments on issues and impacts to be considered in preparation of the EIS/EIR will be recorded in the project information database.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts to be considered must be postmarked no later than October 18, 2007 and should be sent to SFTA at the contact address below.

NEPA Scoping Meeting Date: The public scoping meetings will be held on October 2, 2007 at the Holiday Inn Golden Gateway, 1500 Van Ness Avenue, San Francisco, CA, from 6 p.m. to 8 p.m. The meeting agenda will include opportunities to speak with project staff, viewing of information on the project, a brief presentation of the project purpose and alternatives, and opportunity for meeting participants to comment on issues of interest. The open house will resume after the presentation and comment period. Project staff will be present to receive formal agency and public input regarding the scope of the environmental studies, key issues, and other suggestions. The meeting room is accessible to persons with disabilities. Any individual with a disability who requires special assistance, such as a sign language interpreter, or any individual who requires English language interpretation should contact the SFCTA at 415–593–1423 at least 48 hours in advance of the meeting in order for the SFCTA to make necessary arrangements.

ADDRESSES: The scoping meeting will be held at the locations identified in the NEPA Scoping Meeting Date section above. Written comments should be sent to: Rachel Hiatt, Senior Transportation Planner, San Francisco County Transportation Authority; 100 Van Ness Avenue, 26th Floor; San Francisco, CA 94612. Phone: 415–522–4809 or *Rachel.Hiatt@sfcta.org.* To be added to the mailing list for the Van Ness Avenue BRT Project, contact Ms. Hiatt at the address listed above. Persons with special needs should leave a message at the phone number above.

FOR FURTHER INFORMATION CONTACT: Donna Turchie, Federal Transit Administration, Office of Planning and Program Development; 201 Mission Street, Suite 1650; San Francisco, CA 94105. Phone: 415–744–2737 or *Donna.Turchie@dot.gov.* Additional information on the Van Ness Avenue BRT Project can be found on the project Web site at: *http://www.vannessbrt.org/* and by contacting Rachel Hiatt at the SFCTA.

SUPPLEMENTARY INFORMATION:

I. Project Background

The proposed project would be located in a key north-south transportation corridor in the heart of the City and County of San Francisco. Van Ness Avenue is an important roadway and transit route serving high density commercial, residential, and civic/institutional areas along its length from the U.S. and State Highway Route 101 freeway on the south to San Francisco Bay on the north. It is an at-grade continuation of U.S. and State Highway Route 101 from the freeway to Lombard Street, which continues west to Doyle Drive and the Golden Gate Bridge. The roadway serves as a major thoroughfare for local traffic as well as through traffic, carrying over 50,000 people in cars per day and about 4000 people in vehicles during the pm peak hour. Transit service is provided by Muni routes 47 and 49, and by Golden Gate Transit (based in Marin County), which operates commute service and limited all-day service into San Francisco on Van Ness Avenue. About 43,000 passengers use Muni Routes 47 and 49 and the Golden Gate Transit Van Ness routes daily, with approximately 15,000 passengers riding daily within the Van Ness Avenue segment of service. A number of major east-west transit routes cross Van Ness Avenue and generate major bus-to-bus and bus-to-rail transfers with Van Ness Avenue services, including the muni Metro lines and the Muni lines 38 (Geary) and 38L (Geary Limited).

Traffic congestion in mix-flow traffic lanes and transit overcrowding result in poor transit service reliability and low average bus speeds, currently just 5 to 7 miles per hour during commute periods. Bus reliability is poor, with high variation in headways and bus bunching. Transit mode shares are low relative to the potential transit market along this corridor, where housing densities within one-quarter mile of Van Ness Avenue average over 90 units per acre, where 46% of households do not own a car (relative to 29% citywide), and where the city expects to add about 3,800 new housing units and 8,500 new jobs by 2025.

Van Ness Avenue has been identified as a high priority transit improvement corridor in a number of planning studies and funding actions by the City. The Authority's Four Corridors Plan (1995) and Muni's Vision for Rapid Transit (2000) identified Van Ness as a priority corridor for rapid transit improvements. Along with two other key transit corridors, Van Ness Avenue was designated for BRT improvements in the New Expenditure Plan for San Francisco, approved by voters as Proposition K, the reauthorization of the City's ½ cent transportation sales tax measure, in November 2003. The Expenditure Plan is the investment component of the 2004 San Francisco Countywide Transportation Plan, which sets forth the city's ''blueprint to guide the development of transportation funding priorities and policy'' with a key objective being the promotion and implementation of San Francisco's transit first policy through the development of a network of fast, reliable transit including bus rapid transit. The Van Ness Avenue BRT Feasibility Study was initiated in 2004, completed in 2006, and evaluated the feasibility of four alternative BRT configurations on Van Ness Avenue. Four BRT alternatives were developed and compared with a No Project scenario, in conjunction with a comprehensive public and agency participation program. The Feasibility Study found that all four BRT configurations are feasible on Van Ness and recommended an environmental analysis to identify a preferred alternative. The alternatives form the

foundation for the BRT improvements to be evaluated in the proposed project EIS/EIR.

II. Purpose and Need

The City and County of San Francisco adopted as part of the 2004 Countywide Transportation Plan and its investment component, the New Expenditure Plan for San Francisco, a bus rapid transit strategy for expanding rapid transit service in San Francisco. The BRT network is intended to address the following purpose:

1. Support the city's growth and development needs

2. Better serve existing transit riders and stem and reverse the trend toward transit mode share loss

3. Improve the operational efficiency and cost effectiveness of the transportation system.

A BRT network can meet those goals by:—

- Improving transit levels of service cost effectively.
- Strengthening rapid transit services
- Raising the cost effectiveness of Muni service and operational efficiency of transit preferential streets
- Contributing to livability of BRT corridors

Specific Van Ness BRT project purpose and need statements linked to these goals were subsequently established to guide the development of a BRT project for the Van Ness Avenue corridor. They guided preparation of the Van Ness Avenue BRT Feasibility Study (2005–2006), and include:

- *Close the performance gap between transit and automobile travel on Van Ness Avenue.* For transit, this means reducing travel time (including wait time); significantly increasing reliability and reducing bunching; reducing crowding; and improving connectivity and safety.
- *Raise the operational efficiency of Van Ness Avenue.* San Francisco has limited roadway capacity and no space to expand the network. It is also difficult in many areas to travel by auto given the obstacles—limited capacity and resulting congestion on key roadway segments. It is city policy to encourage travel by higher capacity modes to expand the transportation network's carrying capacity and use it more efficiently. BRT offers a means to expand the overall capacity of Van Ness Avenue. However, transit buses must be separated from the existing traffic and pedestrian congestion and other impediments to efficient, fast travel.

Transit infrastructure improvements would allow Muni to operate buses more efficiently and improve the productivity of buses by enabling each bus to complete more runs per hour. Frequent stops and starts and slowed, sometimes uneven, operations in congested conditions increase the wear and tear on buses and also fuel consumption. Improving average bus speeds would lead to more efficient operations and allow Muni to serve more passengers at a lower cost per passenger.

- *Raise the level of amenities and urban design of Van Ness Avenue.* Van Ness Avenue is currently not an appealing urban environment for pedestrians. The Van Ness Avenue BRT Project incorporates elements that enhance the urban design and identity of Van Ness Avenue, especially at major transit nodes such as Mission Street and South Van Ness, Market Street, and Geary and O'Farrell streets. Transit capital improvements properly done and integrated with other design initiatives would make the street more livable and attractive for residents and commercial and institutional uses along its length. The BRT on Van Ness Avenue Project would incorporate pedestrian safety and urban design features and help transform Van ness Avenue into a ''signature Preferential Transit Street and distinctive gateway into San Francisco.''
- *Accommodate future mobility needs.* This need is linked to the continuing growth in the San Francisco and the region. More housing and more households now exist than in 2000 and they are projected to continue growing, with population increasing almost 20 percent by 2030 (Association of Bay Area Governments, *Projections 2005;* San Francisco's 2000 population was 776,733; 2030 population is projected to be 924,600). Employment is forecast to grown by 29 percent during the same period, to 829,090 jobs available by 2030 (ABAG). Along the Van Ness Avenue corridor itself, over 3,800 new housing units and 8,500 new jobs are anticipated. Transit priority and other congestion management measures offer an important way to accommodate the resulting growth in travel demand, which will be focused on the major transportation corridors in the city. Van Ness Avenue is one of these critical corridors.

III. Alternatives

Alternatives to be reviewed in the include a (1) No-Project/Baseline Alternative, which would encompass low cost improvements to corridor bus services, such as bus stop amenities and limited transit signal priority; (2) Van Ness Avenue BRT Project, which would provide a full complement of BRT improvements in two or more cross-sectional configurations for Van Ness Avenue between approximately Mission Street and Lombard Street; and (3) any other service, alignment or cross-sectional alternatives that emerge from the scoping and alternatives analysis processes.

The No-Project Alternative assumes a 2030 condition of land use and transportation capital and service improvements that are programmed or planned to be implemented by the San Francisco Municipal Transportation Agency (MTA, which includes San Francisco Muni and the Department of Parking and Traffic) and other transit providers in the study area (e.g. Golden Gate Transit, Caltrain, the commuter rail service between San Francisco and San Jose, and the Bay Area Rapid Transit District, or BART, a regional rail service provider). For transit, these include upgraded bus stops and passenger information/communication systems. Other transportation system improvements, such roadway traffic management measures, street lighting upgrades, and street resurfacing/landscaping projects that would be the responsibility of the San Francisco Department of Public Works (DPW), the Public Utilities Commission (PUC), or the California State Department of Transportation (Caltrans), will be included in the 2030 No-Project network. This network will also form the background network for the build alternatives.

The Van Ness Avenue BRT Project would include, among other features, dedicated transit lanes within the existing Van Ness Avenue right-of-way; sheltered, low-platform passenger stations with real time bus arrival passenger information signs, lighting, and wayfinding; self-service fare vending on station platforms and on-board proof-of-payment verification; and advanced transit traffic signal priority and traffic management systems to reduce bus delays at signalized intersections yet maintain acceptable traffic flow. Passenger stations would be spaced on average every 940 feet with local bus service one block to the east. BRT transitway and stations improvements would be made entirely within existing public rights-of-way; improvements outside of existing public rights of way are not anticipated with the *possible* exception of required improvements to existing Muni bus storage and maintenance facilities and to off-alignment intersections and parking facilities for mitigation of project impacts. Variations in the cross-section for the BRT transitway and the locations of stations are anticipated and would comprise design options for the

basic BRT alignment. A two-way transitway either in the median of Van Ness Avenue or along the outside curbs (one northbound BRT lane along the east curb/parking lane; one southbound BRT lane along the west curb/parking lane) and, correspondingly, stations in the median or as extensions of the sidewalk were considered in the Van Ness Avenue BRT Feasibility Study and warrant further evaluation as part of the EIS/EIR and alternatives analysis.

The SFCTA in association with Muni will evaluate the procurement of modern low-floor high-capacity vehicles that would be assigned to the BRT service and have added features, such as two-sided multidoor access, passenger station docking assist, and other amenities. Streetscape improvements, such as enhanced landscaping and pedestrian access along Van Ness Avenue, are also included in the proposed BRT project.

IV. Probable Effects

FTA and SFCTA will evaluate the transportation, environmental, social, and economic impact of each alternative. Effects of the Van Ness Avenue BRT Project will be compared to the No Project/Baseline. The overall benefits of the Van Ness Avenue BRT Project, including on transit speeds and reliability, new riders, and transportation system user benefits, will be relative to the No Project/Baseline Alternative. The Van Ness Avenue BRT Project Alternative is expected to improve transit speeds and increase transit reliability; increase bus transit ridership; improve access and mobility for San Francisco residents, many of whom are highly dependent on transit; and provide competitive transit access to major employment and activity centers relative to the No Project/Baseline Alternative.

Increased congestion and worsening conditions for transit service along Van Ness Avenue are expected without a significant improvement. The No Project/Baseline Alternatives would not eliminate the main impediments to efficient and effective service in the corridor—auto/transit conflicts in mixed-flow lanes. The Van Ness Avenue BRT Project may affect the following areas: Traffic operations; parking; local access and circulation; visual and aesthetic effects; historic and cultural resources; disturbance of pre-existing hazardous wastes; and temporary construction-phase impacts. Impacts of the Van Ness Avenue BRT Project will be evaluated for both the construction period and for the long-term period of operation. Mitigation measures will be identified and evaluated for avoiding and reducing adverse effects.

To ensure all significant issues related to the proposed project are identified and addressed in the ESI/EIR and alternatives analysis, comments and suggestions are invited from all interested parties. Comments, suggestions, and questions concerning the proposed action should be directed to the contacts listed above.

V. FTA Procedures

In accordance with the FTA policy, all Federal laws, regulations and executive orders affecting project development, including but not limited to the regulations of the Council on Environmental Quality and FTA implementing NEPA (40 CFR parts 1500–1508 and 23 CFR part 771); the conformity requirements of the Clean Air Act; section 4040 of the Clean Water Act; Executive Order 12898 regarding environmental justice; the National Historic Preservation Act; the Endangered Species Act; and section 4(f) of the Department of Transportation Act, will be addressed to the maximum extent practicable during the NEPA process. Prior transportation planning studies may be pertinent to establishing the purpose and need for the proposed action and the range of alternatives to be evaluated in detail in the EIS/EIR. The Draft EIS/EIR will be prepared simultaneously with conceptual engineering for the alternatives, including bus stop and alignment options. The Draft EIS/EIR process will address the potential use of Federal funds for the proposed action, as well as assessing social, economic, and environmental impacts of the proposed Van Ness Avenue BRT Project. The Project will be refined to minimize and mitigate any adverse impacts.

After publication, the Draft EIS/EIR will be available for public and agency review and comment, and a public hearing will be held. Based on the Draft EIS/EIR and comments received, the San Francisco County Transportation Authority Board will select a locally preferred alternative (LPA) for further assessment in the Final EIS/EIR, which will be based on further engineering of the LPA and other remaining alternatives. SFCTA intends to request FTA approval to enter Project Development and secure funding under the Small Starts program prior to initiating further engineering (e.g., preliminary engineering) and preparing the Final EIS/EIR.

Issued on September 19, 2007.

Leslie T. Rogers,

Regional Administrator.

[FR Doc. 07–4713 Filed 9–21–07; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–43 (Sub-No. 180X)]

Illinois Central Railroad Company—Abandonment Exemption—in Adams County, MS

Illinois Central Railroad Company (ICR) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon approximately 0.46 miles of rail line, between milepost 148.67 and milepost 148.21, in Natchez, Adams County, MS. The line traverses United States Postal Service Zip Code 39120.

ICR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 24, 2007, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 4, 2007. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 15, 2007, with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to ICR's representative: Thomas J. Healey, 17641 S. Ashland Avenue, Homewood, IL 60430–1345.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

ICR has filed both an environmental report and a historic report that address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 28, 2007. Interested persons may obtain a copy of the EA by writing to SEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), ICR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by ICR's filing of a notice of consummation by September 24, 2008, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: September 14 , 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–18761 Filed 9–21–07; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,300. *See* 49 CFR 1002.2(f)(25).

Federal Register

Monday,

September 24, 2007

Part II

Department of Housing and Urban Development

Notice of Funding Opportunity (NOFA) for the Brownfields Economic Development Initiative for Fiscal Year 2007; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5142–N–01]

Notice of Funding Opportunity (NOFA) for the Brownfields Economic Development Initiative for Fiscal Year 2007

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: *Purpose of Program:* The purpose of the Brownfields Economic Development Initiative (BEDI) program is to enhance the security of a loan guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, as amended, for the same brownfields economic development project, or to improve the viability of a brownfields economic development project financed with the Section 108-guaranteed loan, in order to stimulate economic development by local governments and private sector parties at brownfields sites and to return those sites to productive, economic use. All BEDI grants must be used in conjunction with a new Section 108-guaranteed loan commitment.

Overview Information

A. *Federal Agency Name:* Department of Housing and Urban Development, Office of Community Planning and Development.

B. *Funding Opportunity Title:* Brownfields Economic Development Initiative.

C. *Announcement Type:* Initial announcement.

D. *Funding Opportunity Number:* The **Federal Register** number is FR–5142–N–01. The OMB approval number is 2506–0153.

E. *Catalog of Federal Domestic Assistance (CFDA) Number(s):* Brownfields Economic Development Initiative (BEDI), 14.246.

F. *Dates:* The application deadline date is December 24, 2007. Applications must be received and validated by *http://www.grants.gov/gov/applicants/apply_for_grants.jsp* no later than 11:59:59 pm on the application deadline date. Please see the Notice of HUD's FY2007 NOFA Policy Requirements and General Section to the FY2007 SuperNOFA for HUD's Discretionary Programs (General Section) published on January 18, 2007 (72 FR 2396) for information on electronic deadline and timeliness requirements.

G. *Additional Overview Content Information:* BEDI funds are used to enhance the security of a loan guaranteed by HUD under Section 108 of the Housing and Community Development Act of 1974, as amended, for the same brownfields economic development project, or to improve the viability of a brownfields economic development project financed with the Section 108-guaranteed loan, in order to stimulate economic development by local governments and private sector parties at brownfields sites and to return those sites to productive economic use. All BEDI grants must be used in conjunction with a new Section 108-guaranteed loan commitment.

HUD encourages brownfields economic development projects that propose the redevelopment of a brownfield site through new investments by identified private sector parties in addition to BEDI/Section 108 financing and that will directly result in new business or job creation, increases in the local tax base or other near-term, measurable economic benefits.

Those interested in applying for funding under this program should review carefully the General Section of the SuperNOFA published on January 18, 2007 (72 FR 2396), the Introduction to the FY2007 SuperNOFA published on March 13, 2007 (72 FR 11434) and the Fiscal Year 2007 SuperNOFA for HUD's Discretionary Programs; Supplementary Information and Technical Corrections published on May 11, 2007 (72 FR 27032) and the following additional information.

Full Text of Announcement

I. Funding Opportunity Description

A. Authority

BEDI is authorized pursuant to Section 108(q), Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301).

B. Program Description

BEDI is designed to help local governments redevelop brownfields, defined in this NOFA as abandoned, idled, or underutilized real property, including industrial and commercial facilities, where expansion or redevelopment is complicated by the presence or potential presence of environmental contamination. A BEDI grant award will be conditioned upon, and must be used in conjunction with, a new (i.e., not previously approved) Section 108-guaranteed loan commitment. Both Section 108 loan guarantee proceeds and BEDI grant funds are initially made available by HUD to units of general local government eligible for assistance under HUD's Community Development Block Grant (CDBG) program (specifically, the Entitlement and State programs, certain jurisdictions in the state of Hawaii under the Small Cities program, and the insular areas of Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands). A local government may re-loan the Section 108 loan proceeds and provide BEDI funds to a business or other public entity eligible to carry out a specific approved brownfields economic development project, or the public entity may carry out the eligible project itself. In either case, BEDI grant funds and the Section 108 proceeds must be used to support the same eligible BEDI project.

Under this program, CDBG entitlement and non-entitlement grantees (and states for state-assisted non-entitlement jurisdictions) pledge their continuing CDBG allocations as security for the Section 108 loans guaranteed by HUD. BEDI grant funds are intended to reduce grantees' potential loss of future CDBG allocations by:

1. Strengthening the economic feasibility of a project financed with Section 108 funds (and thereby increasing the probability that the project will generate enough cash to repay the guaranteed loan);

2. Directly enhancing the security of the Section 108-guaranteed loan; or

3. Employing a combination of these or other risk mitigation techniques.

BEDI funds must be used as the stimulus for local governments and/or private sector parties to commence redevelopment or continue phased redevelopment efforts of brownfields sites where contamination is present or potentially present and a redevelopment plan exists. HUD desires to see BEDI and Section 108 funds used to finance projects and activities that involve investment in the brownfields site by an identified private sector party that will provide near-term results and measurable economic benefits, such as job creation and increases in the local tax base.

C. Program Definitions

Unless otherwise defined herein, terms defined in this NOFA shall have the same respective meanings as provided for in 24 CFR part 570.

Act means Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*).

Application means a single set of documents, including a request for Section 108 loan guarantee assistance, submitted by an eligible applicant for BEDI grant funds, in accordance with the provisions of this NOFA, to finance a brownfields economic development

project. Section IV.B.1.c. of this NOFA provides additional information on the nature and forms of Section 108 loan guarantee requests that must be submitted to HUD along with each BEDI application.

Brownfields means abandoned, idled, or under-used real property (including industrial and commercial facilities) where expansion or redevelopment is complicated by the presence or potential presence of contamination.

Brownfields Economic Development Initiative (BEDI) funds means the appropriated funds made available for the competition under this NOFA from any available appropriation.

Brownfields Economic Development Initiative (BEDI) project or brownfields economic development project means a single activity or a group of activities constituting a planned, continuous, single undertaking that is eligible under Section 108(q) of the Act and under 24 CFR 570.703 and projected to create or retain businesses or jobs, provide area or housing benefit to low- and moderate-income persons, redevelop blighted areas or sites, or otherwise lead to measurable economic benefits from redevelopment of one or more brownfields sites within five years.

CDBG funds means those funds collectively so defined at 24 CFR 570.3, including grant funds received pursuant to Section 108(q) and this NOFA.

Economic Development Initiative (EDI) grant means the provision of economic development grant assistance under Section 108(q) of the Act, as authorized by Section 232 of the Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103–233, approved April 11, 1994).

EPA means the U.S. Environmental Protection Agency.

Firm Commitment means either a written agreement or letter of understanding by which an applicant or a third party:

(1) Agrees to perform an activity or provide resources as specified in the application, and demonstrates their relationship to the proposed BEDI/Section 108 project;

(2) Specifies the dollar value of the commitment and demonstrates that it has the financial and organizational capacity to deliver the resources necessary to successfully complete the activity; and

(3) Irrevocably commits the resources to the activity either through cash or in-kind services or contributions; if any portion is to be financed through a grant or loan from another public or private organization, that institution's grant or loan commitment must be firmly committed as well.

Any such agreement or letter of understanding shall be understood as being contingent upon receipt of the BEDI grant. Funds expended prior to the submission of the BEDI application will not be considered as firmly committed funds for purposes of this NOFA.

Additional information related to firm commitments of other resources is provided in Section V.A.2.d. of this NOFA, Rating Factor 4 (Leveraging of Other Financial Resources). See Section IV.B.3.c. of the General Section for instructions on how third party documents are to be submitted electronically.

Showcase Community means an applicant chosen by the federal government's Brownfields National Partnership for inclusion in the federal government's Brownfields Showcase Communities program. A list of the federally designated Brownfield Showcase Communities is provided on the HUD Web site at *http://www.epa.gov/swerosps/bf/html-doc/showfact.ftm.*

Strategic Plan means a strategy or course of action developed and agreed to by the nominating local government(s) and state(s) and submitted in partial fulfillment of the application requirements for an Empowerment Zone, Enterprise Community, or a Renewal Community, designated pursuant to 24 CFR parts 597, 598 or 599.

D. Program Background

HUD has multiple programs that are intended to stimulate economic and community development and promote economic revitalization of distressed areas, and which can be effectively employed to address and remedy brownfields conditions. Primary among HUD's resources are the Community Development Block Grant (CDBG) program and the Section 108 loan guarantee program.

1. *CDBG.* The CDBG program provides grant funds by formula to local governments (either directly or through states) to carry out community and economic development activities ($3.7 billion appropriated in FY2007). The Section 108 loan guarantee program provides CDBG-eligible communities with a source of financing for economic development, public facilities, and other eligible large-scale physical development projects. HUD is authorized pursuant to Section 108 to guarantee notes issued by CDBG entitlement communities and non-entitlement units of general local government eligible to receive funds under the CDBG States' program, as well as certain non-entitlement units of general local government in the state of Hawaii funded under 24 CFR part 570, subpart F. The Section 108 program is subject to the regulations applicable to the CDBG program at 24 CFR part 570 as described in 24 CFR part 570, subpart M.

2. *Section 108 Loan Guarantees.* The loan guarantee authority for the Section 108 program is estimated at $137 million in loan guarantee authority for FY2007.

Under this program, communities (states and insular areas, as applicable) are required to pledge their continuing CDBG allocations as security for loans guaranteed by HUD. The Section 108 program, however, does *not* require CDBG funds to be escrowed for loan repayment (unless such an arrangement is specifically negotiated as loan security and included in the applicable ''Contract for Loan Guarantee Assistance''). This means that a community can ordinarily continue to spend its existing allocation for other CDBG purposes, unless needed for loan repayment.

3. *Additional Security for Section 108 Loan Guarantees.* Applicants should be aware of the need to provide additional security for the Section 108 loan guarantee pursuant to 24 CFR 570.705(b)(3). Although a public entity (and the corresponding state for a state-assisted non-entitlement entity) is required by the Act to pledge its current and future CDBG allocations as security for the Section 108 loan guarantee, it will usually be required to furnish additional collateral. In most cases, the additional collateral consists (in whole or in part) of the asset financed with the Section 108 loan funds (e.g., a loan made to a business as part of an economic development project and the related mortgage from the business). Applications proposing uses for BEDI funding that directly enhance the value of the asset(s) securing the Section 108 loan will help ensure that the project-based asset(s) will satisfy the additional collateral requirements.

4. *Integration of Other Government Economic Development and Brownfields Programs.* HUD encourages local governments which are assisted by (a) other federal or state economic development programs, (b) other federal brownfields programs (e.g., the federal Brownfields Showcase Community program, EPA's Assessment, Revolving Loan Fund Cleanup or Grant programs, or (c) state-supported brownfields programs to integrate efforts arising from those programs in developing projects for assistance under HUD's BEDI and Section 108 programs. Applicants should elaborate upon these

ties in their response to the appropriate rating factors in Section V.A.2. of this NOFA (e.g., ''Capacity of the Applicant,'' ''Soundness of Approach,'' or ''Leveraging Resources''—Rating Factors 1, 3, and 4, respectively.)

II. Award Information

A. Available Funds

HUD has available approximately $32.9 million for grant awards under this BEDI NOFA, consisting of $9.9 million through appropriations under the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110–5), February 15, 2007 (these funds are authorized by Section 108(q) of the Act as described above) and $23 million of deobligated and recaptured funds from previous BEDI awards. If any additional funds become available for the BEDI program during FY2007, including through the further deobligation and recapture of previous BEDI awards, HUD may either fund additional applicants in accordance with this NOFA, or may add these funds to funds available for future competitions pursuant to Section 108(q) of the Act.

B. Maximum Award

The maximum amount of a BEDI award under this competition is $2 million per project. An application in excess of $2 million will be reduced to the extent HUD determines that such a reduction is appropriate and the project remains feasible.

C. Limitations on Grant Amounts

1. *Ratio of Section 108-Guaranteed Loan to BEDI Grant.* HUD expects to approve BEDI grant amounts for approvable applications with a range of ratios of BEDI grant funds awarded to new Section 108-guaranteed loan commitments for the same project, but the minimum ratio must be $1.00 of Section 108-guaranteed loan commitments for every $1.00 of BEDI grant funds in order to receive consideration for funding. Section V.A.2.d., Rating Factor 4 (Leveraging of Resources), provides additional information on the required ratio of BEDI to Section 108 funds.

2. *Reduction or Deobligation of BEDI Grant Award.*

a. After selection, but prior to grant award, if HUD determines that an application can be funded at a lesser BEDI grant amount than requested and still be feasible and consistent with the proposed plan and the purposes of the Act, it reserves the right to reduce the amount of the BEDI award and/or increase the required Section 108 loan guarantee commitment.

b. In the event a BEDI grant is awarded and has been reduced below the original request (e.g., the application contained some activities that were ineligible, exceeded the $2 million cap, or there were insufficient funds to fund the last competitive application at the full amount requested), the applicant will be required to modify the project plans and application to conform to the terms of HUD approval before HUD will execute a grant agreement.

c. HUD also may proportionately reduce or deobligate the BEDI award if a grantee does not submit an approvable Section 108 loan guarantee application, issue Section 108-guaranteed obligations, and receive loan guarantee proceeds on a timely basis (including any extension authorized by HUD) in the amount required by the BEDI/108 leveraging ratio, which will be approved by HUD as a special condition of the BEDI grant award (see Section IV.B.1.c.(2) of this NOFA).

3. *Increased Request for Section 108 Loan Guarantee Assistance.* In the case of a requested increase in guarantee assistance for a project with a previously approved Section 108 loan guarantee commitment (as further discussed in Section IV.B.1.(4)), the BEDI assistance approved will be based only on the additional amount of Section 108 loan guarantee assistance requested.

III. Eligibility Information

A. Eligible Applicants

Any public entity eligible to apply for Section 108 loan guarantee assistance in accordance with 24 CFR 570.702, including Guam, the Northern Marianas, American Samoa, and the Virgin Islands for FY2007, may apply for BEDI grant assistance under Section 108(q). Eligible applicants are CDBG entitlement units of general local government and non-entitlement units of general local government eligible to receive loan guarantees under 24 CFR part 570, subpart M. Urban Counties, as defined at 24 CFR 570.3 and 570.307, are eligible applicants for BEDI funds; units of general local government that participate in an Urban County program are not independently eligible applicants. For non-entitlement applicants other than those subject to 24 CFR part 570, subpart F (which applies only to the state of Hawaii), applicants are required to provide evidence in the BEDI application from an authorized official of the state agency responsible for administering the State CDBG program stating that it supports the related Section 108 loan with a pledge of its CDBG allocations pursuant to the requirements of 24 CFR 570.705(b)(2). Such evidence must be provided by form HUD–40122, titled ''SECTION 108 LOAN GUARANTEE: State Certifications Related to Non-entitlement Public Entities.'' This form may be downloaded as part of the application package from the Internet at *http://www.grants.gov/applicants/apply_for_grants.jsp.* Non-entitlement public entities in 49 states and Puerto Rico are eligible to participate in the Section 108 and BEDI programs, with assistance of the state's or commonwealth's pledge of CDBG allocations. The non-entitlement entities in Hawaii are able to make their own repayment pledge since they receive a fixed amount of annual CDBG funding.

B. Cost Sharing or Matching

As described further in Section V.A.2.d. of this NOFA, under Rating Factor 4 (Leveraging of Resources), applications which evidence a greater level of other funds firmly committed to the BEDI project will receive more points under Rating Factor 4. In addition, a BEDI grant must be used with at least an equal amount of Section 108 loan guarantee proceeds for the same brownfields economic development project.

C. Other

1. Eligible Activities and National Objectives

a. Applicants for BEDI grant funds and Section 108 loan guarantee funds must demonstrate that funds will be used for activities listed at 24 CFR 570.703 and carried out as part of a BEDI project as defined in this NOFA and meet the CDBG requirements at 24 CFR Sections 570.200, 570.208 and 570.209, as applicable. All applicants must clearly identify in their narrative response to Rating Factor 3 (Soundness of Approach) in Section V.A.2.c. of this NOFA each of the eligible activities that will be carried out under 24 CFR 570.703.

With respect to BEDI projects that include a housing component, applicants are cautioned that the eligible activities at 24 CFR 570.703 do not allow BEDI and Section 108 funds to be used to finance the costs of the construction of housing, unless such construction is undertaken by a Community Based Development Organization (CBDO) or a not-for-profit organization serving the development needs of a community in a non-entitlement area as part of a community economic development project, in accordance with 24 CFR 570.703(i)(2) and 24 CFR 570.204(a)(2). Provisions of

24 CFR 570.703(j) that authorized the use of BEDI or Section 108 funds for housing construction have expired and are no longer applicable, as the statute referenced therein is no longer in effect. For projects that include the construction of housing, BEDI and Section 108 funds may be used to finance activities necessary to construct such housing, such as acquisition and related demolition and clearance on the acquired site, site improvements, public facilities and other eligible activities subject to each of the eligible activity provisions at 24 CFR 570.703; and

b. Applicants must demonstrate that each activity assisted with Section 108 loan guarantee or BEDI funds will meet a national objective of the CDBG program as described in 24 CFR 570.208. All applicants must clearly identify in their narrative response to Rating Factor 3 (Soundness of Approach) in Section V.A.2.c. of this NOFA, the CDBG national objective to be achieved by the proposed project and provide the appropriate CDBG national objective regulatory citation found at 24 CFR 570.208. Applicants must also address, when applicable, how the proposed activities will comply with the public benefit standards of the CDBG program as reflected in the regulation at 24 CFR 570.209.

c. A grantee's aggregate use of its CDBG funds, including any Section 108 loan guarantee proceeds and Section 108(q) (BEDI) funds provided pursuant to this NOFA, must comply with the CDBG primary objective requirements as described in Section 101(c) of the Act and 24 CFR 570.200(a)(3) for entitlement grantees, or 24 CFR 570.484 in the case of a recipient under a state's program, requiring that, over the period of time specified in the applicant's (or State's) CDBG certification, not less than 70 percent of the aggregate expenditures of CDBG funds be expended for activities benefiting low- and moderate-income persons under the criteria of 24 CFR 570.208(a) or 570.208(d)(5) or (6).

2. Brownfields Redevelopment

As described further in Section V.A.2.c. of this NOFA, in the narrative response to Rating Factor 3 (Soundness of Approach) applicants must: (1) Describe the nature and extent of the brownfields problem(s) actually or potentially affecting the site and/or structure(s) already on the site; and (2) how the proposed activities will contribute to redevelopment of the site and/or structures.

3. General Section Threshold Requirements

a. Applicants should carefully review the threshold requirements found in Section III.C. of the General Section that could result in the failure to receive funding under this program. Applicants for BEDI grant funds must comply with the statutory, regulatory, threshold, and public policy requirements listed in the General Section, except as otherwise specifically provided in this NOFA. In particular, applicants should carefully review those provisions that could result in the failure to receive funding, including the DUNS Number Requirement, Compliance with Fair Housing and Civil Rights Laws, provisions relating to Delinquent Federal Debts, and the Name Check Review.

b. The Dun and Bradstreet Universal Numbering System (DUNS) Number Requirement. Refer to the General Section for information regarding the DUNS requirement. You will need to obtain a DUNS number to receive an award from HUD. You will also need a DUNS number to complete your electronic application as it is a mandatory field on the electronic application. The Grants.gov registration also requires use of the DUNS number which is used to match with Central Contractor Registration (CCR) and Internal Revenue Service Records. Please see the General Section for more information. If there is a discrepancy between the DUNS number, CCR and IRS information, the Grants.gov registration process cannot be completed until the discrepancy is cleared. Applicants should immediately start or update their Grants.gov registration with the publication of this NOFA.

c. The maximum number of points to be awarded under this NOFA is 104. To be eligible for funding, a BEDI application must obtain a total score of at least 75 points. All applications meeting program requirements and General Section thresholds will be rated under the selection criteria provided in Section V.A.2. below.

d. Federal Debt. In addition to the requirements in the General Section, applicants at the time of award that have Federal debt or are in default of an agreement with the IRS will not be funded. Applicants selected for funding have an obligation to report to HUD changes in status of a current IRS agreement covering federal debt.

4. Other Program Requirements

a. *BEDI Funding Request.* A single BEDI application must contain a request for funds for a single BEDI/108 project. The application must propose activities expected to result in redevelopment of one or more brownfields sites. An applicant may submit an additional application for each additional unrelated BEDI/108 project, but in no event will HUD rate and rank more than one BEDI project per application.

b. *Related Section 108 Loan Guarantee Request.* The request for Section 108 Loan Guarantee assistance must provide for a minimum ratio of $1.00 of requested Section 108 loan guarantee commitments for every $1.00 of BEDI grant funds requested, or a higher ratio, as needed for the project.

c. *Nonentitlement Applications.* Applications submitted by nonentitlement public entities (except for those in Hawaii and the insular areas which now receive fixed amounts of CDBG funds annually) must provide for the state's or commonwealth's certification agreeing to pledge its CDBG allocations to receive funding consideration, as evidenced by form HUD–40122. See the General Section of the SuperNOFA instructions for submission of third party documents.

d. *Narrative Response to Rating Factors.* Each BEDI application must provide narrative statements in response to each of the rating factors below in Section V.A.2. of this NOFA.

e. *Time Frame for Submission of Section 108 Applications.* All applications for Section 108 Loan Guarantee Assistance required for approved BEDI projects must be submitted within 60 days of written notice of BEDI selection, as provided for in Section IV.B.1.c.(2) of this NOFA.

f. *HUD Environmental Requirements.* Beginning with the submission of a BEDI application through and after HUD's award of BEDI grant funds, pursuant to 24 CFR 570.604, each project or activity assisted under this program is subject to the provisions of 24 CFR part 58. This includes limitations on the commitment of HUD and non-HUD funds by the BEDI applicant or grantee and Section 108 public entity, as well as other participants in the development process, prior to the completion of environmental review, notification, and release of funds. Neither grant nor loan funds can be disbursed by HUD until a request for release of funds is submitted and the requirements of 24 CFR part 58 have been met. All public entities, including non-entitlement public entities, shall submit the request for release of funds and related certification, required pursuant to 24 CFR part 58, to the appropriate HUD

field office for each project to be assisted.

g. *Compliance with Environmental and Other Laws.* An award of BEDI funding does not, in any way, relieve the applicant or third party users of BEDI funds from compliance with all applicable federal, state, and local laws and regulations, particularly those addressing the environment. Applicants are further advised that HUD may require evidence that any project involving remediation has been or will be carried out in accordance with applicable law, including voluntary clean up programs.

h. *CDBG Program Regulations.* In addition to 24 CFR 570.701 (Definitions), 570.702 (Eligible applicants), and 570.703 (Eligible activities), the CDBG regulatory requirements cited in 24 CFR 570.707, including subparts J (Grant Administration), K (Other Program Requirements), and O (Performance Reviews), also govern the use of BEDI funds, as applicable.

i. *Obligation to Affirmatively Further Fair Housing.* All BEDI grantees are obliged to affirmatively further fair housing, even when the proposed activities do not appear to be directly related to housing. Therefore, applicants that propose to use BEDI funds must include in their applications an explanation of how they propose to further fair housing opportunities for persons on the basis of race, color, national origin, sex, religion, familial status, or disability. Applicants should respond to this requirement in Section V.A.2.c. of this NOFA, under Rating Factor 3, subfactor (1)(b). Affirmative activities include, but are not limited to: Initial and periodic assessments of the extent to which affordable and accessible housing opportunities are provided or denied to persons by race, color, national origin, sex, religion, familial status, or disability; outreach to persons in underserved population groups or advocacy organizations representing such persons; affirmative fair marketing of job or housing opportunities; furthering housing choice; addressing environmental justice concerns; ensuring nondiscrimination and accessibility for the physically handicapped; ensuring consistency with the consolidated plan; or ensuring that employment, housing and other benefits of the BEDI grant are made available to those individuals and families living at or near the brownfields site prior to its redevelopment.

j. *Policy Priorities.* Applicants are reminded of the Department's Policy Priorities for FY2007 found in Section V.B. of the General Section, several of which apply to this NOFA, as described in Section V.A.2.e. below, under Rating Factor 5 (Achieving Results and Program Evaluation).

k. *Ineligible Sites.* Applicants must propose sites that currently meet the definition of brownfields in this program NOFA. Applicants may not propose projects on sites which are: (i) Listed or proposed to be listed on EPA's National Priority List (NPL); (ii) subject to unilateral administrative orders, court orders, administrative consent orders or judicial consent decrees issued or entered into by parties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended; or (iii) subject to the jurisdiction, custody, or control of the United States Government. In order to be eligible to receive an award under this program, applicants will be required in Section V.A.2.c., Rating Factor 3, Soundness of Approach, to indicate that the proposed BEDI project will not be undertaken at an ineligible site as provided herein.

l. *Prior Approved Section 108–Guaranteed Loans.* BEDI grant assistance cannot be used to leverage a Section 108 loan guarantee approved prior to the date of HUD's announcement of a BEDI grant pursuant to this NOFA, unless the applicant requests to deobligate previously approved commitment authority as provided in Section IV.B.1.c.(5) of this NOFA. In no event, however, may a previously approved Section 108 commitment to be used with a prior BEDI or EDI award be subject to such deobligation.

m. *Use of Section 108 Solely for Security.* A BEDI award will not be made if the Section 108 request contained in the application (See Section IV.B.1.c. of this NOFA) calls for the use of the Section 108-guaranteed obligation solely as security for other financing on the project.

IV. Application and Submission Information

A. Addresses To Request Application Package

1. Copies of the published NOFAs and application forms for HUD programs announced through NOFA may be downloaded from the Grants.gov Web site at *http://www.grants.gov/find_grant_opportunities.jsp*; if you have difficulty accessing the information you may receive customer support from Grants.gov by calling their Support Desk at (800) 518–GRANTS, or sending an e-mail to *support@grants.gov*. The operators will assist you in accessing the information. The hours of the Support Desk are 7 a.m. to 9 p.m. Eastern time.

2. *Satellite Broadcasts.* HUD will hold informational broadcasts via satellite for potential applicants to learn more about the BEDI program and the preparation of BEDI application(s). For more information about the date and time of the broadcast, consult the Web site *http://www.hud.gov/offices/adm/grants/nofa07/snbroadcast.doc*.

B. Content and Form of Application Submission

1. Content of Application

A complete application for a BEDI grant under this NOFA must contain the items listed below. Applicants by signing the SF–424 are also agreeing to the Certifications and Assurances found in the General Section and this NOFA. All forms required for application submission can be found in the application and instruction downloads for the BEDI program on *http://www.grants.gov/applications/apply_for_grants.jsp*.

a. *Checklist and Submission Table of Contents* indicating the submission items included in the application can be found in Section VIII, Appendix A, of this NOFA. Applicants are not required to submit the Checklist but are encouraged to review it to ensure that they have submitted a complete application.

b. *EDI/BEDI/Section 108 Funding Eligibility Statement.* A completed EDI/BEDI/Section 108 Funding Eligibility Statement (Exhibit D of form HUD–40123).

c. *Request for Loan Guarantee Assistance.* A request for loan guarantee assistance under Section 108, with the project name clearly identified (and the same name of the BEDI project being applied for), as further described below. Full application requirements for the Section 108 program are found at 24 CFR 570.704. Non-entitlement applicants (except those in Hawaii and the insular areas) must accompany this request with the State Certifications Related to Nonentitlement Public Entities (form HUD–40122) in order to be considered for BEDI funding.

The request for loan guarantee assistance may take any of the five forms defined in paragraphs (1), (2), (3), (4), or (5) below. Notwithstanding the form of the request for new Section 108 loan guarantee assistance, the applicant must include citations to the specific regulatory subsection supporting activity eligibility and National Objectives compliance for the Section 108 funds described in the application.

(See Section III.C.1. of this NOFA.) Both the BEDI and Section 108 funds must be used in conjunction with the same BEDI project. Applicants are encouraged to consult with HUD's Financial Management Division in Headquarters CPD, at (202) 708–1871, before submission of 108 and/or BEDI applications if unsure of CDBG national objectives, eligibility of activities, program benefits citations and the tests thereof. The request for new Section 108 guarantee assistance may be presented in any of the following ways:

(1) Concurrent Application Submitted Under Separate Cover. A complete application for a new Section 108 loan guarantee(s), including the documents listed at 24 CFR 570.704(b), must be submitted under separate cover in accordance with the procedures in Section IV.F.3 below. Any full application for loan guarantee assistance under Section 108 must also be submitted to the appropriate HUD field office concurrently with its submission to Headquarters. As described further in Section V.A.2.c., in Rating Factor 3 (Soundness of Approach), two points will be awarded for the submission of a full Section 108 loan guarantee application with a BEDI application. Please refer to section IV.F.3. of this NOFA for further explanation of how to properly submit a concurrent Section 108 loan guarantee application.

(2) Subsequent Application. A brief description (not to exceed three pages) of the project to be applied for in a subsequent new Section 108 loan guarantee application(s). Such a 108 application(s) shall be submitted within 60 days of written notice of BEDI selection, with HUD reserving the right to extend such period on a case-by-case basis where HUD determines there is evidence of good cause. BEDI awards will be conditioned on approval of actual Section 108 loan commitments and loan guarantee proceeds in a specific ratio of BEDI funds to Section 108 funds as approved by HUD in the BEDI award. The description provided in the BEDI application must be sufficient to support the basic eligibility of the proposed project and activities for Section 108 assistance. (See Section III.C.1. of this NOFA.)

(3) Pending, Unapproved Application. A request to use the BEDI grant award in conjunction with a pending, unapproved Section 108 loan guarantee application. The request must identify the project name associated with the pending application and the date of submission. Any proposed amendment to the pending Section 108 application must be submitted under separate cover, as provided for in Section IV.F.3. below. An applicant's request to use the BEDI award in conjunction with a pending application shall be deemed by HUD to constitute a request to suspend separate processing of the Section 108 application. The Section 108 application will not be approved until, on, or after the date of the related BEDI award.

(4) Increase to a Project Assisted Under a Previously Approved Application. A request for Section 108 loan guarantee assistance (analogous to Section IV.B.1c.(1) or (2) above of this section) may propose new Section 108 guarantee assistance in addition to the amount of Section 108 assistance for a project assisted under a previously approved Section 108 application. However, any amount of Section 108 loan guarantee authority approved before HUD's announcement of a BEDI grant for the same project is not eligible to be used in conjunction with a BEDI grant under this NOFA.

(5) Deobligation of Previously Approved Section 108 Authority Plus a New Request. A request to deobligate a previous commitment of Section 108 loan guarantee authority to the applicant that is no longer to be used by the applicant (except for an amount required as a condition of a previously approved BEDI or EDI award), combined with a new request or application for Section 108 loan guarantee assistance. Such request or application may be a full application as provided for in paragraph (1) above, a request for 108 assistance submitted within 60 days as provided for in paragraph (2) above, a pending unapproved application as provided for in paragraph (3) above, or an increase to a project assisted under a previously approved application as provided in paragraph (4) above.

(6) In no event may a Section 108 loan guarantee amount that is required to be used in conjunction with a previously approved BEDI or EDI grant award as of the date of the submission of the application, whether or not the Section 108 loan guarantee has been approved as of the date of this NOFA, be used in conjunction with a new BEDI award under this NOFA. For example, if a public entity has a previously approved Section 108 loan guarantee commitment of $12 million, even if none of the funds have been utilized, or if the public entity had previously been awarded a BEDI grant of $1 million and had agreed to submit a Section 108 loan application for $10 million in support of that BEDI grant, the public entity's application under this NOFA must propose to increase the amount of its total Section 108 loan guarantee commitments beyond those amounts to which it has previously agreed (i.e., the $12 million or $10 million Section 108 loan guarantee commitments in this example).

d. *Narrative Responses to Factors for Award* (not to exceed 15 double-spaced, 8½ x 11 inch single-sided pages, with one-inch margins on all sides, for all responses):

(1) *Rating Factor 1:* Capacity and Relevant Organizational Experience. Provide a narrative indicating the capacity of the applicant's organization and staff and any known third parties to perform the work for which it is requesting funding.

(2) *Rating Factor 2:* Need Statement Identifying the Level of Distress/Extent of the Problem. Provide a narrative statement including any documentation supporting the statement of need, accompanied by a completed Exhibit A of form HUD–40123. (See the General Section for instructions for submitting documentation found in the download instructions.)

(3) *Rating Factor 3:* Soundness of Approach. Include the CDBG eligible activities, the CDBG National Objective, the source and nature of the present or potential environmental contamination, the budget, and the time frame for conducting activities and providing project benefits to address the needs identified in Rating Factor 2 in the narrative response, accompanied by Exhibits B and C of form HUD–40123.

(4) *Rating Factor 4:* Leveraging Resources. The response to this factor should include any letters of firm commitment as defined in Section I.C. of this NOFA, and any evidence of financial capacity or CDBG resolutions, as appropriate. Such letters, evidence or resolution must be submitted under the procedures provided for in Section IV.B.3.c. of the General Section.

(5) *Rating Factor 5:* Achieving Results and Program Evaluation. Provide a narrative response to this factor, accompanied by the logic model provided in the instructions download for the BEDI application on Grants.gov (Form HUD–96010) and, if applicable, form HUD–27300, relating to the removal of regulatory barriers to affordable housing, with required documentation.

2. Forms, Certifications, and Assurances

a. In addition to any forms submitted in response to Section IV.B.1. above, the following forms and certifications must also be submitted in accordance with the General Section:

(1) Application for Federal Assistance (SF–424);

(2) Applicant/Recipient Disclosure/ Update Report, HUD–2880 (''HUD

Applicant Recipient Disclosure Report'' on Grants.gov); and,

(3) Certification of Consistency with RC/EZ/EC–II Strategic Plan, HUD–2990, if applicable;

(4) Certification of Consistency with the Consolidated Plan (HUD–2991) if applicable;

(5) Disclosure of Lobbying Activities (SF–LLL), if applicable;

(6) Acknowledgement of Application Receipt (HUD–2993) (For use with paper application submissions);

(7) You Are Our Client! Grant Applicant Survey (HUD–2994–A) (Optional);

(8) Program Outcome Logic Model (HUD–96010);

(9) Questionnaire for HUD's Initiative on Removal of Regulatory Barriers (HUD–27300) (HUD Communities Initiative Form on Grants.gov) with supporting documentation or URL references;

(10) Facsimile Transmittal (HUD–96011) (Facsimile Transmittal Form on Grants.gov) (For use with electronic applications to provide third party letters and other documentation in accordance with the instructions found in the General Section);

(11) Section 108 Loan Guarantee (State Certifications Related to Non-entitlement Public Entities) (HUD–40122), if applicable; and

(12) Responses to BEDI Application Rating Factors (HUD–40123, Exhibits A through D).

C. Submission Dates and Times

1. Application Submission Date

Applications submitted through *http://www.grants.gov/applicants/apply_for_grants.jsp* must be received and validated by Grants.gov no later than 11:59:59 p.m. Eastern time on the application deadline date. If an applicant receives a waiver of the electronic application requirement, the paper application must be received by the application deadline date. The approval to submit a paper copy application will provide detailed submission instructions. Paper applications will not be accepted unless the applicant has received a waiver of the electronic submission requirement. Please see the General Section for further information on application submission and timely receipt requirements.

Be sure to provide a Project Name in Line 11 of the SF–424 (Application for Federal Assistance), and all references to the related Section 108 application should use the same project title. Be sure to complete the SF–424 cover page first, as the information from the cover page will be pre-populated. In addition a brief (one or two paragraph) description of all the activities (not just those to be funded with BEDI and 108 funds) comprising the proposed project should be provided, preceding the narrative statements in response to the Rating Factors. This project description does not count against the 15-page overall limitation.

Applicants should be sure to use the applicant legal name as used when registered with DUN and Bradstreet for the DUNS number, CCR and IRS, on the BEDI and Section 108 Loan applications. If there is a discrepancy in the legal name registered the applicant must resolve the discrepancy prior to submitting an application.

2. Proof of Timely Submission

Please see Section IV.C.4. of the General Section of the SuperNOFA for information regarding proof of timely submission.

D. Intergovernmental Review

BEDI is not subject to the provisions of Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

E. Funding Restrictions

1. Repayment of Section 108 Principal

The planned use of BEDI funds for the specific purpose of repayment of the principal amount of a Section 108-guaranteed loan is not an eligible activity under 24 CFR. 570.703 and therefore should not be proposed in a BEDI application. Under the ''debt service reserve'' eligible activity at 24 CFR 570.703(k), however, the planned use of a limited amount of BEDI funds for the repayment of the principal of a Section 108-guaranteed loan is permissible if justified and approved by HUD under a particular application. Such a debt service reserve may be justified in the context of a loan loss reserve set up to support a ''loan pool'' consisting of a number of smaller third party loans. For example, the corresponding principal amount of the Section 108 loan might be repaid from a debt service reserve when a third party loan defaults and liquidation of security for the third party loan by or on behalf of the Section 108 borrower/BEDI grantee does not yield enough cash to redeem or defease the amount of Section 108 principal corresponding to the defaulted third party loan. A debt service reserve may also be proposed and set up in an amount reasonable to pay principal and/or interest on a Section 108-guaranteed loan for a limited period, such as the start up period for an assisted business, or a construction period, when the cash flow resulting from the primary Section 108 or BEDI-funded activity would not be sufficient to support repayment. HUD requires the applicant to provide information sufficient to support the reasonableness of the amount of a debt reserve in relation to its purpose. For any Section 108- and BEDI-assisted project, HUD will have rights under the Section 108 Contract for Loan Guarantee Assistance to use undisbursed BEDI funds, together with other pledged CDBG funds, to make payment on, or to defease, the Section 108 loan if HUD deems that action necessary in order to avoid the need for HUD to make a payment under its Section 108 loan guarantee.

2. Subordination of Section 108 Obligations

Section 108 loan obligations may not be subordinated, directly or indirectly, to federally tax exempt obligations. Pursuant to Office of Management and Budget (OMB) Circular A–129 (Rev.) Appendix A, Sections II.2.c. and d., (Policies for Federal Credit Programs and Non-Tax Receivables), Section 108-guaranteed loan funds may not, directly or indirectly, support federally tax-exempt obligations.

3. Remediation by Responsible Parties

BEDI grant funds shall not be used in any manner by grantees to provide public or private sector entities with funding to remediate conditions caused by their own actions, where the public entity (or other known prospective beneficiary of the proposed BEDI grant) has been determined responsible for causation and remediation by order of a court or a federal, state, or local regulatory agency, or is responsible for the remediation as part of a settlement approved by such a court or agency. Applicants will be required under Rating Factor 3, Soundness of Approach, to indicate that the proposed BEDI project will not be used to provide such assistance.

4. Denial of Funding for Lack of Prior Performance

HUD may deny funding consideration to all applicants that fail to submit a full and complete Section 108 loan application pursuant to 24 CFR 570.704(b) in connection with a prior award of BEDI or competitive EDI grants on or before the application submission deadline under this NOFA.

F. Other Submission Requirements

1. Application Submission and Receipt Procedure. HUD requires

applicants to submit applications electronically through *http://www.grants.gov/applicants/apply_for_grants.jsp*. Applicants must submit their applications electronically via the Web site *http://www.grants.gov/applicants/apply_for_grants.jsp* unless you request and are granted a waiver to the electronic submission requirements. This site has easy to follow step-by-step instructions that will enable you to apply for HUD assistance.

Please read the General Section carefully and completely for the submission and receipt procedures for all applications because failure to comply may disqualify your application.

2. Waiver of Electronic Submission Requirements. Applicants interested in applying for funding under this NOFA must submit their applications electronically or request a waiver from the Office of Community Planning and Development. Applicants should submit their waiver requests in writing by e-mail. Waiver requests must be submitted no later than 15 days prior to the application deadline date and should be submitted to David Kaminsky at *David_Kaminsky@hud.gov*. Instructions regarding the number of copies to submit and the address where they must be submitted will be contained in any approval of the waiver request. Paper submissions must be received at the appropriate HUD office(s) no later than the deadline date. Please refer to Section IV.F.of the General Section for additional instructions on how to seek a waiver to the electronic submission requirement.

3. Submission of Concurrent Section 108 Application Under Separate Cover. Applicants that apply via Grants.gov should submit the Section 108 Loan Guarantee application using the mailing instructions below.

a. The Section 108 Loan Guarantee application should have the same Project Title in Box 11 of the SF–424 as the related BEDI project.

b. Concurrent Section 108 Application deadline date. Applications from applicants choosing to submit a concurrent and complete Section 108 application as provided for in Section IV.B.1.c. of this NOFA above, must be received no later than the BEDI application deadline date, to the addresses shown below, in order to receive points under Section V.A.2.c., Rating Factor 3, of this NOFA.

The required number of copies should be sent to the locations indicated below. If HUD receives at least one completed concurrent Section 108 application at either HUD Headquarters or the appropriate HUD Field Office, HUD will utilize the complete application for its review purposes, provided it meets the deadline and timely submission requirements.

c. Proof of Timely Submission of concurrent Section 108 applications. Proof of timely submission of a concurrent Section 108 application in accordance with these requirements consists of the Certificate of Mailing (USPS Form 3817) or electronic receipt showing the date and time and location of the mailing, provided by the United States Post Office showing mailing of the application with sufficient time for it to be received by HUD by the application due date. In the case of packages submitted to HUD via DHL, FedEx, or UPS, documentary proof of timely submission will be the delivery service receipt indicating the application was submitted to the delivery service with sufficient time for it to be received by HUD by the application deadline date. Applicants using delivery services other than DHL, FedEx, or UPS do so at their own risk as HUD cannot guarantee delivery due to its Security procedures. Proof of timely submission to HUD field offices will be the Certificate of Mailing (USPS Form 3817) or electronic receipt showing the date, time and location of the U.S. Postal Facility or receipts from the delivery service consistent with the information provided above.

Please remember that mail to federal facilities is screened and irradiated prior to delivery, a process that can take several days. Please allow ample time for your package to be delivered. If an application does not meet the filing requirements it will not receive funding consideration. If you mail your application to the wrong location and the office designated for receipt in accordance with these submission requirements does not receive it, your application will be considered late and not be considered for funding. HUD will not be responsible for directing it to the appropriate office.

You, the applicant, must submit a complete Section 108 application and the required number of copies to the locations identified in this Program NOFA. Address and labeling requirements are listed directly below in Section IV.F.3.d.

d. Address for Submitting Concurrent Section 108 Applications to HUD Headquarters. Submit the concurrent Section 108 application to: HUD Headquarters; Robert C. Weaver Federal Building; 451 Seventh Street, SW., Room 7251; Washington, DC 20410, Attention: BEDI/Section 108 Application.

When submitting the concurrent Section 108 application, please specify BEDI/Section 108 Application on any label or mailing container, and include the applicant's name, mailing address (including zip code), street address (if different from mailing address), and zip code, and voice and facsimile telephone numbers (including area code), along with the contact person's name, and voice and facsimile telephone numbers (including area code), and e-mail address, if available.

e. Concurrent Section 108 Applications to HUD Field Offices. At the same time the concurrent Section 108 application is submitted to HUD Headquarters, an additional copy should be submitted to the Community Planning and Development Division of the appropriate HUD field office for the applicant's jurisdiction. A listing of CPD Offices and mailing addresses can be found on HUD's Web site at *http://www.hud.gov/offices/cpd/about/staff/fodirectors/*.

V. Application Review Information

A. Criteria

1. Factors for Award Used to Evaluate and Rate Applications

a. Response to Factors for Award. The applicant must provide in narrative form responses to each of the rating factors below. HUD will evaluate all applications for funding assistance based on the following factors, the responses to which demonstrate the quality of the proposed project or activities, and the applicant's capacity and commitment to use the BEDI funds in accordance with the purposes of the Act. As part of the application review, HUD reserves the right to contact its local field offices for the purpose of verifying information submitted by the applicant.

b. Responses to Rating Factors 1–5. Responses to Rating Factors 1–5 below shall not exceed 15 double-spaced, 8½ x 11 inch single-sided pages, with one-inch margins on all sides, for all responses.

2. Rating Factors for Award

a. Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience (20 Points Maximum)

This Factor addresses the extent to which the applicant has the organizational resources necessary to successfully implement the proposed activities in a timely manner. The rating of the applicant will include any subcontractors, consultants, and sub-recipients that are firmly committed to participate in the activities described in

the application. In responding to subfactors (1) and (2) of this Factor, applications that merely summarize the amount of funds received, spent, or managed will receive fewer points than those providing specific measurable information on program activities undertaken, outcomes of these activities and their accomplishments. In rating this Factor, HUD will consider the following:

(1) Applicant Capacity (Up to 10 points). The applicant should demonstrate that it has the organization, the staff, and the financial resources in place to implement the specific steps required to successfully carry out its proposed BEDI/Section 108 project. The applicant should offer evidence of this capacity through a description that includes:

(a) Performance in the administration of its CDBG, HOME, or other HUD programs, including a description of successfully completed projects and other outcomes or accomplishments under these programs. In addition to citing specific projects, outcomes, or accomplishments, CDBG entitlement recipients must also indicate the extent to which the applicant has met the HUD standard that the total amount of its undisbursed entitlement grant funds may not be more than 1.5 times the entitlement grant amount for the current program year (see 24 CFR 570.902(a)(1)(i)). All applicants must also identify any unresolved monitoring or audit findings by HUD with respect to the applicant's administration of HUD programs.

(b) Performance, if any, in carrying out economic development projects similar to that proposed, including brownfields economic development or redevelopment projects, if any, and if applicable, the ability to conduct prudent underwriting;

(c) If an applicant has received a federal Renewal Community/ Empowerment Zone/Enterprise Community designation (including Enhanced Enterprise Community (EEC) designation), it must provide information on the status of its capacity to achieve state and local commitments identified in its local implementation plan, including maximizing the federal tax benefits made available. Applicants that have been designated as a Renewal Community (RC), Empowerment Zone (EZ), or Enterprise Community (EC/EEC) must respond to this subfactor even if the proposed brownfields economic development project is not to be located within the boundaries of the designated RC/EZ/EC–II; and

(d) An applicant that has previously received a BEDI or a competitive EDI grant award or, within the past five years, a Section 108-guaranteed loan commitment, must describe the status of the implementation of those project(s) assisted with any BEDI or competitive EDI funds or with any Section 108-guaranteed loan funds so approved within the last five years. An applicant must address any delays that have been encountered and the actions it is taking to overcome any such delays in carrying out the project(s) in a timely manner.

If HUD has not applied the performance standard applicable to all previous BEDI grantees referenced in Section III.C.1.c., then for any such previously funded BEDI or competitive EDI grant projects, or for those Section 108-guaranteed loan projects committed within the past five years, HUD will award more rating points for applications providing evidence of achievement of specific measurable outcomes in carrying out approved activities funded with such guaranteed loan or grant funds.

If any of the rating criteria listed under (a) through (d) above do not apply to an application, the rating for this subfactor (1) shall be based solely upon the other applicable criteria. If the applicant has no prior relevant experience, the rating for this Factor shall be based on the capacity of its partner(s), if any, as stated below.

(2) Partner Capacity (Up to 10 points). In response to this subfactor (2), the applicant should describe the experience and performance of subrecipients, private developers and other businesses, nonprofit organizations (including grassroots, faith-based and other community-based organizations), and other entities, if any, that have a role in implementing the proposed BEDI/108 program. Applicants are encouraged to identify specific economic development or other projects undertaken by each entity, which reflect the capacity of each entity to fulfill its responsibilities under the proposed brownfields economic development project, including the location, scale, and timeframe for completion of other relevant projects. If there are no third parties participating with the applicant in the proposed project, the 10 points available under this subfactor (2) will be added to the 10 points available under subfactor (1), with a maximum of 20 possible points then available under subfactor (1).

Experience will be judged in terms of recent (i.e., within the past 5 years) and successful performance of activities relevant to those proposed in the BEDI application. The more recent and extensive the positive experience, the greater the number of points that will be awarded for this Factor.

In addition to the application, HUD also may rely on information at hand or available from public sources such as newspapers, from performance and/or monitoring reports, Inspector General or Government Accounting Office reports or findings, hotline complaints that have been proven to have merit, audit reports, and other reliable public information in rating this Factor.

b. Rating Factor 2: Distress/Extent of the Problem (15 Points Maximum)

This Factor addresses the extent to which there is need for funding the proposed activities based on levels of distress in both the jurisdiction of the public entity that is the applicant *and* the geographic or target area that will benefit from the project. Applications will be evaluated on the extent to which the level of distress for the target area is documented and compared with national data and data for the jurisdiction.

In applying this Factor, HUD will consider current levels of distress in the target area, as defined in standard geographic terms by the applicant. This may be Census Tract(s) or Block Groups immediately surrounding the project site up to a radius of one-half mile, or it may be the target area to be served by the proposed project. HUD will also consider the current levels of distress in the applicant public entity's jurisdiction, if different from the target area. The applicant should describe the nature of the distress that the project is designed to address and the rationale for its definition of the area to be benefited. Examples of project beneficiaries may include: a) those receiving or using products or services produced by the project, and b) those employed by the project.

Notwithstanding the above, an applicant proposing a project to be located outside the applicant's jurisdiction or the target area for which benefits is claimed could still receive points under this Factor if a clear rationale is provided linking the proposed project location and the benefits to be derived by persons living in the target area or the applicant jurisdiction.

To the extent that the applicant's Consolidated Plan, its Analysis of Impediments to Fair Housing choice (AI), and/or its Anti-Poverty Strategy found therein identify the level of distress in the jurisdiction and the target area in which the project is to be carried out, references to such documents should be included in preparing the response to this Factor. Applications

that fail to reference these sources will receive fewer points under this Factor.

Applicants should provide data that address the following specific indicators of distress:

(1) Poverty Rate (Up to 6 points). Data should be provided in both absolute and percentage form (i.e., whole numbers and percents) for both the target area and the applicant's jurisdiction as a whole; an application that compares the local poverty rate in the following manner to the national average at the time of submission will receive points under this section as follows:

(a) A poverty rate in the target area that is less than the national average, but that is greater than the rate for the applicant's jurisdiction, (2 points);

(b) A poverty rate in the target area that is at least equal to, but less than twice, the national average, (4 points);

(c) A poverty rate in the target area that is twice or more than the national average, (6 points).

(2) Unemployment Rate (Up to 3 points). An application that compares the local unemployment rate for the applicant's jurisdiction and the target area in the following manner to the national average at the time of submission will receive points under this subfactor as follows:

(a) An unemployment rate in the target area that is less than the national average, but that is greater than the rate for the applicant's jurisdiction, (1 point);

(b) An unemployment rate in the target area that is at least equal to, but less than twice, the national average, (2 points);

(c) An unemployment rate in the target area that is twice or more than the national average, (3 points).

(3) Other Indicators of Social and/or Economic Decline (Up to 6 points). Applicants should provide other indicators of social or economic decline that best capture the applicant's local situation. Examples that could be provided under this section include information demonstrating the target area and the jurisdiction's stagnant or falling tax base, including recent (within the last three years) commercial or industrial closings, downturns or layoffs; housing conditions, such as the number and percentage of substandard and/or overcrowded units; rent burden (defined as average housing cost divided by average income) for both the target area and jurisdiction; local crime statistics. The response to this subfactor (3) should paint a picture of the extent of need and distress in the target area and jurisdiction.

HUD requires use of sound and reliable data (e.g., U.S. Census data, state statistical reports, university studies/reports that are verifiable) to support distress levels cited in each application. A source for all information along with the publication or origination date must also be provided. Updated Census data are available as follows for the listed indicators:

Unemployment rate: Unemployment rates are estimated monthly for counties, with a two-month lag by the Bureau of Labor Statistics, while census tract unemployment rates are available through the 2000 U.S. Census;

Poverty rate: Poverty rates are provided through the 2000 U.S. Census and are estimated every two years, with a three-year lag. Census and other relevant data can be accessed through *http://www.ffiec.gov/*. In rating applications under this Factor, HUD reserves the right to consider sources of available objective data other than, or in addition to, those provided by applicants, in order to compare such data to those provided by applicants.

c. Rating Factor 3: Soundness of Approach (35 Points Maximum)

This Factor addresses the quality and cost-effectiveness of the proposed plan for the brownfields economic development project. Applications that do not propose the productive reuse of a specific, identified site or sites and that do not result in near-term, measurable economic benefits, such as projects that involve only the preparation of a site for potential future reuse by an unidentified party, or the capitalization of a loan pool for loans to unidentified borrowers, will receive fewer points under this Factor. The relationship between the proposed site or sites, the proposed eligible activities and the community needs and purposes of the program funding must be clearly described, as set forth below, in order to receive points for this Factor. In rating this Factor, HUD will consider the following:

(1) Consistency/Appropriateness of Proposed Activities with Identified Needs (Up to 3 points). In response to this subfactor, the applicant should describe:

(a) The extent to which the proposed plan for use of BEDI grant/Section 108-guaranteed loan funds will address the needs described in Rating Factor 2 above regarding the distress and extent of the problem in the target area or area to be benefited and the long-term benefit for current residents of the target area. The applicant should provide a clear and quantified explanation of this relationship;

(b) Any unmet needs identified in the jurisdiction's Consolidated Plan and pursuant to Section III.C.4.(i) of this NOFA, any impediments to fair housing identified in the jurisdiction's Analysis of Impediments to Fair Housing Choice, that will be directly addressed by the proposed project. See Section III.C.4.(i) of this NOFA for examples of general affirmative fair housing actions that may be undertaken to address a jurisdiction's Analysis of Impediments to Fair Housing Choice; and

(c) The activities that will be carried out with the BEDI grant funds, and the nature and extent of the brownfields problem(s) actually or potentially affecting the site and/or structure(s) already on the site. This response must also indicate that the proposed assistance will not be used to provide funding to parties to remediate conditions caused by their own actions for which they have been determined to be legally responsible, and that the proposed brownfields site is not ineligible, as provided in Section IV.E.3. of this NOFA. This information relates to a threshold factor as well as a rating factor, as described in Section III.C.2. of this NOFA. Applications that fail to respond satisfactorily to this subfactor (c) shall not receive funding consideration.

(2) Eligible Activities and CDBG National Objectives (Up to 8 points). The applicant must describe how the proposed uses of BEDI funds will qualify as eligible activities under 24 CFR 570.703 governing the Section 108-guaranteed loan program, and also will meet the National Objectives of the CDBG program under 24 CFR 570.208. In describing how the proposed uses will meet the National Objectives of the CDBG program and the activity eligibility requirements of the Section 108 program, applications must also include citations to the specific regulatory subsections supporting eligibility of activities and compliance with National Objectives. (See Section III.C.1. of this NOFA). This information relates to a threshold factor as well as a rating factor, as described in Section III.C.1. of this NOFA. Applications that fail to respond satisfactorily to this subfactor (2) shall not receive funding consideration.

(3) Project Readiness (12 points overall, with (a)–(d) worth up to 10 points collectively, and (e) up to 2 points). In responding to this subfactor (3), the applicant should demonstrate the extent to which the redevelopment plan for the brownfields site is logical, feasible, and likely to achieve its stated purpose and the extent to which the project will directly result in the productive reuse of the site and the delivery of near-term, measurable

economic benefits. The applicant's response should demonstrate the extent to which the project is likely to be completed within a maximum of five years from the date of the BEDI award and will produce near-term, measurable economic benefits. Points for this subfactor will be awarded based upon the extent to which the following critical benchmarks for the redevelopment plan have been met or are approaching completion.

(a) Environmental Investigation. This subfactor (a) will consider the extent to which the presence or potential presence of environmental contamination of the project site is known or understood. Proposed projects on sites where the nature and degree of environmental contamination is not well-quantified, where no environmental investigation has commenced, or that are the subject of on-going litigation or environmental enforcement actions will receive fewer points under this subfactor (a). Similarly, fewer points will be awarded to proposed projects at sites with exceptionally expensive contamination problems that may be beyond the scope of the BEDI and Section 108 programs' financial resources or other resources firmly committed to the project as described in the application, and sites subject to pending and current litigation that may not be available for remediation and development or redevelopment in a time frame that will produce near-term and measurable economic benefits through the use of BEDI and Section 108 funds. Alternatively, any applicant indicating the completion of environmental assessment or review and the issuance of HUD approval for a Request for Release of Funds for the project under 24 CFR part 58 will receive more points under this subfactor.

(b) Site Control. This subfactor (b) will consider the extent to which control of the proposed project site has been secured or is being sought. Points for this subfactor (b) will be awarded based upon the degree of site control secured by the applicant or its development partner. Projects, for instance, in which negotiation or litigation related to site control are underway or continuing are eligible, but will receive fewer points than projects in which an option to purchase has been secured. Projects in which the applicant or its development partner has secured site control through acquisition, long-term lease, eminent domain or other means at the time of application will receive full points under this subfactor (b). In responding to this subfactor (b), applicants are encouraged to accompany their narrative response with a map indicating the boundaries of the proposed site or sites on which BEDI-assisted improvements are proposed. Any map included as part of the application must be submitted in accordance with the submission procedures provided for in the General Section and will not be counted in the fifteen page limitation on the narrative response to the Rating Factors as provided in Section V.A.1.b. of this NOFA.

(c) Legislative, Regulatory, and Other Approvals. This subfactor (c) will consider the extent to which any required local legislative approvals, regulatory permits, zoning classifications, environmental regulatory approvals, waivers, general and special use permits, assessment district designations, public easements or rights-of-way, or other similar approvals have been secured or are being sought. The greater the number of outstanding legislative, regulatory, or other approvals required and not yet secured, the fewer points will be awarded. In the case of a CDBG entitlement unit of general local government, such as a county, proposing to undertake a BEDI project within the jurisdiction of another CDBG entitlement unit of general local government, such as a city or other jurisdiction within that county, the applicant should also include a letter of support from the jurisdiction in which the BEDI project would be located.

(d) User Agreements. This subfactor (d) will consider the extent to which any development agreements, tenant leases, memoranda of understanding, or other agreements integral to returning the site to productive use and producing near-term measurable economic benefits, have been secured or are being sought. Applicants proposing projects that do not provide for new investment by an identified, committed private entity and the return of a brownfields site to productive use, with accompanying near-term, measurable economic benefits, will receive fewer points under this subfactor (d).

(e) Delivery of Economic Benefits. The response to this subfactor (e) must include the time frame in which the measurable economic benefits are to be delivered. For multi-phase projects, the response to this subfactor (e) must clearly delineate the different phases of the project and indicate whether or not they are to be funded by BEDI/Section 108 funds. Brownfields economic development projects that provide near-term, measurable economic benefits directly through the creation or retention of jobs will receive a greater number of points under this subfactor (e).

(1) *Timeframe for Delivery of Economic Benefits.* In response to this subfactor (3), the applicant should also provide a specific schedule (with both beginning and end dates) for carrying out the project and identify all interim measurable benchmarks (acquisition, demolition, site improvements, relocation, construction, provision of jobs mandated under Section 3, as described in (2) below, etc.) to be accomplished. The applicant should also include a proposed schedule for drawing down all funds necessary to complete the project, including BEDI and Section 108 funds.

(2) *Intent to Meet Section 3 Requirements.* To the extent possible, applicants must ensure that training, employment, and other economic opportunities will be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and business concerns that provide economic opportunities to low- and very low-income persons, as required under Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons).

(4) Section 108 Application (Up to 2 points). BEDI applications accompanied by a request for new Section 108 Loan Guarantee assistance as evidenced by a full *and* complete Section 108 application as provided for in 24 CFR 570.704, and submitted concurrently under separate cover as provided for in Section IV.F.3. of the NOFA, will receive up to two points for this subfactor (4). BEDI applications accompanied by a request to use the BEDI grant award in conjunction with a currently pending but unapproved Section 108 loan guarantee application (together with any amendments needed for consistency with the BEDI application) for the same project described in the BEDI application, will also receive up to two points under this subfactor (4).

(5) Financial Feasibility/Need (Up to 10 points). The applicant should demonstrate the economic necessity of the proposed BEDI and Section 108 funds and the extent to which the project is not financially feasible in the absence of such funds. In responding to this subfactor (5), applicants are encouraged to accompany their narrative response, as appropriate, with development and operating ''pro formas'' or similar analyses of the proposed project financing. Such pro forma or other financial analysis will

not be counted in the fifteen page limitation on the narrative response to the Rating Factors as provided in Section V.A.1.b. of this NOFA. In the narrative response, applicants must clearly address the question of why the BEDI funds are critical to the success of this project by providing the following items:

(a) Use of BEDI and Section 108 Funds to Fill Financing Gaps. The applicant must provide an economic rationale that demonstrates how the use of the BEDI and Section 108 funds will directly impact the financial feasibility of the proposed project. The response should discuss the critical gaps that exist in financing the proposed project, why those gaps exist and how the BEDI and Section 108 funds will be used to fill those gaps. The narrative response, including any pro forma or similar analysis, should demonstrate how the proposed BEDI and Section 108 financing will yield economic benefits critical to the success of the project, including, for example, increased rates of return or debt coverage ratios, reduced rents or other similar financial outcomes necessary to attract private investment.

(b) Project Costs and Financial Requirements. A funding sources and uses statement must also be provided that specifies the source of funds for each identified use or activity (Exhibit C of form HUD–40123), along with the derivation of project costs.

d. Rating Factor 4: Leveraging Resources (15 Points Maximum)

In evaluating this Factor, HUD will consider the extent to which the response demonstrates the likelihood that the project will leverage both Section 108 loan and other public or private funds as part of the total project resources. Points for this Factor will be awarded in two parts, for the following:

(1) Leverage of Section 108 funds (Up to 8 points).

The minimum ratio of Section 108 funds to BEDI funds in any project may not be less than 1:1. Points will be awarded based upon the extent to which the proposed project leverages an amount of Section 108 funds greater than a 1:1 ratio. If the application has a ratio of 1:1, it will not receive any points under this subfactor. The higher the ratio of additional new Section 108 funds to BEDI funds proposed in an application, the more points it will receive under this subfactor. (See Sections II.C.1. and Section VI.B.1.a. of this NOFA regarding the conditioning of BEDI awards on achievement of a specific BEDI/Section 108 leveraging ratio.)

(2) Leverage of Other Financial Resources (Up to 7 points).

HUD will evaluate the extent to which other funds (public or private) are leveraged by BEDI grant funds, and the extent to which such other funds are firmly committed to the project. This could include the use of CDBG funds, other federal or state grants or loans, local government general funds, project equity or commercial financing provided by private sources or funds from nonprofit organizations or other sources. In order to receive points for other public and privately committed funds under this subfactor (2), letters of firm commitment, evidence of financial capacity and, for CDBG funds, the resolution of the local governing body, must be submitted for the proposed BEDI project in accordance with the submission procedures for third party documents provided in Section IV.B.3.c. of the General Section. In addition:

(a) Applicants must provide evidence that there is a firm commitment for such funds as defined in Section I.C. of this NOFA.

(b) If a commitment is to be self-financed, such as a commitment by a private developer to provide a specified amount of equity investment in the project, the party making that commitment must evidence its financial capacity through the submission of a corporate or personal financial statement or other appropriate means in order to receive points under this subfactor (2).

(c) *For Applicants Committing CDBG Funds*: In order for an applicant's commitment of CDBG funds to be accepted by HUD as additional financing for a BEDI project, a resolution from the local governing body (e.g., city/borough council) authorizing the amount and permitted uses of the funds must be provided.

All such funds may also be committed subject to completion of a satisfactory environmental review required under 24 CFR part 58 for the project for purposes of this section.

e. Rating Factor 5: Achieving Results and Program Evaluation (15 Points Maximum)

This Factor emphasizes HUD's commitment to ensuring that applicants maintain commitments made in their applications and assess their performance to ensure that performance goals are met. This Factor also evaluates the extent to which the results of the proposed BEDI project will address the policy priorities of the Department. In addition to a narrative response, applicants must complete the logic model provided in the instruction download on Grants.gov (form HUD–96010) in order to receive points under this Factor. Applicants seeking policy priority points for the removal of regulatory barriers to affordable housing as provided for in subfactor (2)(e) of this Factor, must also complete form HUD–27300.

(1) Performance Measurement Plan (Up to 12 points). HUD requires applicants to develop an effective, quantifiable, outcome oriented performance measurement plan for assessing performance and determining that BEDI project goals have been met. The applicant's response to this subfactor (1) should identify: (a) Each of the specific project outcomes for the proposed BEDI project; (b) all interim benchmarks or outputs of the project and the associated time frames for meeting each interim benchmark or output, i.e., the near-term measurable economic benefits to be achieved, such as the number of jobs created or retained and the time frame for creation or retention; and (c) the performance indicators selected by the applicant to measure its achievement of the identified project outputs and project outcomes. The performance indicators selected by the applicant should be objectively quantifiable and measure actual achievements against anticipated results. The response to this subfactor (1) should identify what will be measured, how it will be measured, and the procedures or plans that are in place to make adjustments to the project redevelopment plan if performance targets are not met within established time frames.

In response to this subfactor (1), applicants should address any of the applicable outcomes or ultimate goals identified for the BEDI project. Examples of such outcomes or goals include increased property values, or home sales prices, as a result of a series of coordinated neighborhood activities; the amount of increased wages resulting from the creation or retention of jobs; increased business sales volume in revitalized neighborhoods; or the amount of any increased land value that results from the BEDI project. Applicants should propose quantifiable outcomes or goals related to the benefits expected for the neighborhood or for persons assisted, as part of the evaluation plan. The completed logic model must be incorporated into the Evaluation Plan and be consistent with performance goals contained in the plan.

(2) Policy Priorities (Up to 3 points). The applicant's response to this subfactor (2) should address how the project will address any of the following

policy priorities of the Department, as further detailed in Section V.B. of the General Section. A maximum of three points shall be awarded to applicants that demonstrate how the proposed BEDI project addresses two or more of the following policy priorities, with the number of points afforded to each policy priority indicated below:

(a) The extent to which the proposed project will improve the quality of life in the nation's communities, by bringing private capital to distressed communities (1 point);

(b) The extent to which the proposed project will finance business investments that will grow new businesses or maintain and expand existing businesses (1 point);

(c) The extent to which the proposed project will create decent jobs for low-income persons (1 point).

(d) The extent to which the project will increase affordable housing and homeownership opportunities in environmentally healthy and revitalized neighborhoods for low- and moderate-income persons, persons with a disability, the elderly, minorities, and persons with limited English proficiency (1 point);

(e) The extent to which the project will assist in breaking down regulatory barriers that impede the availability of affordable housing, accompanied by form HUD–27300. To receive points for this factor the applicant must submit the required documentation or reference to a URL(s) where the information can be found. (up to 2 points); and,

(f) The extent to which the project will utilize energy-efficient solutions in the design or operating phases, including the purchase and use of Energy Star-labeled products and/or combined heat and power (CHP, or cogeneration) in buildings, where applicable. (See Section V.B of the General Section, Promoting Energy Efficiency and Adopting Energy Star, for more information. (1 point).

3. Bonus Points

An application may receive a maximum of four bonus points. Two bonus points may be awarded for each of the following:

a. HUD will award two bonus points to each application that includes a valid form HUD–2990 certifying that the proposed activities/projects in the application are consistent with the strategic plan for an empowerment zone (EZ) designated by HUD or the United States Department of Agriculture (USDA), the tax incentive utilization plan for an urban or rural renewal community designated by HUD (RC), or the strategic plan for an enterprise community designated in Round II by USDA (EC–II), and that the proposed activities/projects will be located within the RC/EZ/EC–II mentioned above and are intended to serve the residents of the Zone. A listing of the RC/EZ/EC–IIs is available on the Internet at *http://www.hud.gov/cr;*

b. Two bonus points will also be awarded for projects that are located in Brownfields Showcase Communities designated by EPA. A list of the federally designated Brownfields Showcase Communities is available from the SuperNOFA Information Center or through the HUD Web site, *http://www.hud.gov/offices/adm/grants/otherhud.cfm.*

B. Reviews and Selection Process

1. *Reviews and Selection Process.* All applications meeting BEDI program and other threshold requirements will be rated under the selection criteria in Section V.A. of this NOFA. Applications will be selected for funding as follows:

a. Fundable BEDI grant applications must meet the program threshold and submission requirements of this NOFA and the other threshold requirements stipulated in Section III.C. of the General Section or they will not be ranked.

b. All BEDI grant applications that meet threshold requirements will be ranked separately in order of points assigned with the applications receiving more points ranked above those receiving fewer points.

c. In the event two or more applications are given the same score, but there are insufficient funds to fund all of the tied applications, the application(s) with the highest score(s) on Rating Factor 3 shall be selected. If there is still a tie, the following Factors will be considered sequentially, with the application having the high score on each Factor in the following order taking precedence until the tie is broken: Rating Factor 1, Rating Factor 2, Rating Factor 4, and Rating Factor 5.

d. Fundable BEDI applications will be funded in rank order until the total aggregate amount of the approvable applications funded is equal to the maximum amount available in the competition (subject to the limitations described in Section II.C. above).

2. *Corrections to Deficient Applications.* Section V.B. of the General Section provides the procedures for corrections to deficient applications.

C. Anticipated Announcement and Award Dates

Historically, BEDI awardees have been notified of the approval of BEDI applications within approximately 90 days of the application deadline.

VI. Award Administration Information

A. Award Notices

1. *Notice of Award and Obligation.* BEDI award recipients will receive written notice of approval of their applications and the related terms and conditions of the award. An authorized official of the applicant receiving a BEDI award will be required to sign and return an acceptance of the BEDI award. BEDI funds shall be obligated for an approved application upon the return of a signed acceptance of the award to HUD and a countersignature of that acceptance by an authorized HUD official.

2. *Award Disbursements and Amendments.*

a. *Timing of Section 108 Approval and BEDI Grant Disbursements.*

(1) To the extent a full and complete Section 108 application is submitted with the BEDI grant application, HUD will evaluate the Section 108 application immediately following the competition for BEDI grant funds. Note that for those applicants that are granted a waiver to the electronic submission process, the 108 application must be submitted to the appropriate HUD field office concurrently with submission to Headquarters.

(2) Notwithstanding any earlier obligation or award of BEDI funds to a grantee, or execution of a grant agreement, HUD will not permit the grantee to draw down BEDI funds before the issuance and at least partial funding of the obligations evidencing the related Section 108-guaranteed loan.

(3) Pursuant to the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110–5), (under the ''Brownfields Redevelopment'' heading) and 31 U.S.C. 1552, FY2007 BEDI funds must be obligated (i.e., awarded) by HUD by September 30, 2008, and must be disbursed by HUD to the grantee by September 30, 2013. HUD reserves the right, however, to require earlier disbursement under a BEDI grant agreement. Accordingly, a BEDI awardee must ensure the timely submission of its Section 108 Loan Guarantee application, the execution of the Section 108 Contract for Loan Guarantee Assistance and BEDI Grant Agreement, and the issuance of the Section 108 Loan Guarantee Note.

3. *Applicant Debriefing.* Section VI.A.5. of the General Section provides information on applicant requests for a debriefing. Applicants requesting to be debriefed must send a written request to the contact person for the BEDI

program, Mr. David Kaminsky, at the address listed in Section VII of this NOFA.

B. Administrative and National Policy Requirements

1. *Terms and Conditions.* a. Ratio of BEDI to Section 108 Loan Guarantee Funds. Because the proposed ratio of BEDI funds to Section 108 funds presented in an approved BEDI application represents an applicant's financial commitment to a BEDI project, HUD will condition the BEDI grant award on the grantee's achievement of that specific ratio. The failure of the grantee to meet that condition by obtaining timely HUD approval of a commitment for, and issuance of, the required Section 108 guaranteed obligations ratio may result in the cancellation and recapture of all or a proportionate share of the BEDI grant award.

b. Approval of Section 108 Loan Guarantee Application and Disbursement of Funds. As a condition of any award under this NOFA, if the related Section 108 application has not been submitted within 60 days and approved within 10 months of written HUD notification of selection for potential funding under this NOFA, HUD may deobligate the BEDI funds. BEDI grant awards and grant agreements will contain conditions requiring grantees to adhere to time frames mutually agreed on by the applicant/grantee and HUD for implementing proposed projects and drawing Section 108 and BEDI funds. If BEDI grant funds and Section 108 loan proceeds are not disbursed to the applicant within the timeframes specified in the BEDI grant agreement, HUD reserves the right to cancel the award and recapture all or a portion of the BEDI funds, as applicable under the grant agreement.

c. BEDI Application Amendments. Any modifications or amendments to an application approved pursuant to this NOFA, whether requested by the applicant or by HUD, must be within the scope of the approved original BEDI application in all respects material to rating the application, unless HUD determines that the revised application remains within the competitive range and is otherwise approvable under this NOFA. In addition, if the applicant proposes an amendment after the period during which appropriated funds are available for obligation (for FY2007 BEDI funds, after September 30, 2008), HUD will be unable to approve any amendment which materially changes the scope, purpose, or need for the original award, as determined by HUD. In such a case, the unused BEDI funds must be deobligated and returned to the U.S. Treasury.

2. *Environmental Justice.* a. Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) directs federal agencies to develop strategies to address environmental justice. Environmental justice seeks to rectify the disproportionately high burden of environmental pollution that is often borne by low-income, minority, and other disadvantaged communities, and to ensure community involvement in policies and programs addressing this issue.

b. HUD expects that projects presented for BEDI funding will integrate environmental justice concerns and provide measurable economic benefits for affected communities and their current residents for the long term.

3. *Economic Opportunities for Low- and Very Low-Income Persons (Section 3).* Recipients of assistance under this NOFA must comply with Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects) and the HUD regulations at 24 CFR part 135, including the reporting requirements at subpart E. Section 3 requires recipients to ensure that, to the greatest extent feasible, training, employment, and other economic opportunities will be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and business concerns that provide economic opportunities to low- and very low-income persons.

4. *Other National Requirements.* BEDI applicants are directed to the Section III.C. of the General Section, which provides the statutory, regulatory, threshold, and public policy requirements applicable to all HUD grantees. In particular, BEDI applicants should carefully review provisions relating to Executive Order 13202 (Preservation of Open Competition and Government Neutrality Toward Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects) and federal laws governing the procurement of recovered materials.

C. Reporting

CDBG regulations at 24 CFR 570.507 (for metropolitan city and urban counties) and 24 CFR 570.491 (for state grantees) require the submission of a Consolidated Annual Performance Evaluation Report (CAPER) describing the use of CDBG funds during the program year. 24 CFR 570.3 defines CDBG funds to include BEDI grants, and accordingly, grantees must report specifically on the use of BEDI grant funds and Section 108 loan guarantee proceeds in the CAPER. CAPER requirements for the collection and reporting of racial and ethnic data also apply to the use of BEDI and Section 108 guaranteed loan proceeds. These data are to be reported in the CAPER using the Race and Ethnic Data Reporting form (HUD–27061). For each reporting period, as part of the required report to HUD, grant recipients must also include a completed Logic Model (form HUD–96010), which identifies output and outcome achievements consistent with the approved evaluation plan and responses to the management questions.

For FY2007, HUD is considering a new concept for the Logic Model. The new concept is a Return on Investment (ROI) statement. HUD will be publishing a separate notice on the ROI concept.

VII. Agency Contact.

For technical assistance in completing your registration with Grants.gov or in using the electronic application, please contact the Grants.gov Support Desk by calling 800–518–GRANTS or by sending an e-mail to *Support@Grants.gov.* For assistance with program related questions, please contact David Kaminsky, Office of Economic Development; U.S. Department of Housing and Urban Development; 451 Seventh Street, SW., Room 7140; Washington, DC 20410; telephone (202) 402–4612 (this is not a toll-free number). Hearing or speech challenged persons may call the Federal Information Relay Service at 800–877–8339 (this is a toll-free number). Before the application submission date, HUD staff will be available to provide general guidance and assistance about this BEDI NOFA. However, HUD staff is not permitted to assist in preparing a BEDI application. Following selection of applicants, but before awards are made, HUD staff are available to assist in clarifying or confirming information that is a prerequisite to the offer of an award by HUD. In addition, the Section 108 Loan Guarantee program is not a competitive program and therefore is not subject to those provisions of the HUD Reform Act pertaining to competitions that do not permit HUD staff to assist in the preparation of applications. HUD staff are available to provide advice and assistance to develop Section 108 loan applications.

VIII. Other Information

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC.

B. Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2506–0153. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to, a collection of information unless the collection displays a current OMB control number. Public reporting burden for the collection of information is estimated to average 2000 hours per annum per respondent for the application and grant administration. This includes the time for collecting, reviewing and reporting the data for the application and for the annual report. The information will be used for grantee selection and monitoring and the administration of funds. Response to this request for information is required in order to receive the benefits to be derived.

Dated: September 14, 2007.

Nelson R. Bregón,

General Deputy Assistant, Secretary for Community Planning and Development.

BILLING CODE 4210–67–P

APPENDIX A

BEDI CHECKLIST AND SUBMISSION TABLE OF CONTENTS

This checklist identifies application submission requirements. Applicants are requested to use this checklist when preparing an application to ensure submission of all required elements. Applicants filing electronically do not need to submit this checklist. Applicants receiving a waiver of the electronic submission must submit the checklist and place the application in the order listed in the checklist. All forms can be downloaded from the application and instructions at www.grants.gov/applicants/apply_for_grants.jsp for the BEDI NOFA

Check Off

- ☐ Application for Federal Assistance (form SF-424)
- ☐ BEDI Checklist and Submission Table of Contents
- ☐ BEDI/Section108/CDBG Funding Eligibility Statement, Pages 1 and 2, (form HUD 40123-Exhibit D)
- ☐ **Request for Loan Guarantee Assistance** (check one of five options)
  - ☐ Concurrent Application Submitted Under Separate Cover
  - ☐ Subsequent Application
  - ☐ Pending, Unapproved Application
  - ☐ Increase to a Project Assisted Under Previously Approved Application
  - ☐ Deobligation of Previously Approved Section 108 Authority

Response to Rating Factors

- ☐ 1. Capacity of the Applicant and Relevant Organizational Experience
- ☐ 2. Distress/Extent of the Problem
- ☐ Distress/Extent of Problem (form HUD-40123-Exhibit A)
- ☐ 3. Soundness of Approach
- ☐ Project Timeline (form HUD-40123-Exhibit C)
- ☐ Financial Feasibility (form HUD-40123-Exhibit B)
- ☐ 4. Leveraging of Resources/Financial Need
- ☐ 5. Achieving Results and Program Evaluation
- ☐ Program Outcome Logic Model (form HUD-96010)
- ☐ America's Affordable Communities Initiative (form HUD-27300) ("HUD communities Initiative Form" on Grants.gov) with required documentation or URL references, if applicable.

Application Forms and Certifications

- ☐ Applicant/Recipient Disclosure Update Report (HUD-2880) ("HUD Community Initiative Form" on Grants.gov).
- ☐ Certification and Disclosure Form Regarding Lobbying (SF-LLL) (if applicable)
- ☐ RC/EZ/EC-II Certification of Consistency with Strategic Plan (HUD-2990) (if applicable)
- ☐ Section 108 Certifications (if submitting full 108 application)
  Certification of Consistency with the Consolidated Plan (HUD-2991), (if applicable)
- ☐ You are our Client! Grant Applicant Survey (HUD-2994A) (optional)

[FR Doc. 07–4702 Filed 9–21–07; 8:45 am]
BILLING CODE 4210–67–C

Reader Aids

Federal Register

Vol. 72, No. 184

Monday, September 24, 2007

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal_register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

50643–50868 4
50869–51158 5
51159–51352 6
51353–51554 7
51555–51696 10
51697–51974 11
51975–52280 12
52281–52466 13
52467–52748 14
52749–53100 17
53101–53410 18
53411–53672 19
53673–53912 20
53913–54206 21
54207–54340 24

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7463 (See Notice of September 12, 2007) 52465
8170 51155
8171 51157
8172 51549
8173 51551
8174 51553
8175 53097
8176 53099

Executive Orders:
13224 (See Notice of September 20, 2007) 54205
13444 52747

Administrative Orders:
Memorandums:
Memorandum of September 8, 2007 52279
Notices:
Notice of September 12, 2007 52465
Notice of September 20, 2007 54205
Presidential Determinations:
No. 2006-23 of September 13, 2006 (See No. 2007-32 of September 13, 2007). 53409
No. 2007-29 of August 27, 2007 51351
No. 2007-30 of August 31, 2007 52749
No. 2007-31 of September 8, 2007 52751
No. 2007-32 of September 13, 2007 53409

4 CFR

81 50643

5 CFR

551 52753
553 53411
1600 53413
1605 53413
1630 51353
1631 53413
1640 51353
1651 53413
1653 51353
1655 53413
1690 53413

Proposed Rules:
591 51200

7 CFR

6 53913
301 ..... 51975, 52281, 54207
305 ..... 51975, 52776
770 51988
981 51990
987 51354
1205 51159
1739 52779

Proposed Rules:
59 ..... 51378, 52956
301 53171
305 53171
983 51378
993 51381
1779 52618
3575 52618
4279 52618
4280 52618
5001 52618

8 CFR

103 53014
212 53014
214 53014
248 53014
274a 53014
299 53014
1003 53673
1240 53673

9 CFR

93 53314
94 ..... 53101, 53314
95 53314
96 53314

10 CFR

32 54207
35 54207

Proposed Rules:
490 52496
1017 52506

12 CFR

585 50644

Proposed Rules:
327 53181
652 52301

14 CFR

23 51992
33 ..... 50856, 50864
39 ..... 51161, 51164, 51167, 51697, 51994, 51996, 51997, 53102, 53104, 53106, 53108, 53110, 53112, 53915, 53918, 53920, 53923, 53925, 53927, 53928, 53933, 53935, 53937, 53939
43 53678
45 52467

71 .....51358, 51359, 51360, 51361, 51362, 51363
97 .....51169, 51171, 53680, 53682
135.....53114

Proposed Rules:
23.....53196
33.....51314
39 .....50648, 51201, 51384, 51386, 51388, 51719, 51722, 51725, 52309, 52311, 52314, 52519, 53488, 53489, 53491, 53493, 53495, 53498, 53501, 53699, 53701, 53704, 53706, 53709
71 .....51203, 51391, 53201
153.....53504

15 CFR

730.....50869
732.....50869
734.....50869
736.....50869
738.....50869, 52000
740.....50869, 52000
742.....50869
743.....50869
744.....50869
745.....50869, 52000
746.....50869
747.....50869
748.....50869
750.....50869
752.....50869
754.....50869
756.....50869
758.....50869
760.....50869
762.....50869
764.....50869
766.....50869
768.....50869
770.....50869
772.....50869, 52000
774.....50869, 52000
902 .....51699, 52668, 53942

Proposed Rules:
Ch. VII.....50912
806.....52316, 53970

16 CFR

Proposed Rules:
435.....51728

17 CFR

30.....50645

Proposed Rules:
210.....53509
228.....53509
229.....53509
230.....53509
239.....53509
240.....53509
249.....53509

18 CFR

Proposed Rules:
1301.....51572

19 CFR

12.....53414
103.....52780
178.....52780
181.....52780

Proposed Rules:
122.....51730, 53394

20 CFR

404.....51173
405.....51173
416.....50871, 51173

21 CFR

101.....52783
111.....52790
522.....51364, 51365
610.....54208
1308.....54208

Proposed Rules:
2.....53711
610.....54226
1301.....53734
1310.....53973
1308.....54226

23 CFR

637.....54210

Proposed Rules:
950.....53736

24 CFR

14.....53876
15.....53876
17.....53876
20.....53876
24.....53876
25.....53876
26.....53876
180.....53876

Proposed Rules:
50.....52206
51.....52206
55.....52206
58.....52206
91.....52206

25 CFR

900.....52790

26 CFR

1 .....51703, 52003, 52470, 53684

Proposed Rules:
1 .....51009, 52319, 53742, 53977
53.....51009
54.....51009
301.....51009

27 CFR

24.....51707
53.....51710

Proposed Rules:
4.....51732, 53742
5.....51732, 53742
7.....51732, 53742
24.....53742

28 CFR

2.....53114, 53116

29 CFR

2509.....52004
4022.....52471
4044.....52471

Proposed Rules:
215.....52521
1910.....51735
2520.....52527
2550.....52021

30 CFR

Proposed Rules:
49.....51338, 51320
75.....51320

32 CFR

199.....53685, 54212
750.....53417
751.....53421
756.....53424
757.....53427

33 CFR

100.....53118
117 .....50875, 51179, 52006, 52007, 53430
165 .....50877, 51555, 51557, 51711, 52281, 54214

Proposed Rules:
117.....53202
165.....52534

36 CFR

Proposed Rules:
1193.....53509
1194.....53509
1250.....51744

37 CFR

1.....51559

38 CFR

38.....53430

39 CFR

Proposed Rules:
111.....52025
3001.....50744
3010.....50744
3015.....50744
3020.....50744

40 CFR

6.....53652
9.....53118
40.....52008
52 .....50879, 51564, 51567, 51713, 52010, 52282, 52285, 52286, 52289, 52472, 52791, 53432, 53686
60.....51365, 51494
72.....51494
75.....51494
81.....53432, 53952
89.....53118
97.....52289
180 .....51180, 52013, 53134, 53436, 53440, 53445, 53449, 53455
247.....52475
300.....53151, 53463
721.....53470
761.....53152
1039.....53118

Proposed Rules:
9.....53204
49.....51204
51.....52264, 54112
52 .....50650, 51574, 51747, 52027, 52028, 52031, 52038, 52264, 52319, 52320, 52325, 52828, 53743, 54112
60.....51392, 51394
62.....50913, 52325
63 .....50716, 52958, 52984, 53814, 53838
70.....52264
71.....52264
72.....51394
75.....51394
81.....51747, 53743
82.....52332
89.....53204
97.....52038, 52325
300 .....51758, 53509, 54230
1039.....53204

41 CFR

300-80.....51373

42 CFR

411.....51012
424.....51012, 53628
488.....53628
489.....53628

Proposed Rules:
431.....51397
433.....51397
440.....51397

43 CFR

3000.....50882
3100.....50882
3150.....50882
3200.....50882
3500.....50882
3580.....50882
3600.....50882
3730.....50882
3810.....50882
3830.....50882

44 CFR

64.....52793
65.....53955
67.....52796, 52820

Proposed Rules:
67.....51762, 52833

45 CFR

98.....50889
1626.....52488
2551.....51009

46 CFR

10.....53961
14.....53961
15.....53961
25.....53961
31.....53961
39.....53961
44.....53961
50.....53961
54.....53961
63.....53961
69.....53961
71.....53961
91.....53961
107.....53961
110.....53961
116.....53961
125.....53961
127.....53961
134.....53961
151.....53961
153.....53961
154.....53961
161.....53961
162.....53961
170.....53961
171.....53961

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 24, 2007

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Plant-related quarantine, domestic:
Mexican fruit fly; published 9-24-07

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
International fisheries regulations:
Antarctic marine living resources; centralized vessel monitoring system, fresh toothfish imports, etc.; published 8-23-07

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Colorado; published 8-29-07

FEDERAL MARITIME COMMISSION
Ocean shipping in foreign commerce:
Optional method of filing form FMC-18; application for license as ocean transportation intermediary; published 8-10-07

HOMELAND SECURITY DEPARTMENT
Coast Guard
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Nawiliwili Harbor, Kauai, HI; published 9-24-07

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered Species Convention:
Regulations revised; published 8-23-07

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Exportation and importation of animals and animal products:
Noncompetitive entertainment horses from countries affected with contagious equine metritis; temporary importation; comments due by 10-1-07; published 8-2-07 [FR E7-14994]

DEFENSE DEPARTMENT
Defense Acquisition Regulations System
Acquisition regulations:
Cost-reimbursement contracts for services; payments; comments due by 10-1-07; published 8-2-07 [FR E7-14921]
Item identification and valuation clause update; comments due by 10-1-07; published 8-2-07 [FR E7-14896]

DEFENSE DEPARTMENT
Engineers Corps
Danger zones and restricted areas:
Marine Corps Base Hawaii, Keneohe Bay, Oahu, HI; comments due by 10-1-07; published 8-31-07 [FR E7-17155]

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Electric utilities (Federal Power Act):
Critical infrastructure protection; mandatory reliability standards; comments due by 10-5-07; published 8-6-07 [FR E7-14710]
Practice and procedure:
Filing via Internet; comments due by 10-1-07; published 8-2-07 [FR E7-14724]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
Connecticut; comments due by 10-1-07; published 8-30-07 [FR E7-17002]
Iowa; comments due by 10-5-07; published 9-5-07 [FR E7-17414]
New Jersey; comments due by 10-4-07; published 9-4-07 [FR E7-17411]
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Bromoxynil, diclofop-methyl, etc.; comments due by 10-1-07; published 8-1-07 [FR E7-14895]
Quillaja saponaria extract; exemption; comments due by 10-1-07; published 8-1-07 [FR E7-14894]
Rimsulfuron; comments due by 10-1-07; published 8-1-07 [FR E7-14543]

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Arizona; comments due by 10-1-07; published 8-29-07 [FR E7-17014]
Colorado; comments due by 10-1-07; published 8-22-07 [FR E7-16568]
Texas; comments due by 10-1-07; published 8-22-07 [FR E7-16566]
Television broadcasting:
Telecommunications Act of 1996; implementation—
Broadcast ownership rules; 2006 quadrennial regulatory review; minority and female ownership, etc.; comments due by 10-1-07; published 8-8-07 [FR E7-15456]

FEDERAL ELECTION COMMISSION
Corporate and labor organization activity:
Electioneering communications; comments due by 10-1-07; published 8-31-07 [FR E7-17184]

FEDERAL MEDIATION AND CONCILIATION SERVICE
Freedom of Information Act; implementation; comments due by 10-2-07; published 8-3-07 [FR E7-14818]

GENERAL SERVICES ADMINISTRATION
Federal travel:
Relocation allowances; Governmentwide Relocation Advisory Board; recommendations; comments due by 10-2-07; published 8-3-07 [FR E7-15156]

HEALTH AND HUMAN SERVICES DEPARTMENT
Centers for Medicare & Medicaid Services
Medicare:
Durable medical equipment, prosthetics, orthotics, and supplies; surety bond requirements for suppliers; comments due by 10-1-07; published 8-1-07 [FR 07-03746]

HEALTH AND HUMAN SERVICES DEPARTMENT
Quarantine, inspection, and licensing:
Dogs and cats importation regulations extended to cover domesticated ferrets; comments due by 10-1-07; published 7-31-07 [FR E7-14623]

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat and designations—
Devils River minnow; comments due by 10-1-07; published 7-31-07 [FR 07-03678]
Critical habitat designations—
Marbled murrelet and northern spotted owl; recovery plan; comments due by 10-5-07; published 9-5-07 [FR E7-17236]
Findings on petitions, etc.—
Polar bear; comments due by 10-5-07; published 9-20-07 [FR 07-04652]

JUSTICE DEPARTMENT
Prisons Bureau
Inmate control, custody, care, etc.:
Sexually dangerous person; civil commitment; comments due by 10-2-07; published 8-3-07 [FR E7-14943]

SECURITIES AND EXCHANGE COMMISSION
Securities:
Company proxy materials; shareholder proposals; comments due by 10-2-07; published 8-3-07 [FR E7-14954]
Election of directors; shareholder proposals; comments due by 10-2-07; published 8-3-07 [FR E7-14955]

SOCIAL SECURITY ADMINISTRATION
Social security benefits and supplemental security income:
Federal old age, survivors, and disability insurance, and aged, blind, and disabled—
Compassionate allowances made by quickly identifying individuals with obvious disabilities; comments due by 10-1-07; published 7-31-07 [FR E7-14686]
Social security benefits:
Federal old age, survivors, and disability insurance—
Government Pension Offset exemption; sixty-

month period of employment requirement; comments due by 10-2-07; published 8-3-07 [FR E7-15057]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; comments due by 10-1-07; published 8-16-07 [FR E7-16104]

Bombardier; comments due by 10-1-07; published 8-31-07 [FR E7-17282]

Fokker; comments due by 10-1-07; published 8-31-07 [FR E7-17296]

Class D airspace; comments due by 10-1-07; published 8-15-07 [FR 07-03963]

Class E airspace; comments due by 10-1-07; published 8-10-07 [FR 07-03882]

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Railroad safety:

Passenger equipment safety standards—

Front-end strength of cab cars and multiple-unit locomotives; comments due by 10-1-07; published 8-1-07 [FR 07-03736]

TREASURY DEPARTMENT

Internal Revenue Service

Excise taxes:

Prohibited tax shelter transactions; disclosure requirements; comments due by 10-4-07; published 7-6-07 [FR E7-12902]

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 ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 2358/P.L. 110–82

Native American $1 Coin Act (Sept. 20, 2007; 121 Stat. 777)

S. 377/P.L. 110–83

United States-Poland Parliamentary Youth Exchange Program Act of 2007 (Sept. 20, 2007; 121 Stat. 781)

Last List September 18, 2007

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.gpoaccess.gov/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1389.00 domestic, $555.60 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1	(869–062–00001–4)	5.00	[4] Jan. 1, 2007
2	(869–062–00002–2)	5.00	Jan. 1, 2007
3 (2006 Compilation and Parts 100 and 102)	(869–062–00003–1)	35.00	[1] Jan. 1, 2007
4	(869–062–00004–9)	10.00	[5] Jan. 1, 2007
5 Parts:			
1–699	(869–062–00005–7)	60.00	Jan. 1, 2007
700–1199	(869–062–00006–5)	50.00	Jan. 1, 2007
1200–End	(869–062–00007–3)	61.00	Jan. 1, 2007
6	(869–062–00008–1)	10.50	Jan. 1, 2007
7 Parts:			
1–26	(869–062–00009–0)	44.00	Jan. 1, 2007
27–52	(869–062–00010–3)	49.00	Jan. 1, 2007
53–209	(869–062–00011–1)	37.00	Jan. 1, 2007
210–299	(869–062–00012–0)	62.00	Jan. 1, 2007
300–399	(869–062–00013–8)	46.00	Jan. 1, 2007
400–699	(869–062–00014–6)	42.00	Jan. 1, 2007
700–899	(869–062–00015–4)	43.00	Jan. 1, 2007
900–999	(869–062–00016–2)	60.00	Jan. 1, 2007
1000–1199	(869–062–00017–1)	22.00	Jan. 1, 2007
1200–1599	(869–062–00018–9)	61.00	Jan. 1, 2007
1600–1899	(869–062–00019–7)	64.00	Jan. 1, 2007
1900–1939	(869–062–00020–1)	31.00	Jan. 1, 2007
1940–1949	(869–062–00021–9)	50.00	[5] Jan. 1, 2007
1950–1999	(869–062–00022–7)	46.00	Jan. 1, 2007
2000–End	(869–062–00023–5)	50.00	Jan. 1, 2007
8	(869–062–00024–3)	63.00	Jan. 1, 2007
9 Parts:			
1–199	(869–062–00025–1)	61.00	Jan. 1, 2007
200–End	(869–062–00026–0)	58.00	Jan. 1, 2007
10 Parts:			
1–50	(869–062–00027–8)	61.00	Jan. 1, 2007
51–199	(869–062–00028–6)	58.00	Jan. 1, 2007
200–499	(869–062–00029–4)	46.00	Jan. 1, 2007
500–End	(869–066–00030–8)	62.00	Jan. 1, 2007
11	(869–062–00031–6)	41.00	Jan. 1, 2007
12 Parts:			
1–199	(869–062–00032–4)	34.00	Jan. 1, 2007
200–219	(869–062–00033–2)	37.00	Jan. 1, 2007
220–299	(869–062–00034–1)	61.00	Jan. 1, 2007
300–499	(869–062–00035–9)	47.00	Jan. 1, 2007
500–599	(869–062–00036–7)	39.00	Jan. 1, 2007
600–899	(869–062–00037–5)	56.00	Jan. 1, 2007
900–End	(869–062–00038–3)	50.00	Jan. 1, 2007
13	(869–062–00039–1)	55.00	Jan. 1, 2007
14 Parts:			
1–59	(869–062–00040–5)	63.00	Jan. 1, 2007
60–139	(869–062–00041–3)	61.00	Jan. 1, 2007
140–199	(869–062–00042–1)	30.00	Jan. 1, 2007
200–1199	(869–062–00043–0)	50.00	Jan. 1, 2007
1200–End	(869–062–00044–8)	45.00	Jan. 1, 2007
15 Parts:			
0–299	(869–062–00045–6)	40.00	Jan. 1, 2007
300–799	(869–062–00046–4)	60.00	Jan. 1, 2007
800–End	(869–062–00047–2)	42.00	Jan. 1, 2007
16 Parts:			
0–999	(869–062–00048–1)	50.00	Jan. 1, 2007
1000–End	(869–062–00049–9)	60.00	Jan. 1, 2007
17 Parts:			
1–199	(869–062–00051–1)	50.00	Apr. 1, 2007
200–239	(869–062–00052–9)	60.00	Apr. 1, 2007
240–End	(869–062–00053–7)	62.00	Apr. 1, 2007
18 Parts:			
1–399	(869–062–00054–5)	62.00	Apr. 1, 2007
400–End	(869–062–00055–3)	26.00	Apr. 1, 2007
19 Parts:			
1–140	(869–062–00056–1)	61.00	Apr. 1, 2007
141–199	(869–062–00057–0)	58.00	Apr. 1, 2007
200–End	(869–062–00058–8)	31.00	Apr. 1, 2007
20 Parts:			
1–399	(869–062–00059–6)	50.00	Apr. 1, 2007
400–499	(869–062–00060–0)	64.00	Apr. 1, 2007
500–End	(869–062–00061–8)	63.00	Apr. 1, 2007
21 Parts:			
1–99	(869–062–00062–6)	40.00	Apr. 1, 2007
100–169	(869–062–00063–4)	49.00	Apr. 1, 2007
170–199	(869–062–00064–2)	50.00	Apr. 1, 2007
200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–062–00066–9)	30.00	Apr. 1, 2007
500–599	(869–062–00067–7)	47.00	Apr. 1, 2007
600–799	(869–062–00068–5)	17.00	Apr. 1, 2007
800–1299	(869–062–00069–3)	60.00	Apr. 1, 2007
1300–End	(869–062–00070–7)	25.00	Apr. 1, 2007
22 Parts:			
1–299	(869–062–00071–5)	63.00	Apr. 1, 2007
300–End	(869–062–00072–3)	45.00	Apr. 1, 2007
23	(869–062–00073–7)	45.00	Apr. 1, 2007
24 Parts:			
0–199	(869–062–00074–0)	60.00	Apr. 1, 2007
200–499	(869–062–00075–8)	50.00	Apr. 1, 2007
500–699	(869–062–00076–6)	30.00	Apr. 1, 2007
700–1699	(869–062–00077–4)	61.00	Apr. 1, 2007
1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
25	(869–062–00079–1)	64.00	Apr. 1, 2007
26 Parts:			
§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 1.61–1.169	(869–062–00081–2)	63.00	Apr. 1, 2007
§§ 1.170–1.300	(869–062–00082–1)	60.00	Apr. 1, 2007
§§ 1.301–1.400	(869–062–00083–9)	47.00	Apr. 1, 2007
§§ 1.401–1.440	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–062–00085–5)	58.00	Apr. 1, 2007
§§ 1.501–1.640	(869–062–00086–3)	49.00	Apr. 1, 2007
§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
§§ 1.1401–1.1550	(869–062–00091–0)	58.00	Apr. 1, 2007
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
40–49	(869–062–00095–2)	28.00	[7] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–062–00097–9)	61.00	Apr. 1, 2007
500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–39	(869–062–00100–2)	64.00	Apr. 1, 2007
40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
*0–42	(869–062–00103–7)	61.00	July 1, 2007
43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
0–99	(869–062–00105–3)	50.00	[9] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[9] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
*1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–060–00113–1)	57.00	July 1, 2006
200–699	(869–060–00114–0)	50.00	July 1, 2006
*700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
500–End	(869–060–00118–2)	62.00	July 1, 2006
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–062–00123–1)	37.00	July 1, 2007
*700–799	(869–062–00124–0)	46.00	July 1, 2007
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
300–399	(869–062–00130–4)	40.00	July 1, 2007
400–End & 35	(869–060–00130–1)	61.00	[8] July 1, 2006
36 Parts:			
1–199	(869–062–00132–1)	37.00	July 1, 2007
200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–060–00134–4)	58.00	July 1, 2006
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–062–00138–0)	42.00	July 1, 2007
40 Parts:			
1–49	(869–060–00138–7)	60.00	July 1, 2006
*50–51	(869–062–00140–1)	45.00	July 1, 2007
52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
*61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–060–00152–2)	29.00	July 1, 2006
72–80	(869–060–00153–1)	62.00	July 1, 2006
*81–84	(869–062–00155–0)	50.00	July 1, 2007
*85–86 (85–86.599–99)	(869–062–00156–8)	61.00	July 1, 2007
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–060–00158–1)	45.00	July 1, 2006
136–149	(869–060–00159–0)	61.00	July 1, 2006
150–189	(869–060–00160–3)	50.00	July 1, 2006
190–259	(869–062–00162–2)	39.00	[9] July 1, 2007
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–062–00166–5)	56.00	[9] July 1, 2007
425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–060–00168–9)	61.00	July 1, 2006
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–060–00169–7)	24.00	July 1, 2006
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–060–00173–5)	61.00	Oct. 1, 2006
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
0–19	(869–060–00193–0)	61.00	Oct. 1, 2006
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
70–79	(869–060–00196–4)	61.00	Oct. 1, 2006
80–End	(869–060–00197–2)	61.00	Oct. 1, 2006
48 Chapters:			
1 (Parts 1–51)	(869–060–00198–1)	63.00	Oct. 1, 2006
1 (Parts 52–99)	(869–060–00199–9)	49.00	Oct. 1, 2006
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006
15–28	(869–060–00203–1)	47.00	Oct. 1, 2006
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
100–185	(869–060–00206–5)	63.00	Oct. 1, 2006
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–060–00211–1)	19.00	Oct. 1, 2006
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–060–00213–8)	34.00	Oct. 1, 2006
50 Parts:			
1–16	(869–060–00214–6)	11.00	[10] Oct. 1, 2006
17.1–17.95(b)	(869–060–00215–4)	32.00	Oct. 1, 2006
17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[10] Oct. 1, 2006
18–199	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
600–659	(869–060–00221–9)	31.00	Oct. 1, 2006
660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,389.00	2007
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2007
Individual copies		4.00	2007
Complete set (one-time mailing)		332.00	2006
Complete set (one-time mailing)		325.00	2005

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.